



Richard T. Howell  
Area Manager – Regulatory Relations

AT&T  
208 S. Akard St.  
#2510.02  
Dallas, TX 75202  
T: (214) 757-8099  
F: (214) 746-2232  
rh2514@att.com  
[www.att.com](http://www.att.com)

DOCKET NO. 170024-TP

FILED JAN 27, 2017  
DOCUMENT NO. 00985-17  
FPSC - COMMISSION CLERK

January 27, 2017

Ms. Carlotta S. Stauffer  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

Re: Approval of Interconnection, Unbundling, Resale and Collocation Agreement between BellSouth Telecommunications, LLC d/b/a AT&T Florida d/b/a AT&T Southeast and Goff Network Technologies - Florida, Inc. d/b/a USA FIBER

Ms. Stauffer:

Please find attached for filing and approval the original copy of the Interconnection, Unbundling, Resale and Collocation Agreement between BellSouth Telecommunications, LLC d/b/a AT&T Florida d/b/a AT&T Southeast and Goff Network Technologies - Florida, Inc. d/b/a USA FIBER.

If you have any questions regarding this filing, please do not hesitate to contact me.

Sincerely,

Richard T. Howell  
Area Manager-Regulatory Relations

Attachment

**AGREEMENT**

**BETWEEN**

**BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T FLORIDA**

**AND**

**GOFF NETWORK TECHNOLOGIES-FLORIDA, INC. D/B/A USA FIBER**

Signature: eSigned - Matthew Van Hoesen,Esq.

Signature: eSigned - William A. Bockelman

Name: eSigned - Matthew Van Hoesen,Esq.  
(Print or Type)

Name: eSigned - William A. Bockelman  
(Print or Type)

Title: Chief Financial Officer and General Counsel  
(Print or Type)

Title: Director  
(Print or Type)

Date: 06 Dec 2016

Date: 07 Dec 2016

Goff Network Technologies-Florida, Inc. d/b/a  
USA FIBER

BellSouth Telecommunications, LLC d/b/a AT&T  
FLORIDA by AT&T Services, Inc., its authorized agent

## TABLE OF CONTENTS

General Terms and Conditions

Attachment 02 - Network Interconnection

Attachment 03 - Structure Access

Attachment 04 - Local Number Portability and Numbering

Attachment 05 - 911-E911

Attachment 06 - Customer Information Services (Attachment Intentionally Omitted)

Attachment 07 - Operations Support Systems

Attachment 08 - Bona Fide Request (Attachment Intentionally Omitted)

Attachment 09 - Performance Measurements

Attachment 10SW - ABT-Billing-Collecting-Remitting and Clearinghouse (Attachment Intentionally Omitted)

Attachment 10W - ABT: Data Exchange (DEX) (Attachment Intentionally Omitted)

Attachment 10MWSE - ABT: Non-Intercompany Settlements (NICS)

Attachment 11 - Daily Usage File (Attachment Intentionally Omitted)

Attachment 12 - Collocation (Attachment Intentionally Omitted)

Attachment 13 - 251(c)(3) UNES (Attachment Intentionally Omitted)

Attachment 14 - xDSL Loops (Attachment Intentionally Omitted)

Attachment 15 - Coordinated Hot Cut (Attachment Intentionally Omitted)

Attachment 16 - Resale (Attachment Intentionally Omitted)

Pricing Schedule

Pricing Sheets

# GENERAL TERMS AND CONDITIONS

## TABLE OF CONTENTS

<u>Section</u>	<u>Page Number</u>
1.0 Introduction .....	5
2.0 Definitions.....	5
3.0 Interpretation, Construction and Severability.....	14
4.0 Notice of Changes - Section 251(c)(5) .....	17
5.0 Responsibilities of the Parties .....	17
6.0 Insurance .....	18
7.0 Assignment or Transfer of Agreement, Change in Control and Corporate Name Change .....	21
8.0 Effective Date, Term and Termination .....	22
9.0 End User Fraud.....	24
10.0 Assurance of Payment.....	24
11.0 Billing and Payment of Charges .....	26
12.0 Nonpayment and Procedures for Disconnection .....	29
13.0 Dispute Resolution.....	31
14.0 Audits .....	34
15.0 Disclaimer of Representations and Warranties .....	35
16.0 Limitation of Liability .....	35
17.0 Joint and Several Liability .....	36
18.0 Indemnity .....	36
19.0 Performance Measures .....	39
20.0 Intellectual Property/License.....	39
21.0 Notices .....	39
22.0 Publicity and Use of Trademarks or Service Marks .....	41
23.0 Confidentiality .....	41
24.0 Intervening Law .....	41
25.0 Regulatory Approval .....	42
26.0 Governing Law .....	42
27.0 Venue .....	42
28.0 Changes in End User Local Exchange Service Provider Selection .....	42
29.0 Compliance and Certification.....	43
30.0 Law Enforcement .....	43
31.0 Relationship of the Parties/Independent Contractor .....	44
32.0 No Third Party Beneficiaries; Disclaimer of Agency .....	44

33.0 Subcontracting ..... 44

34.0 Responsibility for Environmental Contamination ..... 45

35.0 Force Majeure ..... 45

36.0 Taxes ..... 46

37.0 Non Waiver..... 48

38.0 Network Maintenance and Management ..... 48

39.0 End User Inquiries..... 54

40.0 Expenses..... 54

41.0 Conflict of Interest..... 54

42.0 Survival ..... 54

43.0 Scope of Agreement ..... 55

44.0 Amendments and Modifications ..... 55

45.0 Authority ..... 55

46.0 Execution of Agreement ..... 55

47.0 Entire Agreement ..... 55

**INTERCONNECTION AND/OR RESALE AGREEMENT**  
**UNDER SECTIONS 251 AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996**

This Interconnection and/or Resale Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the Agreement), by and between one or more of the AT&T Inc. owned ILECs: BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T KENTUCKY, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T NORTH CAROLINA, AT&T SOUTH CAROLINA, and AT&T TENNESSEE; Illinois Bell Telephone Company d/b/a AT&T ILLINOIS; Indiana Bell Telephone Company Incorporated d/b/a AT&T INDIANA; Michigan Bell Telephone Company d/b/a AT&T MICHIGAN; Nevada Bell Telephone Company d/b/a AT&T NEVADA and AT&T Wholesale; The Ohio Bell Telephone Company d/b/a AT&T OHIO; Pacific Bell Telephone Company d/b/a AT&T CALIFORNIA; Southwestern Bell Telephone Company d/b/a AT&T ARKANSAS, AT&T KANSAS, AT&T MISSOURI, AT&T OKLAHOMA, and AT&T TEXAS; and Wisconsin Bell, Inc. d/b/a AT&T WISCONSIN, (only to the extent that the agent for each such AT&T Inc. owned ILEC executes this Agreement for such AT&T Inc. owned ILEC and only to the extent that such AT&T Inc. owned ILEC provides Telephone Exchange Services as an ILEC in each of the State(s) listed below) and Goff Network Technologies-Florida, Inc. d/b/a USA FIBER ("CLEC" also referenced as "Goff Network Technologies-Florida, Inc. d/b/a USA FIBER"), (a Delaware Cooperative), shall apply to the State(s) of Florida.

**WHEREAS**, CLEC represents that it is, or intends to become, a provider of Telephone Exchange Service to residential and business End Users offered exclusively over its own Telephone Exchange Service facilities or predominantly over its own Telephone Exchange Service facilities in combination with the use of 251(c)(3) Unbundled Network Elements purchased from other entity(ies) and/or the Resale of Telecommunications Services of other carriers.

**WHEREAS**, the Parties want to Interconnect their networks at mutually agreed upon Points of Interconnection to provide Telephone Exchange Services and Exchange Access to residential and business End Users over their respective Telephone Exchange Service facilities in the state or states which are subject to this Agreement; and

**WHEREAS**, the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will Interconnect their networks and facilities and provide to each other services as required by the Telecommunications Act of 1996 as specifically set forth herein; and

**WHEREAS**, for purposes of this Agreement, CLEC intends to operate where one or more of the AT&T Inc. entities, hereinafter referred to as, BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T KENTUCKY, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T NORTH CAROLINA, AT&T SOUTH CAROLINA, and AT&T TENNESSEE; Illinois Bell Telephone Company d/b/a AT&T ILLINOIS, Indiana Bell Telephone Company Incorporated d/b/a AT&T INDIANA, Michigan Bell Telephone Company d/b/a AT&T MICHIGAN, Nevada Bell Telephone Company d/b/a AT&T NEVADA and AT&T Wholesale, The Ohio Bell Telephone Company d/b/a AT&T OHIO, Pacific Bell Telephone Company d/b/a AT&T CALIFORNIA, Southwestern Bell Telephone Company d/b/a AT&T ARKANSAS, AT&T KANSAS, AT&T MISSOURI, AT&T OKLAHOMA, AT&T TEXAS and Wisconsin Bell, Inc. d/b/a AT&T WISCONSIN, the Incumbent Local Exchange Carrier(s) and CLEC, a Competitive Local Exchange Carrier, has or, prior to the provisioning of any Interconnection, access to 251(c)(3) Unbundled Network Elements, Telecommunications Services or any other functions, facilities, products or services hereunder, will have been granted authority to provide certain local Telephone Exchange Services in the foregoing ILEC Service areas by the appropriate State Commission(s);

**NOW, THEREFORE**, the Parties hereby agree as follows:

## 1.0 Introduction

1.1 This Agreement is composed of the foregoing recitals, the General Terms and Conditions (GT&C), set forth below, and certain Attachments, Schedules, Exhibits and Addenda immediately following this GT&C, all of which are hereby incorporated in this Agreement by this reference and constitute a part of this Agreement.

## 2.0 Definitions

2.1 "Access Service Request (ASR)" means the industry standard form used by the Parties to add, establish, change or disconnect trunks for the purposes of Interconnection.

2.2 "Accessible Letter(s)" means the correspondence used to communicate pertinent information regarding AT&T-21STATE to the CLEC community and is (are) provided via posting to the AT&T CLEC Online website.

2.3 "Act" means the Communications Act of 1934 [47 U.S.C. 153], as amended by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996) codified throughout 47 U.S.C.

2.4 "Affiliate" is as defined in the Act.

2.5 "Alternate Billing Service (ABS)" or "Alternately Billed Traffic (ABT)", as described in Attachment 10 - ABT, means the service that allows End Users to bill calls to accounts that may not be associated with the originating line. There are three types of ABS/ABT calls: calling card, collect and third number billed calls.

2.6 "Applicable Law" means all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, tariffs and approvals, including those relating to the environment or health and safety, of any Governmental Authority that apply to the Parties or the subject matter of this Agreement.

2.7 "AT&T Inc." (AT&T) means the holding company which directly or indirectly owns the following ILECs: BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T KENTUCKY, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T NORTH CAROLINA, AT&T SOUTH CAROLINA and AT&T TENNESSEE; Illinois Bell Telephone Company d/b/a AT&T ILLINOIS; Indiana Bell Telephone Company Incorporated d/b/a AT&T INDIANA; Michigan Bell Telephone Company d/b/a AT&T MICHIGAN; Nevada Bell Telephone Company d/b/a AT&T NEVADA and AT&T Wholesale; The Ohio Bell Telephone Company d/b/a AT&T OHIO; Pacific Bell Telephone Company d/b/a AT&T CALIFORNIA; Southwestern Bell Telephone Company d/b/a AT&T ARKANSAS, AT&T KANSAS, AT&T MISSOURI, AT&T OKLAHOMA and/or AT&T TEXAS, and/or Wisconsin Bell, Inc. d/b/a AT&T WISCONSIN. As used in this Agreement, AT&T refers to the AT&T Inc. ILECs only.

2.8 "AT&T-21STATE" means the AT&T owned ILEC(s) doing business in Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas and Wisconsin.

2.9 "AT&T-12STATE" means the AT&T owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

2.10 "AT&T-10STATE" means the AT&T owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas and Wisconsin.

2.11 "AT&T-7STATE" means the AT&T owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma and Texas.

2.12 "AT&T-4STATE" means the AT&T owned ILEC(s) doing business in Arkansas, Kansas, Missouri and Oklahoma.

2.13 "AT&T ALABAMA" means the AT&T owned ILEC doing business in Alabama.

2.14 "AT&T ARKANSAS" means the AT&T owned ILEC doing business in Arkansas.

2.15 "AT&T CALIFORNIA" means the AT&T owned ILEC doing business in California.

2.16 "AT&T FLORIDA" means the AT&T owned ILEC doing business in Florida.

2.17 "AT&T GEORGIA" means the AT&T owned ILEC doing business in Georgia.

2.18 "AT&T ILLINOIS" means the AT&T owned ILEC doing business in Illinois.

- 2.19 "AT&T INDIANA" means the AT&T owned ILEC doing business in Indiana.
- 2.20 "AT&T KANSAS" means the AT&T owned ILEC doing business in Kansas.
- 2.21 "AT&T KENTUCKY" means the AT&T owned ILEC doing business in Kentucky.
- 2.22 "AT&T LOUISIANA" means the AT&T owned ILEC doing business in Louisiana.
- 2.23 "AT&T MICHIGAN" means the AT&T owned ILEC doing business in Michigan.
- 2.24 "AT&T MIDWEST REGION 5-STATE" means the AT&T owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio and Wisconsin.
- 2.25 "AT&T MISSISSIPPI" means the AT&T owned ILEC doing business in Mississippi.
- 2.26 "AT&T MISSOURI" means the AT&T owned ILEC doing business in Missouri.
- 2.27 "AT&T NEVADA" means the AT&T owned ILEC doing business in Nevada.
- 2.28 "AT&T NORTH CAROLINA" means the AT&T owned ILEC doing business in North Carolina.
- 2.29 "AT&T OHIO" means the AT&T owned ILEC doing business in Ohio.
- 2.30 "AT&T OKLAHOMA" means the AT&T owned ILEC doing business in Oklahoma.
- 2.31 "AT&T SOUTH CAROLINA" means the AT&T owned ILEC doing business in South Carolina.
- 2.32 "AT&T SOUTHEAST REGION 9-STATE" means the AT&T owned ILEC(s) doing business in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.
- 2.33 "AT&T SOUTHWEST REGION 5-STATE" means the AT&T owned ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma and Texas.
- 2.34 "AT&T TENNESSEE" means the AT&T owned ILEC doing business in Tennessee.
- 2.35 "AT&T TEXAS" means the AT&T owned ILEC doing business in Texas.
- 2.36 "AT&T WEST REGION 2-STATE" means the AT&T owned ILEC(s) doing business in California and Nevada.
- 2.37 "AT&T WISCONSIN" means the AT&T owned ILEC doing business in Wisconsin.
- 2.38 "Audited Party" means the Party being audited by the Auditing Party.
- 2.39 "Auditing Party" means the Party conducting an audit of the Audited Party's books, records, data and other documents.
- 2.40 "Automated Message Accounting (AMA)" means the structure that is inherent in switch technology that initially records Telecommunication message information. AMA format is contained in the Automated Message Accounting document published by iconectiv (formerly known as Telcordia) as GR-1100-CORE, which defines and amends the industry standard for message recording.
- 2.41 "Bill Due Date" means thirty (30) calendar days from the bill date.
- 2.42 "Billed Party" means the recipient Party of a bill rendered from the Billing Party.
- 2.43 "Billing Party" means the Party rendering a bill.
- 2.44 "Bona Fide Request (BFR)" means the process described in Attachment 08 – Bona Fide Request (BFR).
- 2.45 "Business Day" means Monday through Friday, excluding holidays on which the applicable AT&T-21STATE ILEC does not provision new retail services and products.
- 2.46 "Busy Line Verification (BLV)" means a service whereby an End User requests an operator to confirm the busy status of a line.
- 2.47 "CABS" means the Carrier Access Billing System.

- 2.48 "Calling Name Delivery Service (CNDS)" means a service that enables a terminating End User to identify the calling Party by a displayed name before a call is answered. The calling Party's name is retrieved from a calling name database and delivered to the End User's premise between the first and second ring for display on compatible End User premises equipment.
- 2.49 "Cash Deposit" means a cash security deposit in U.S. dollars held by AT&T-21STATE.
- 2.50 "Central Automatic Message Accounting (CAMA) Trunk" means a trunk that uses Multi-Frequency (MF) signaling to transmit calls from CLEC's switch to an AT&T-21STATE E911 Selective Router.
- 2.51 "Centralized Message Distribution System (CMDS)" means the industry-wide data collection system, which handles the daily exchange of message details between CMDS participating telephone companies (also known as CMDS Direct Participants). AT&T-21STATE is a CMDS Direct Participant.
- 2.52 "Central Office Switch (CO)" means the switching entity within the public switched Telecommunications network, including but not limited to:
- 2.52.1 "End Office Switch" or "End Office" means the switching machine that directly terminates traffic to and receives traffic from purchasers of local Exchange Services. An End Office Switch does not include a PBX.
- 2.52.2 "Tandem Office Switch" or "Tandem(s)" are used to connect and switch trunk circuits between and among other Central Office Switches. A Tandem Switch does not include a PBX.
- 2.53 "Change in Control" shall mean the (a) consolidation or merger of CLEC with or into any unaffiliated entity, (b) sale, transfer or other disposition of all or substantially all of the assets of CLEC to an unaffiliated entity, or (c) acquisition by any entity, or group of entities acting in concert, of outstanding voting securities or partnership interests of CLEC which give such entity or group of entities Control over CLEC.
- 2.54 "Claim" means any pending or threatened claim, action, proceeding or suit.
- 2.55 "Commercial Mobile Radio Service(s) (CMRS)" is as defined in the Act and FCC rules.
- 2.56 "Commission" means the applicable State agency with regulatory authority over Telecommunications. The following is a list of the appropriate State agencies:
- 2.56.1 the Alabama Public Service Commission (APSC);
- 2.56.2 the Arkansas Public Service Commission (AR-PSC);
- 2.56.3 the California Public Utilities Commission (CA-PUC);
- 2.56.4 the Florida Public Service Commission (FPSC);
- 2.56.5 the Georgia Public Service Commission (GPSC);
- 2.56.6 the Illinois Commerce Commission (IL-CC);
- 2.56.7 the Indiana Utility Regulatory Commission (IN-URC);
- 2.56.8 the Kansas Corporation Commission (KS-CC);
- 2.56.9 the Kentucky Public Service Commission (KPSC);
- 2.56.10 the Louisiana Public Service Commission (LPSC);
- 2.56.11 the Michigan Public Service Commission (MI-PSC);
- 2.56.12 the Mississippi Public Service Commission (MPSC);
- 2.56.13 the Missouri Public Service Commission (MO-PSC);
- 2.56.14 the Public Utilities Commission of Nevada (NV-PUC);
- 2.56.15 the North Carolina Utilities Commission (NCUC);
- 2.56.16 the Public Utilities Commission of Ohio (PUC-OH);

- 2.56.17 the Oklahoma Corporation Commission (OK-CC);
- 2.56.18 the Public Service Commission of South Carolina (PSCSC);
- 2.56.19 the Tennessee Regulatory Authority (TRA);
- 2.56.20 the Public Utility Commission of Texas (PUC-TX); and
- 2.56.21 the Public Service Commission of Wisconsin (PSC-WI).
- 2.57 "Common Channel Signaling (CCS)" means an out-of-band, packet-switched, signaling network used to transport supervision signals, control signals, and data messages. It is a special network, fully separate from the transmission path of the public switched network. Unless otherwise agreed by the Parties, the CCS protocol used by the Parties shall be SS7.
- 2.58 "Common Language Location Identifier (CLLI)" means the codes that provide a unique eleven (11) character representation of a network interconnection point. The first eight (8) characters identify the city, state and building location, while the last three (3) characters identify the network component.
- 2.59 "Competitive Local Exchange Carrier (CLEC)" means a telephone company certificated by the Commission to provide local Exchange Service within AT&T-21STATE's franchised area.
- 2.60 "Consequential Damages" means Losses claimed to have resulted from any indirect, incidental, reliance, special, consequential, punitive, exemplary, multiple or any other Loss, including damages claimed to have resulted from harm to business, loss of anticipated revenues, savings, or profits, or other economic Loss claimed to have been suffered not measured by the prevailing Party's actual damages, and any other damages typically considered consequential damages under Applicable Law, regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions.
- 2.61 "Control" shall mean, with respect to any entity, the possession, direct or indirect, of the power to solely direct or cause the direction of the management or policies of such entity, whether through the ownership of voting securities (or other ownership interests) by contract or otherwise.
- 2.62 "Daily Usage File" or "DUF" or "Usage Extract" means a service which provides End User usage call records as described in Attachment 11 - Daily Usage File.
- 2.63 "Delaying Event" means any failure of a Party to perform any of its obligations set forth in this Agreement, caused in whole or in part by:
- 2.63.1 the failure of the other Party to perform any of its obligations set forth in this Agreement, including but not limited to a Party's failure to provide the other Party with accurate and complete Service Orders;
- 2.63.2 any delay, act or failure to act by the other Party or its End User, agent or subcontractor; or
- 2.63.3 any Force Majeure Event.
- 2.64 "Dialing Parity" means as defined in the Act. As used in this Agreement, Dialing Parity refers to both Local Dialing Parity and Toll Dialing Parity.
- 2.65 "Digital Signal Level" means one of several transmission rates in the time division multiplex hierarchy.
- 2.66 "Digital Signal Level 0 (DS-0)" means the lowest-level signal in the time division multiplex digital hierarchy, and represents a voice-grade channel operating at either the 56 Kbps or 64 Kbps transmission bit rates. There are twenty-four (24) DS-0 channels in a DS-1.
- 2.67 "Digital Signal Level 1 (DS-1)" means the 1.544 Mbps first level signal in the time division multiplex hierarchy.
- 2.68 "Digital Signal Level 3 (DS-3)" means the 44.736 Mbps third level signal in the time division multiplex hierarchy.
- 2.69 "Digital Subscriber Line (DSL)" means as defined in Attachment 14 - xDSL Loops.
- 2.70 "Discontinuance Notice" means the written Notice sent by the Billing Party to the other Party that notifies the Non-Paying Party that in order to avoid disruption or disconnection of the Interconnection Services, furnished under this

Agreement, the Non-Paying Party must remit all Unpaid Charges to the Billing Party within fifteen (15) calendar days following receipt of the Billing Party's Notice of Unpaid Charges.

- 2.71 "Disputed Amounts" as used in Section 11.9 below, means the amount that the Disputing Party contends is incorrectly billed.
- 2.72 "Disputing Party" as used in Section 11.9 below, means the Party to this Agreement that is disputing an amount in a bill rendered by the Billing Party.
- 2.73 "Electronic File Transfer" means any system or process that utilizes an electronic format and protocol to send or receive data files.
- 2.74 "End User(s)" means a Third Party residence or business that subscribes to Telecommunications Services provided by any of the Parties at retail. As used herein, the term "End User(s)" does not include any of the Parties to this Agreement with respect to any item or service obtained under this Agreement.
- 2.75 "Enhanced Service Provider (ESP)" means the provider of enhanced services, as those services are defined in 47 CFR Section 64.702.
- 2.76 "Exchange Access" means as defined in the Act.
- 2.77 "Exchange Area" means an area, defined by the Commission, for which a distinct local rate schedule is in effect.
- 2.78 "Exchange Message Interface (EMI)" (formerly Exchange Message Record "EMR") means the standard used for exchange of Telecommunications message information among Telecommunications Carriers for billable, non-billable, CABS, sample, settlement and study data. EMI format is contained in iconectiv Practice BR-010-200-010, CRIS Exchange Message Record and the Alliance for Telecommunications Industry Solutions (ATIS) document, ATIS-0406000-xxxx (xxxx refers to the year of publication).
- 2.79 "Exchange Service" means Telephone Exchange Service as defined in the Act.
- 2.80 "FCC" means the Federal Communications Commission.
- 2.81 "Feature Group A (FGA)" means calls either originated by, or delivered to, an End User who has purchased switched access FGA service from the interstate or intrastate tariffs of either Party. FGA also includes, but is not limited to, FGA-like services provided by either Party, where calls are originated from and/or delivered to numbers which are assigned to a Rate Center within one LATA but where the Party receiving the call is physically located in a LATA different than the LATA of the Party originating the call.
- 2.82 "Feature Group D (FGD)" means the access available to all customers, providing trunk side access to a Party's End Office Switches with an associated uniform 101XXXX access code for customer's use in originating and terminating communications.
- 2.83 "Fiber Meet" means an Interconnection architecture method whereby the Parties physically Interconnect their networks via an optical fiber interface (as opposed to an electrical interface), using a single point-to-point linear chain SONET system.
- 2.84 "Foreign Exchange (FX)" or "FX-like" Service means a retail service offering which allows FX End Users to obtain Exchange Service from a mandatory local calling area other than the mandatory local calling area where the FX End User is physically located, but within the same LATA as the number that is assigned. FX Service enables particular End Users to avoid what might otherwise be toll calls between the FX End User's physical location and other End Users in the foreign exchange.
- 2.85 "FX Telephone Numbers" means those telephone numbers with rating and routing point that are different from those of the geographic area in which the End User is physically located. FX Telephone Numbers that deliver second dial tone and the ability for the calling Party to enter access codes and an additional recipient telephone number remain classified as Feature Group A (FGA) calls, and are subject to the originating and terminating carrier's tariffed Switched Exchange Access rates (also known as "Meet Point Billed" compensation).
- 2.86 "Fraud Monitoring System" means an off-line administration system that monitors suspected occurrences of ABT-related fraud.

- 2.87 "Governmental Authority" means any federal, state, local, foreign, or international court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative, or judicial authority with jurisdiction over the subject matter at issue.
- 2.88 "Incumbent Local Exchange Carrier (ILEC)" is as defined in the Act.
- 2.89 "Intellectual Property" means copyrights, patents, trademarks, trade secrets, mask works and all other intellectual property rights.
- 2.90 "Integrated Digital Loop Carrier" means a subscriber loop carrier system that is twenty-four (24) local Loop transmission paths combined into a 1.544 Mbps digital signal which integrates within the switch at a DS1 level.
- 2.91 "Integrated Services Digital Network (ISDN)" means a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for a digital transmission of two (2) 64 Kbps bearer channels and one (1) 16 Kbps data channel (2B+D).
- 2.92 "Interconnection" is as defined in the Act.
- 2.93 "Interconnection Activation Date" means the date that the construction of the joint facility Interconnection arrangement has been completed, trunk groups have been established, joint trunk testing is completed and trunks have been mutually accepted by the Parties.
- 2.94 "Interconnection Service(s)" means any Interconnection, Resale Services, 251(c)(3) UNEs, Collocation, functions, facilities, products or services offered under this Agreement.
- 2.95 "Interexchange Carrier (IXC)" means a carrier that provides, directly or indirectly, InterLATA or IntraLATA Telephone Toll Services.
- 2.96 "InterLATA" is as defined in the Act.
- 2.97 "Intermediate Distribution Frame (IDF)" means a second frame that augments an existing Main Distribution Frame. Lines or outside cables that do not terminate on the IDF.
- 2.98 "Internet Service Provider (ISP)" means an Enhanced Service Provider (ESP) that provides Internet Services.
- 2.99 "ISP-Bound Traffic" means Telecommunications traffic, in accordance with the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Compensation Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April, 27, 2001) ("FCC ISP Compensation Order"), "ISP-Bound Traffic" shall mean Telecommunications traffic exchanged between CLEC and AT&T-21STATE in which the originating End User of one Party and the ISP served by the other Party are:
- 2.99.1 both physically located in the same ILEC Local Exchange Area as defined by the ILEC's Local (or "General") Exchange Tariff on file with the Commission or regulatory agency; or
- 2.99.2 both physically located within neighboring ILEC Local Exchange Areas that are within the same common mandatory local calling area. This includes, but it is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS) or other types of mandatory expanded local calling scopes.
- 2.100 "IntraLATA Toll Traffic" means the IntraLATA traffic, regardless of the transport protocol method, between two locations within one LATA where one of the locations lies outside of the mandatory local calling area as defined by the Commission.
- 2.101 "Jurisdictional Information Parameter (JIP)" is an existing six (6) digit (NPA-NXX) field in the SS7 message. This field designates the first point of switching.
- 2.102 "Late Payment Charge" means the charge that is applied when either Party fails to remit payment for any charges by the Bill Due Date, or if payment for any portion of the charges is received after the Bill Due Date, or if payment for any portion of the charges is received in funds which are not immediately available or received by either Party as of the Bill Due Date, or if either Party does not submit the Remittance Information.

- 2.103 "LEC-carried" means the transport of calls or messages on a Carrier's network.
- 2.104 "Letter of Credit" means the unconditional, irrevocable standby bank letter of credit from a financial institution acceptable to AT&T-21STATE naming the AT&T owned ILEC(s) designated by AT&T-21STATE as the beneficiary(ies) thereof and otherwise on the AT&T-21STATE Letter of Credit form.
- 2.105 "Line Information Data Base (LIDB)" means a transaction-oriented database system that functions as a centralized repository for data storage and retrieval. LIDB is accessible through CCS networks. LIDB contains records associated with End User line numbers and special billing numbers.
- 2.106 "Line Side" means the End Office switch connections that have been programmed to treat the circuit as a local line connected to a terminating station (e.g., an ordinary subscriber's telephone station set, a PBX, answering machine, facsimile machine or computer). Line Side connections offer only those transmission and signal features appropriate for a connection between an End Office and such terminating station.
- 2.107 "Local Access and Transport Area (LATA)" is as defined in the Act.
- 2.108 "Local Exchange Carrier (LEC)" is as defined in the Act.
- 2.109 "Local Exchange Routing Guide (LERG)" means the iconectiv Reference document used by Telecommunications Carriers to identify NPA-NXX routing and homing information as well as Network element and equipment designations.
- 2.110 "Local Interconnection Trunks/Trunk Groups" means the trunks that are used for the termination of Local Exchange Traffic, pursuant to iconectiv Technical Reference GR 317-CORE.
- 2.111 "Local Number Portability (LNP)" means the ability of users of Telecommunications Services to retain the presence of a previously existing telephone number(s).
- 2.112 "Location Routing Number (LRN)" means the ten (10) digit number that is assigned to the network switching elements (Central Office-Host and Remotes as required) for the routing of calls in the network. The first six (6) digits of the LRN will be one of the assigned NPA NXX of the switching element. The purpose and functionality of the last four (4) digits of the LRN have not yet been defined but are passed across the network to the terminating switch.
- 2.113 "Local Service Provider (LSP)" means the LEC that provides retail local Exchange Service to an End User. The LSP may or may not provide any physical network components to support the provision of that End User's service.
- 2.114 "Local Service Request (LSR)" means the form used to input orders to the Local Service Center (LSC) by CLEC, including, but not limited to orders to add, establish, change or disconnect services.
- 2.115 "Main Distribution Frame (MDF)" means the termination frame for outside facility and inter-exchange office equipment at the CO.
- 2.116 "Multiple Exchange Carrier Access Billing" or "MECAB" means the document prepared by the Billing Committee of the OBF, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by ATIS as ATIS/OBF-MECAB-Issue 6, February 1998, contains the recommended guidelines for the billing of access services provided to an IXC by two (2) or more LECs, or by one LEC in two (2) or more states within a single LATA.
- 2.117 "Multiple Exchange Carriers Ordering and Design" or "MECOD" means the Guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee of the OBF, which functions under the auspices of the Carrier Liaison Committee of ATIS. The MECOD document, published by ATIS as ATIS/OBF-MECAB-Issue 3, February 1993, establishes methods for processing orders for access service which is to be provided to an IXC by two (2) or more telecommunications providers.
- 2.118 "Meet-Point Billing (MPB)" means the billing associated with interconnection of facilities between two (2) or more LECs for the routing of traffic to and from an IXC with which one of the LECs does not have a direct connection. In a multi-bill environment, each Party bills the appropriate tariffed rate for its portion of a jointly provided Switched Exchange Access Service.

- 2.119 "Multiple Bill/Single Tariff" means the billing method used when Switched Exchange Access Services is jointly provided by the Parties. As described in the MECAB document, each Party will render a bill in accordance with its own tariff for that portion of the service it provides. Each Party will bill its own network access service rates.
- 2.120 "Network Data Mover (NDM)" or "Connect Direct" means the industry standard protocol for transferring information electrically.
- 2.121 "Non-Paying Party" is the Party that has not made payment by the Bill Due Date of all amounts within the bill rendered by the Billing Party.
- 2.122 "North American Numbering Plan (NANP)" means the numbering architecture in which every station in the NANP Area is identified by a unique ten (10)-digit address consisting of a three (3)-digit NPA code, a three (3)-digit central office code of the form NXX, and a four (4)-digit line number of the form XXXX.
- 2.123 "Notice" is official correspondence between the Parties sent in accordance with Notice Sections 21.1-21.3 of this General Terms and Conditions.
- 2.124 "Numbering Plan Area (NPA)", also called area code, means the three (3)-digit code that occupies the A, B, C positions in the ten (10)-digit NANP format that applies throughout the NANP Area. NPAs are of the form NXX, where N represents the digits two (2) through nine (9) and X represents any digit zero (0) through nine (9). In the NANP, NPAs are classified as either geographic or non-geographic. Geographic NPAs are NPAs which correspond to discrete geographic areas within the NANP Area. Non-geographic NPAs are NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries. For example, NPAs in the N00 format, (e.g., 800, 900) are non-geographic.
- 2.125 "Number Portability" is as defined in the Act.
- 2.126 "NXX" or "Central Office Code" is the three (3)-digit switch entity indicator that is defined by the fourth (4<sup>th</sup>) through sixth (6<sup>th</sup>) digits of a ten (10)-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.
- 2.127 "Operating Company Number (OCN)" means the numeric Company Code assigned by NECA identifying CLEC as a Resale or UNE provider.
- 2.128 "Operations Support Systems (OSS)" means the suite of functions which permits CLEC to interface to the ILEC for pre-ordering, ordering, provisioning, maintenance/ repair and billing as described in the Attachment 07 – Operations Support Systems (OSS) herein.
- 2.129 "Ordering and Billing Forum (OBF)" means the forum comprised of local telephone companies and inter-exchange carriers (IXCs), whose responsibility is to create and document Telecommunication industry guidelines and standards.
- 2.130 "Out of Exchange LEC (OE-LEC)" means a LEC operating within AT&T-21STATE's incumbent local Exchange Area that provides Telecommunications Services utilizing NPA-NXXs identified to reside in a Third Party ILEC's local Exchange Area.
- 2.131 "Out of Exchange Traffic" is defined as local, transit, or intraLATA traffic to or from a non- AT&T-21STATE ILEC Exchange Area.
- 2.132 "Party" means either CLEC or the AT&T owned ILEC; use of the term "Party" includes each of the AT&T owned ILEC(s) that is a Party to this Agreement. "Parties" means both CLEC and the AT&T owned ILEC.
- 2.133 "Past Due" means when either Party fails to remit payment for any charges by the Bill Due Date, or if payment for any portion of the charges is received from either Party after the Bill Due Date, or if payment for any portion of the charges is received in funds which are not immediately available to Billing Party as of the Bill Due Date (individually and collectively means Past Due).
- 2.134 "Person" means an individual or a partnership, an association, a joint venture, a corporation, a business or a trust or other entity organized under Applicable law, an unincorporated organization or any Governmental Authority.

- 2.135 "Rate Center Area" means the following in each applicable area:
- 2.135.1 AT&T MIDWEST REGION 5-STATE: "Rate Center" means the specific geographic point that has been designated by a given LEC as being associated with a particular NPA-NXX code that has been assigned to the LEC for its provision of Telephone Exchange Service. The Rate Center is the finite geographic point identified by a specific V&H coordinate, which is used by that LEC to measure, for billing purposes, distance sensitive transmission services associated with the specific Rate Center.
  - 2.135.2 AT&T NEVADA: "Rate Center" means the designated points, representing Exchanges (or locations outside Exchange Areas), between which mileage measurements are made for the application of interexchange mileage rates. Rate Centers are defined in NV-PUC tariff A6.2.7.
  - 2.135.3 AT&T CALIFORNIA: "Rate Center" means the designated points, representing Exchanges or district area (or locations outside Exchange Areas), between which mileage measurements are made for the application of interexchange and interdistrict mileage rates, as defined by the CA-PUC.A2, 2.1.1 Definition of Terms.
  - 2.135.4 AT&T SOUTHWEST REGION 5-STATE: "Rate Center" means a uniquely defined geographical location within an Exchange Area (or a location outside the Exchange Area) for which mileage measurements are determined for the application of interstate tariffs.
  - 2.135.5 AT&T SOUTHEAST REGION 9-STATE: "Rate Center" means a specific geographic location identified by vertical and horizontal coordinates and is associated with a telephone company's central office switch. These coordinates are used to calculate mileage for interLATA and intraLATA toll billing and intercompany settlement purposes.
- 2.136 "Rating Point" means the V&H coordinates associated with a particular telephone number for rating purposes.
- 2.137 "Remittance Information" means the information that must specify the Billing Account Numbers (BANs) paid; invoices paid and the amount to be applied to each BAN and invoice.
- 2.138 "Resale" or "Resale Services" is as specified in Section 251 (c)(4) of the Act.
- 2.139 "Routing Point" means the location which a LEC has designated on its own network as the homing or routing point for traffic inbound to Exchange Service provided by the LEC which bears a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access services. The Routing Point need not be the same as the Rating Point, nor must it be located within the Rate Center area, but must be in the same LATA as the NPA-NXX.
- 2.140 "Service Start Date" means the date on which services were first supplied under this Agreement.
- 2.141 "Service Switching Point (SSP)" means the telephone Central Office Switch equipped with a Signaling System 7 (SS7) interface.
- 2.142 "Serving Wire Center (SWC)" means the Wire Center that serves the area in which the other Party's or a Third Party's Wire Center, aggregation point, point of termination, or point of presence is located.
- 2.143 "Signaling System 7 (SS7)" means a signaling protocol used by the CCS Network.
- 2.144 "Surety Bond" means a bond from a Bond company with a credit rating by AMBEST better than a "B". The bonding company shall be certified to issue bonds in a state in which this Agreement is approved.
- 2.145 "Switched Access Detail Usage Data" means a category 1101xx record as defined in the EMI iconectiv Practice BR 010-200-010.
- 2.146 "Switched Exchange Access Service" means the offering of transmission or switching services to Telecommunications Carriers for the purpose of the origination or termination of telephone toll service. Switched Exchange Access Services include: Feature Group A, Feature Group B, Feature Group D, 800/888 access, and 900 access and their successors or similar Switched Exchange Access Services.
- 2.147 "Synchronous Optical Network (SONET)" means the optical interface standard that allows inter-networking of transmission products from multiple vendors. The base rate is 51.84 Mbps ("OC 1/STS 1") and higher rates are direct multiples of the base rate, up to 13.22 Gbps.

- 2.148 "Tax" or "Taxes" means any and all federal, state, or local sales, use, excise, gross receipts, transfer, transaction or similar taxes or tax-like fees of whatever nature and however designated, including any charges or other payments, contractual or otherwise, for the use of streets or rights-of-way, whether designated as franchise fees or otherwise, and further including any legally permissible surcharge of or with respect to any of the foregoing, which are imposed or sought to be imposed on or with respect to, or measured by the charges or payments for, any products or services purchased under this Agreement.
- 2.149 "Telecommunications" is as defined in the Act.
- 2.150 "Telecommunications Carrier" is as defined in the Act.
- 2.151 "Telecommunications Service" is as defined in the Act.
- 2.152 "Telephone Exchange Service" is as defined in the Act.
- 2.153 "Telephone Toll Service" is as defined in the Act.
- 2.154 "Third Party" is any Person other than a Party.
- 2.155 "Toll Billing Exception Service (TBE)" means a service that allows End Users to restrict third number billing or collect calls to their lines.
- 2.156 "Trunk" means a communication line between two switching systems.
- 2.157 "Trunk-Side" means the Central Office Switch connection that is capable of, and has been programmed to treat the circuit as connecting to another switching entity (for example another Central Office Switch). Trunk-Side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone station sets.
- 2.158 "Unbundled Network Element (UNE)" is a network element that AT&T-21STATE is required to provide pursuant to Section 251 (c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders.
- 2.159 "Universal Digital Loop Carrier (UDLC)" means the DLC system that has a CO terminal channel bank that is connected to the CO switches on the analog side.
- 2.160 "Unpaid Charges" means any charges billed to the Non-Paying Party that the Non-Paying Party did not render full payment to the Billing Party by the Bill Due Date, including where funds were not accessible.
- 2.161 "Wire Center" means the location of one (1) or more local switching systems. It is also a point at which End User's loops within a defined geographic area converge. Such local loops may be served by one (1) or more Central Office Switches within such premises.

### **3.0 Interpretation, Construction and Severability**

#### **3.1 Definitions:**

3.1.1 For purposes of this Agreement, certain terms have been defined in this Agreement to encompass meanings that may differ from, or be in addition to, the normal connotation of the defined word. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation" and/or "but not limited to". The words "will" and "shall" are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other will not mean a different degree of right or obligation for either Party. A defined word intended to convey its special meaning is capitalized when used. Other terms that are capitalized and not defined in this Agreement will have the meaning in the Act, or in the absence of their inclusion in the Act, their customary usage in the Telecommunications industry as of the Effective Date.

#### **3.2 Headings Not Controlling:**

- 3.2.1 The headings and numbering of Sections, Parts, Attachments, Schedules and Exhibits to this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.
- 3.2.2 This Agreement incorporates a number of Attachments which, together with their associated Exhibits, Schedules and Addenda, constitute the entire Agreement between the Parties. In order to facilitate use and comprehension of the Agreement, the Attachments have been grouped under broad headings. It is understood that these groupings are for convenience of reference only, and are not intended to limit the applicability that any particular Attachment, Exhibit, Schedule or Addendum may otherwise have.

### 3.3 Referenced Documents:

- 3.3.1 Any reference throughout this Agreement to a guidebook, industry guideline, AT&T-21STATE's technical guideline or referenced AT&T-21STATE business rule, guide or other such document containing processes or specifications applicable to the services and their respective rates provided pursuant to this Agreement, shall be construed to refer to only those provisions thereof that are applicable to these services, and shall include any successor, replacement versions, or rate changes thereof, all as they are amended from time to time and all of which are incorporated herein by reference, and may be found at either AT&T external website; <https://clec.att.com/clec> or <https://primeaccess.att.com>.

### 3.4 References:

- 3.4.1 References herein to Sections, Paragraphs, Attachments, Exhibits, Parts and Schedules shall be deemed to be references to Sections, Paragraphs, Attachments and Parts of, and Exhibits, Schedules to this Agreement, unless the context shall otherwise require.

### 3.5 Tariff References:

- 3.5.1 References to state tariffs throughout this Agreement shall be to the currently effective tariff for the state or jurisdiction in which the services were provisioned; provided however, where certain AT&T-21STATE services or tariff provisions have been or become deregulated or detariffed, any reference in this Agreement to a detariffed or deregulated service or provision of such tariff shall be deemed to refer to the service description, guidebook, price list, Accessible Letter, other agreement or other publically posted notice applicable to which AT&T-21STATE provides such services as a result of detariffing or deregulation.
- 3.5.2 Wherever the term "customer" is used in connection with AT&T-21STATE's retail tariffs, the term "customer" means the ultimate consumer or the End User of any tariffed service.
- 3.5.3 No reference to tariffs in this Agreement shall be interpreted or construed as permitting CLEC to purchase Interconnection Services, under such tariff. Except where expressly permitted elsewhere in this Agreement, notwithstanding the availability of Interconnection Services under tariffs in some AT&T-21STATE incumbent ILEC states, CLEC agrees that any purchase of Interconnection Services addressed by this Agreement or required to be offered by AT&T-21STATE under Section 251 of the Act, shall be purchased solely pursuant to the terms, condition and rates set forth in this Agreement. To the extent that complete terms, conditions and/or rates for any Interconnection Service are not contained in this Agreement at the time CLEC seeks to order such services, the Parties shall amend this Agreement to include such terms, conditions and rates prior to CLEC submitting such order. The rates for Interconnection Services inadvertently or improperly ordered prior to an agreement of the Parties on terms, conditions and/or rates is addressed in the Pricing Schedule.

### 3.6 Conflict in Provisions:

- 3.6.1 If any definitions, terms or conditions in any given Attachment, Exhibit, Schedule or Addendum differ from those contained in the main body of this Agreement, those definitions, terms or conditions will supersede those contained in the main body of this Agreement, but only in regard to the services or activities listed in that particular Attachment, Exhibit, Schedule or Addendum. In particular, if an Attachment contains a Term length that differs from the Term length in the main body of this Agreement, the Term length of that Attachment will control the length of time that services or activities are to occur under that Attachment, but will not affect the Term length of the remainder of this Agreement.

### 3.7 Joint Work Product:

- 3.7.1 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.
- 3.7.2 If any provision of this Agreement is rejected or held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. If necessary to affect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible. The Parties negotiated the terms and conditions of this Agreement for Interconnection Services as a total arrangement and it is intended to be non-severable.

### 3.8 Incorporation by Reference:

- 3.8.1 All of the rates, terms and conditions ("Provisions") set forth in this Agreement (including any and all Attachments, and/or Schedules hereto) and every Interconnection Service provided hereunder, are subject to all other Provisions contained in this Agreement and all such Provisions are integrally related.

### 3.9 Non-Voluntary Provisions:

- 3.9.1 This Agreement incorporates certain rates, terms and conditions that were not voluntarily negotiated and/or agreed to by AT&T-21STATE, but instead resulted from determinations made in arbitrations under Section 252 of the Act or from other requirements of regulatory agencies or state law (individually and collectively "Non-Voluntary Arrangement(s)"). If any Non-Voluntary Arrangement is modified as a result of any order or finding by the FCC, the appropriate Commission or a court of competent jurisdiction, the Parties agree to follow the Intervening Law process outlined in Section 24.0 below.
- 3.9.2 The Parties acknowledge that the Non-Voluntary Arrangements contained in this Agreement shall not be available in any state other than the state that originally imposed/required such Non-Voluntary Arrangement. By way of example only, the Parties acknowledge that the PUC-OH's imposition in Ohio of the Minimum Telephone Service Standards (and all terms and conditions relating thereto) shall not apply in or be "portable to" any State other than Ohio.

### 3.10 State-Specific Rates, Terms and Conditions:

- 3.10.1 For ease of administration, this multi-state Agreement contains certain specified rates, terms and conditions which apply only in a designated state ("state-specific terms").
- 3.10.2 State-specific terms, as the phrase is described in Section 3.10.1 above, have been negotiated (or in the case of Section 3.9.2 above, included in the agreement per state requirement) by the Parties only as to the states where this Agreement has been executed, filed and approved. When the Parties negotiate an agreement for an additional state, neither Party shall be precluded by any language in this Agreement from negotiating state-specific terms for the state in which they are to apply.

### 3.11 Scope of Obligations:

- 3.11.1 Notwithstanding anything to the contrary contained herein, AT&T-21STATE's obligations under this Agreement shall apply only to:
- 3.11.1.1 the specific operating area(s) or portion thereof in which AT&T-21STATE is then deemed to be the ILEC under the Act (the "ILEC Territory"), and only to the extent that CLEC is operating and offering service to End Users identified to be residing in such ILEC Territory; and
- 3.11.1.2 assets that AT&T-21STATE owns or leases and which are used in connection with AT&T-21STATE's provision to CLEC of any Interconnection Services provided or contemplated under this Agreement, the Act or any tariff or ancillary agreement referenced herein (individually and collectively, the "ILEC Assets").

3.11.2 This Agreement sets forth the terms and conditions pursuant to which AT&T-21STATE agrees to provide CLEC with access to 251(c)(3) UNEs, Collocation under Section 251(c)(6), Interconnection under Section 251(c)(2) and/or Resale under Section 251(c)(4) in AT&T-21STATE's incumbent local Exchange Areas for the provision of CLEC's Telecommunications Services. The Parties acknowledge and agree that AT&T-21STATE is only obligated to make available 251(c)(3) UNEs, Collocation under Section 251(c)(6), Interconnection under Section 251(c)(2) and/or Resale under Section 251(c)(4) to CLEC in AT&T-21STATE's incumbent local Exchange Areas. AT&T-21STATE has no obligation to provide such 251(c)(3) UNEs, Collocation, Interconnection and/or Resale, to CLEC for the purposes of CLEC providing and/or extending service outside of AT&T-21STATE's incumbent local Exchange Areas. In addition, AT&T-21STATE is not obligated to provision 251(c)(3) UNEs or to provide access to (251(c)(3) UNEs, Collocation under Section 251(c)(6), Interconnection under Section 251(c)(2) and/or Resale under Section 251(c)(4) and is not otherwise bound by any 251(c) obligations in geographic areas other than AT&T-21STATE's incumbent local Exchange Areas. Therefore, the Parties understand and agree that the rates, terms and conditions set forth in this Agreement shall only apply to the Parties and be available to CLEC for provisioning Telecommunication Services within an AT&T-21STATE incumbent local Exchange Area(s) in the State in which this Agreement has been approved by the relevant state Commission and is in effect.

3.11.3 Throughout this Agreement, wherever there are references to Unbundled Network Elements that are to be provided by AT&T-21STATE under this Agreement, the Parties agree and acknowledge that their intent is for the Agreement to comply with Section 3.11.2 above, and require only the provision of Section 251(c)(3) UNEs.

#### 3.12 Affiliates:

3.12.1 This Agreement, including subsequent amendments, if any, shall bind AT&T-21STATE, CLEC and any entity that currently or subsequently is owned or controlled by or under common ownership or control with CLEC. CLEC further agrees that the same or substantially the same terms and conditions shall be incorporated into any separate agreement between AT&T-21STATE and any such CLEC Affiliate that continues to operate as a separate entity. This Agreement shall remain effective as to CLEC and any such CLEC Affiliate for the term of this Agreement as stated herein, (subject to any early termination due to default), until either AT&T-21STATE or CLEC or any such CLEC Affiliate institutes renegotiation consistent with the provisions of this Agreement for renewal and term. Notwithstanding the foregoing, this Agreement will not supersede a currently effective interconnection agreement between any such CLEC Affiliate and AT&T-21STATE until the expiration of such other agreement.

#### 4.0 Notice of Changes - Section 251(c)(5)

4.1 Nothing in this Agreement shall limit either Party's ability to upgrade its network through the incorporation of new equipment, new software or otherwise or to otherwise change and/or modify its network including, without limitation, through the retirement and/or replacement of equipment, software or otherwise. Each Party agrees to comply with the Network Disclosure rules adopted by the FCC in CC Docket No. 96-98, Second Report and Order, codified at 47 C.F.R 51.325 through 51.335, as such rules may be amended from time to time (the "Network Disclosure Rules").

#### 5.0 Responsibilities of the Parties

5.1 Each Party is individually responsible to provide facilities within its network that are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with AT&T-21STATE's network as referenced in iconectiv BOC Notes on LEC Networks Practice No. SR-TSV-002275, and to terminate the traffic it receives in that standard format to the proper address on its network. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

5.2 The Parties shall exchange technical descriptions and forecasts of their Interconnection and traffic requirements in sufficient detail necessary to establish the Interconnections required to assure traffic completion to and from all End Users in their respective designated service areas.

- 5.3 Each Party is solely responsible for all products and services it provides to its End Users and to other Telecommunications Carriers.
- 5.4 Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement.

## 6.0 Insurance

- 6.1 At all times during the term of this Agreement, and without limiting any of its other obligations or liabilities, CLEC shall keep and maintain, in force at its own expense, the following minimum insurance coverage and limits and any additional insurance and/or bonds required by Applicable Law:
- 6.1.1 With respect to CLEC's performance under this Agreement, and in addition to CLEC's obligation to indemnify, CLEC shall at its sole cost and expense:
- 6.1.1.1 maintain the insurance coverage and limits required by this Section 6.0 and any additional insurance and/or bonds required by law:
    - 6.1.1.1.1 at all times during the term of this Agreement and until completion of all work associated with this Agreement is completed, whichever is later; and
    - 6.1.1.1.2 with respect to any coverage maintained in a "claims-made" policy, for two (2) years following the term of this Agreement or completion of all Work associated with this Agreement, whichever is later and if a "claims-made" policy is maintained, the retroactive date must precede the commencement of Work under this Agreement; and
  - 6.1.1.2 require each subcontractor who may perform work under this Agreement or enter upon the work site to maintain coverage, requirements, and limits at least as broad as those listed in this Section 6.0 from the time when the subcontractor begins work, throughout the term of the subcontractor's work and, with respect to any coverage or extended discovery period maintained on a "claims-made" policy, for two (2) years thereafter; and
  - 6.1.1.3 procure the required insurance from an insurance company eligible to do business in the state or states where work will be performed and having and maintaining a Financial Strength Rating of "A-" or better and a Financial Size Category of "VII" or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies, except that, in the case of Workers' Compensation insurance, CLEC may procure insurance from the state fund of the state where work is to be performed; and
  - 6.1.1.4 deliver to AT&T-21STATE certificates of insurance stating the types of insurance and policy limits. CLEC shall provide or will endeavor to have the issuing insurance company provide at least thirty (30) days advance written notice of cancellation, non-renewal, or reduction in coverage, terms, or limits to AT&T-21STATE. CLEC shall deliver such certificates:
    - 6.1.1.4.1 prior to execution of this Agreement and prior to commencement of any Work; and
    - 6.1.1.4.2 prior to expiration of any insurance policy required in this Section 6.0; and
    - 6.1.1.4.3 for any coverage maintained on a "claims-made" policy, for two (2) years following the term of this Agreement or completion of all Work associated with this Agreement, whichever is later.
- 6.1.2 The Parties agree:
- 6.1.2.1 the failure of AT&T-21STATE to demand such certificate of insurance or failure of AT&T-21STATE to identify a deficiency will not be construed as a waiver of CLEC's obligation to maintain the insurance required under this Agreement;

- 6.1.2.2 that the insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect CLEC, nor be deemed as a limitation on CLEC's liability to AT&T-21STATE in this Agreement;
  - 6.1.2.3 CLEC may meet the required insurance coverages and limits with any combination of primary and Umbrella/Excess liability insurance; and
  - 6.1.2.4 CLEC is responsible for any deductible or self-insured retention; unless agreed to in writing by AT&T-21STATE, the deductible or self insured retention can be no greater than \$100,000 per occurrence; and
  - 6.1.2.5 that limits required are minimums only and do not impose a limitation or restriction on available insurance coverage to Additional Insured(s); and
  - 6.1.2.6 to the extent that CLEC is performing Work at a Work site where AT&T-21STATE is obligated to require its subcontractors to maintain certain coverages and limits, CLEC agrees to be bound to those terms. However, the terms and conditions will be no broader than the requirements shown herein.
- 6.2 The insurance coverage required by this Section 6.0 includes:
- 6.2.1 Workers' Compensation insurance with benefits afforded under the laws of any state in which the work is to be performed and Employers Liability insurance with limits of at least:
    - 6.2.1.1 \$500,000 for Bodily Injury – each accident; and
    - 6.2.1.2 \$500,000 for Bodily Injury by disease – policy limits; and
    - 6.2.1.3 \$500,000 for Bodily Injury by disease – each employee.
    - 6.2.1.4 To the fullest extent allowable by Law, the policy must include a waiver of subrogation in favor of AT&T-21STATE, its Affiliates, and their directors, officers and employees; and
    - 6.2.1.5 In states where Workers' Compensation insurance is a monopolistic state-run system, CLEC shall add Stop Gap Employers Liability with limits not less than \$1,000,000 each accident or disease; and,
    - 6.2.1.6 To the extent that any Work is subject to the Jones Act, the Longshore and Harbor Workers' Compensation Act, Federal Employers Liability Act, Continental Shelf, or the Defense Base Act, the Workers' Compensation policy must be endorsed to cover such liability under such Act.
  - 6.2.2 Commercial General Liability insurance written on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing equivalent coverage, covering liability arising from premises, operations, personal injury, products/completed operations, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) with limits of at least:

**Non-Collocating**

- 6.2.2.1 \$2,000,000 General Aggregate; and
- 6.2.2.2 \$1,000,000 Each Occurrence; and
- 6.2.2.3 \$1,000,000 Personal Injury and Advertising Injury; and
- 6.2.2.4 \$2,000,000 Products/Completed Operations Aggregate; and
- 6.2.2.5 \$1,000,000 Damage to Premises Rented to You (Fire Legal Liability).

**Collocating**

- 6.2.2.6 \$10,000,000 General Aggregate; and
- 6.2.2.7 \$5,000,000 Each Occurrence; and
- 6.2.2.8 \$5,000,000 Personal Injury and Advertising Injury; and

- 6.2.2.9 \$10,000,000 Products/Completed Operations Aggregate; and
  - 6.2.2.10 \$2,000,000 Damage to Premises Rented to You (Fire Legal Liability).
  - 6.2.2.11 The Commercial General Liability insurance policy must include AT&T-21STATE, its Affiliates, and their directors, officers, and employees as Additional Insureds on ISO endorsement(s):
    - 6.2.2.11.1 CG 20 10 (premises or operations) **AND** CG 20 37 (products or completed operations); or
    - 6.2.2.11.2 CG 20 26; or
    - 6.2.2.11.3 substitute form(s) providing equivalent coverage to 6.2.4.1.1 or 6.2.4.1.2 listed above.
  - 6.2.2.12 CLEC shall also provide a copy of the Additional Insured endorsement to AT&T-21STATE. The Additional Insured endorsement may either be specific to AT&T-21STATE or may be “blanket” or “automatic” addressing any person or entity as required by contract. A copy of the Additional Insured endorsement must be provided within sixty (60) calendar days of execution of this Agreement and within sixty (60) calendar days of each Commercial General Liability policy renewal; include a waiver of subrogation in favor of AT&T-21STATE, its Affiliates, and their directors, officers and employees; and
  - 6.2.2.13 be primary and non-contributory with respect to any insurance or self-insurance that is maintained by AT&T-21STATE; and
  - 6.2.2.14 not exclude explosion, Collapse, and Underground Damage Liability must not be excluded from the Commercial General Liability policy for any Work involving explosives or any underground Work and Explosion, Collapse, and Underground Damage Liability will have the same limit requirement as the Commercial General Liability policy; and
  - 6.2.2.15 include a waiver of subrogation in favor of AT&T-21STATE, its affiliates, and their directors officers, and employees.
  - 6.2.3 Automobile Liability insurance with minimum limits of \$1,000,000 combined single limit per accident for bodily injury and property damage, extending to all owned, hired, and non-owned vehicles.
  - 6.2.4 Automobile Liability insurance with minimum limits of \$2,000,000 combined single limit per accident for bodily injury and property damage, extending to all owned, hired, and non-owned vehicles for a Collocated CLEC.
  - 6.2.5 Umbrella/Excess insurance with limits of at least \$1,000,000 each occurrence with terms and conditions at least as broad as the underlying **Commercial General Liability, Business Auto Liability, and Employers’ Liability** policies. **Umbrella/Excess Liability** limits will be primary and non-contributory with respect to any insurance or self insurance that is maintained by AT&T-21STATE. If Additional Insured status is required on underlying policies, Additional Insured status will be added to **Umbrella/Excess Liability** on the same terms.
- 6.3 If CLEC chooses self-insurance requirements as shown in Section 6.0, the following applies:
- 6.3.1 Workers’ Compensation:
    - 6.3.1.1 CLEC shall provide a copy of the Certificate of Authority to Self Insure Workers’ Compensation obligations issued by the state in which the operations are to be performed or the employer’s state of hire; and
    - 6.3.1.2 provide a copy of the Certificate of Authority annually for the term of this Agreement; and
    - 6.3.1.3 obtain Workers’ Compensation and Employers’ Liability insurance immediately if the state rescinds the Certificate of Authority.

6.3.1.4 The option to self insure Workers' Compensation is specific to CLEC and does not extend to subcontractors CLEC may hire.

6.3.2 Commercial General Liability:

6.3.2.1 CLEC shall provide a copy of the most recent audited financial statements with an unqualified opinion from the auditor and comply with one of the following three requirements:

6.3.2.1.1 provide a current Dun & Bradstreet report with a composite credit appraisal score of "1" or "2"; or

6.3.2.1.2 maintain a long-term unsecured issuer rating of BBB- from Standard & Poors or Baa from Moody's during the term of this Agreement; or

6.3.2.1.3 maintain a net worth of a least ten (10) times the amount of insurance required.

6.3.2.2 CLEC shall obtain Commercial General Liability insurance immediately if the party is unable to comply with the financial strength and size requirements in the section.

6.3.2.3 CLEC shall provide this information annually for the term of the Agreement.

6.3.2.4 If CLEC is a publicly-traded company or a wholly-owned subsidiary of a publicly-traded company, the financial ratings of the publicly-traded company may be used to satisfy the requirements of this section.

6.3.3 Automobile Liability:

6.3.3.1 CLEC shall provide a copy of the Certificate of Authority to Self Insure Automobile Liability obligations issued by the state in which the operations are to be performed; and

6.3.3.2 provide a copy of the Certificate of Authority annually for the term of this Agreement; and

6.3.3.3 obtain Automobile Liability insurance immediately if the state rescinds the Certificate of Authority to self insure Automobile Liability obligations.

6.3.3.4 The option to self-insure Automobile Liability is specific to CLEC and does not extend to subcontractors CLEC may hire.

6.4 This Section 6.0 is a general statement of insurance requirements and shall be in addition to any specific requirement of insurance referenced elsewhere in this Agreement or a Referenced Instrument.

## 7.0 Assignment or Transfer of Agreement, Change in Control and Corporate Name Change

### 7.1 Assignment or Transfer of Agreement:

7.1.1 CLEC may not assign, delegate, or otherwise transfer its rights or obligations under this Agreement, voluntarily or involuntarily, directly or indirectly, whether by merger, consolidation, dissolution, operation of law, Change in Control or any other manner, without the prior written consent of AT&T-21STATE. For any proposed assignment or transfer CLEC shall provide AT&T-21STATE with a minimum of one hundred twenty (120) calendar days advance written Notice of any assignment associated with a CLEC Company Code (ACNA/CIC/OCN) change or transfer of ownership of assets and request AT&T-21STATE's written consent. CLEC's written Notice shall include the anticipated effective date of the assignment or transfer. Any attempted assignment or transfer that is not permitted is void as to AT&T-21STATE and need not be recognized by AT&T-21STATE unless it consents or otherwise chooses to do so for a more limited purpose. CLEC may assign or transfer this Agreement and all rights and obligations hereunder, whether by operation of law or otherwise, to an Affiliate by providing sixty (60) calendar days advance written Notice of such assignment to AT&T-21STATE; provided that such assignment or transfer is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain and maintain proper Commission certification and approvals) or the terms and conditions of this Agreement. Notwithstanding the foregoing, CLEC may not assign or transfer this Agreement, or any rights or obligations hereunder, to an Affiliate if that Affiliate is a Party to a separate interconnection agreement with AT&T-21STATE under Sections 251 and 252 of the Act

that covers the same state(s) as this Agreement. Any attempted assignment or transfer that is not permitted is void *ab initio*.

## 7.2 CLEC Name Change:

7.2.1 Any change in CLEC's corporate name including a change in the "d/b/a", or due to assignment or transfer of this Agreement wherein only the CLEC name is changing, and no CLEC Company Code(s) are changing, constitutes a CLEC Name Change. For any CLEC Name Change, CLEC is responsible for providing proof of compliance with industry standards related to any Company Code(s). CLEC is responsible for paying normal applicable service order processing/administration charges and/or nonrecurring charges for each service order submitted by CLEC, or by AT&T-21STATE on behalf of CLEC, for updating billing accounts and End User records, as set forth in the Pricing Schedule attachment of this Agreement.

7.2.2 The Parties agree to amend this Agreement to appropriately reflect any CLEC Name Change.

## 7.3 Company Code(s) Change:

7.3.1 Unless within sixty (60) days of acquisition, CLEC provides AT&T-21STATE with appropriate paperwork reflecting that Third Party-administered codes have been updated to reflect CLEC's name on each Company Code associated with acquired assets including but not limited to any Interconnection, Resale Service, 251(c)(3) UNEs, function, facility, product or service, CLEC must submit an order for each acquired asset to reflect the change of ownership in all appropriate AT&T-21STATE systems. All orders must be submitted no later than nine (9) months after the closing date of the acquisition.

7.3.2 In the event of a Company Code Change, CLEC shall comply with Applicable Law relating thereto, including but not limited to all FCC and state Commission rules relating to notice(s) to End Users.

7.3.3 For any CLEC Company Code Change, CLEC must negotiate a separate transfer or assignment agreement.

7.3.4 CLEC acknowledges that failing to comply with this Section 7 shall entitle AT&T-21STATE to issue a Notice under and in accordance with Section 8.3 of this Agreement.

7.4 Wherever required by this Section 7, AT&T-21STATE's consent shall be conditioned upon receipt of payment for all outstanding charges associated with any transferred or acquired assets.

7.5 CLEC acknowledges that CLEC may be required to tender additional assurance of payment to AT&T-21STATE as a result of any assignment, acquisition or transfer of assets if requested under the terms of this Agreement.

## 8.0 Effective Date, Term and Termination

### 8.1 Effective Date:

8.1.1 In AT&T-21STATE, with the exception of AT&T OHIO and AT&T WISCONSIN, the Effective Date of this Agreement shall be ten (10) calendar days after the Commission approves this Agreement under Section 252(e) of the Act or, absent such Commission approval, the date this Agreement is deemed approved under Section 252(e)(4) of the Act. In AT&T OHIO, based on the PUC-OH, the Agreement is Effective upon filing and is deemed approved by operation of law on the 91st day after filing. In AT&T WISCONSIN, the Effective Date of this Agreement shall be ten (10) calendar days after the mailing date of the final order approving this Agreement.

### 8.2 Term:

8.2.1 Unless terminated for breach (including nonpayment), the term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on January 1, 1900 (the "Initial Term").

### 8.3 Termination for Nonperformance or Breach:

8.3.1 Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement and the provision of any Interconnection Services provided pursuant to this Agreement, at the sole discretion of the terminating Party, in the event that the other Party fails to perform a material obligation or breaches a material term of this Agreement and the other Party fails to cure such nonperformance or breach within

forty-five (45) calendar days after written Notice thereof. If the nonperforming Party fails to cure such nonperformance or breach within the forty-five (45) calendar day period provided for within the original Notice, then the terminating Party will provide a subsequent written Notice of the termination of this Agreement and such termination shall take effect immediately upon delivery of written Notice to the other Party.

8.3.2 If, at any time during the term of this Agreement, AT&T-21STATE is unable to contact CLEC pursuant to the Notices provision hereof or any other contact information provided by CLEC under this Agreement, and there are no active services being provisioned under this Agreement, then AT&T-21STATE may, at its discretion, terminate this Agreement, without any liability whatsoever, upon sending of notification to CLEC pursuant to the Notices Section hereof.

#### 8.4 Termination of Agreement after initial term expiration:

8.4.1 Where CLEC has no End Users or is no longer purchasing any services under this Agreement, CLEC may terminate the Agreement by providing "Notice of Termination" to AT&T-21STATE at any time after the initial term of this Agreement. After termination the Parties' liability for termination of this Agreement shall be limited to obligations under the Survival Section of this GT&C.

8.4.2 Where CLEC has End Users and/or is purchasing Interconnection Services under this Agreement and either Party seeks to terminate this Agreement, CLEC shall cooperate in good faith to effect an orderly transition of service under this Agreement. CLEC shall be solely responsible (from a financial, operational and administrative standpoint) to ensure that its End Users are transitioned to a new LEC prior to the expiration or termination date of this Agreement.

8.4.3 If at any time within one hundred and eighty (180) days or any time thereafter of the expiration of the Term, if either Party serves "Notice of Expiration" or Notice of Termination (if served after Expiration), CLEC shall have ten (10) calendar days to provide AT&T-21STATE written confirmation to the Notice of Expiration indicating if CLEC wishes to pursue a successor agreement with AT&T-21STATE or terminate its Agreement. CLEC shall identify the action to be taken in each of the applicable state(s). If CLEC wishes to pursue a successor agreement with AT&T-21STATE, CLEC shall attach to its written confirmation or Notice of Expiration, a written request to commence negotiations with AT&T-21STATE under Sections 251/252 of the Act and identify each of the state(s) to which the successor agreement will apply. Upon receipt of CLEC's Section 252(a)(1) request, the Parties shall commence good faith negotiations for a successor agreement.

8.4.4 If the Parties are in "Active Negotiations" (negotiations within the statutory clock established in the Act under Section 252(b)) or have filed for arbitration with the Commission upon expiration date of the Agreement AT&T-21STATE shall continue to offer services to CLEC pursuant to the rates, terms and conditions set forth in this Agreement until a successor agreement becomes effective between the Parties. AT&T-21STATE's obligation to provide services under this Agreement beyond the expiration date conditions upon the Parties adherence to the timeframes established within Section 252(b) of the Act. If CLEC does not adhere to said timeframes or CLEC withdraws its arbitration or seeks an extension of time or continuance of such arbitration without AT&T-21STATE's consent, AT&T-21STATE may provide Notice to CLEC that all services provided thereafter shall be pursuant to the rates, terms and conditions set forth in AT&T-21STATE's then current standard interconnection agreement ("Generic") as found on AT&T's CLEC Online website.

8.4.5 Either on or following the expiration date of this Agreement, if the Parties have not entered into a new agreement or are not in Active Negotiations as described in Section 8.4.4 above, the Agreement shall remain in full force and effect on a month to month basis unless both Parties mutually agree to terminate, or either Party provides "Notice of Termination" as provided for in Section 8.4.

8.4.6 AT&T-21STATE may reject a request under Section 252 for a new agreement if CLEC has an outstanding balance under this Agreement. CLEC may send a subsequent notice under Section 252 when the outstanding balance has been paid in full.

## **9.0 End User Fraud**

- 9.1 AT&T-21STATE shall not be liable to CLEC for any fraud associated with CLEC's End User account, including 1+ IntraLATA toll calls, ported numbers, and ABT.
- 9.2 The Parties agree to cooperate with one another to investigate, minimize, and take corrective action in cases of fraud involving 1+ IntraLATA toll calls, ABT, and ported numbers. The Parties' fraud minimization procedures are to be cost-effective and implemented so as not to unduly burden or harm one Party as compared to the other.
- 9.3 In cases of suspected fraudulent activity by an End User, at a minimum, the cooperation referenced in Section 9.2 above will include providing to the other Party, upon request, information concerning End Users who terminate services to that Party without paying all outstanding charges. The Party seeking such information is responsible for securing the End User's permission to obtain such information.
- 9.4 AT&T-21STATE will use a Fraud Monitoring System to determine suspected occurrences of ABT-related fraud and will provide notification messages to CLEC on suspected occurrences of ABT-related fraud on CLEC accounts stored in the applicable LIDB.
- 9.5 CLEC understands that Fraud Monitoring System alerts only identify potential occurrences of fraud. CLEC understands and agrees that it will need to perform its own investigations to determine whether a fraud situation actually exists. CLEC understands and agrees that it will also need to determine what, if any, action CLEC should take as a result of a Fraud Monitoring System alert.
- 9.6 The Parties will provide contact names and numbers to each other for the exchange of Fraud Monitoring System alert notification.

## **10.0 Assurance of Payment**

- 10.1 Upon request by AT&T-21STATE, CLEC will provide AT&T-21STATE with the AT&T-21STATE Credit Profile form and provide information to AT&T-21STATE regarding CLEC's credit and financial condition.
- 10.2 Assurance of payment may be requested by AT&T-21STATE:
- 10.2.1 If based on AT&T-21STATE's analysis of the AT&T-21STATE Credit Profile and other relevant information regarding CLEC's credit and financial condition, there is an impairment of the credit, financial health, or credit worthiness of CLEC. Such impairment will be determined from information available from Third Party financial sources; or
- 10.2.2 CLEC fails to timely pay a bill rendered to CLEC by AT&T-21STATE (except such portion of a bill that is subject to a good faith, bona fide dispute and as to which CLEC has complied with all requirements set forth in Section 12.4 below); and/or
- 10.2.3 CLEC's gross monthly billing has increased, AT&T-21STATE reserves the right to request additional security (or to require a security deposit if none was previously requested) and/or file a Uniform Commercial Code (UCC-1) security interest in CLEC's "accounts receivables and proceeds"; or
- 10.2.4 When CLEC admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had an involuntary case commenced against it) under the U.S. Bankruptcy Code or any other law relating to insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding.
- 10.3 If AT&T-21STATE requires CLEC to provide a security deposit, CLEC shall provide such security deposit prior to the inauguration of service or within fifteen (15) calendar days of AT&T-21STATE's request, as applicable. Deposit request notices will be sent to CLEC via certified mail or overnight delivery. Such notice period will start the day after the deposit request notice is rendered by certified mail or overnight delivery. Interest on a cash security deposit shall accrue and be applied or refunded in accordance with the terms in AT&T-21STATE's applicable Tariff.

- 10.4 Unless otherwise agreed by the Parties, the assurance of payment will consist of:
- 10.4.1 a Cash Deposit; or
  - 10.4.2 a Letter of Credit; or
  - 10.4.3 a Surety Bond.
- 10.5 The Cash Deposit, Letter of Credit or Surety Bond must be in an amount up to three (3) months anticipated charges (including, but not limited to, recurring, non-recurring and usage sensitive charges, termination charges and advance payments), as reasonably determined by AT&T-21STATE, for the Interconnection Services, 251(c)(3) UNES, Collocation or any other functions, facilities, products or services to be furnished by AT&T-21STATE under this Agreement. Estimated billings are calculated based upon the monthly average of the previous six (6) months current billings, if CLEC has received service from AT&T-21STATE during such period at a level comparable to that anticipated to occur over the next six (6) months. If either CLEC or AT&T-21STATE has reason to believe that the level of service to be received during the next six (6) months will be materially higher or lower than received in the previous six (6) months, CLEC and AT&T-21STATE shall agree on a level of estimated billings based on all relevant information.
- 10.6 To the extent that AT&T-21STATE elects to require a Cash Deposit, the Parties intend that the provision of such Cash Deposit shall constitute the grant of a security interest in the Cash Deposit pursuant to Article 9 of the Uniform Commercial Code in effect in any relevant jurisdiction.
- 10.7 Interest on a Cash Deposit shall accrue and be applied or refunded in accordance with the terms in the appropriate AT&T-21STATE Tariff. AT&T-21STATE will not pay interest on a Letter of Credit or a Surety Bond.
- 10.8 AT&T-21STATE may, but is not obligated to, draw on the Letter of Credit or the Cash Deposit, as applicable, upon the occurrence of any one of the following events:
- 10.8.1 CLEC owes AT&T-21STATE undisputed charges under this Agreement that are more than thirty (30) calendar days past due; or
  - 10.8.2 CLEC admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had an involuntary case commenced against it) under the U.S. Bankruptcy Code or any other law relating to insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding; or
  - 10.8.3 The expiration or termination of this Agreement.
- 10.9 If AT&T-21STATE draws on the Letter of Credit or Cash Deposit, upon request by AT&T-21STATE, CLEC will provide a replacement or supplemental Letter of Credit, Surety Bond or Cash Deposit conforming to the requirements of Section 10.4 above.
- 10.10 Notwithstanding anything else set forth in this Agreement, if AT&T-21STATE makes a request for assurance of payment in accordance with the terms of this Section 10.0 then AT&T-21STATE shall have no obligation thereafter to perform under this Agreement until such time as CLEC has furnished AT&T-21STATE with the assurance of payment requested; provided, however, that AT&T-21STATE will permit CLEC a minimum of fifteen (15) calendar days to respond to a request for assurance of payment before invoking this Section 10.0.
- 10.11 In the event CLEC fails to provide AT&T-21STATE with a suitable form of security deposit or additional security deposit as required herein, defaults on its account(s), or otherwise fails to make any payment or payments required under this Agreement in the manner and within the time required, service to CLEC may be suspended, discontinued or terminated in accordance with the terms of Section 12.0 below. Upon termination of services, AT&T-21STATE shall apply any security deposit to CLEC's final bill for its account(s). If CLEC fails to furnish the requested adequate assurance of payment on or before the date set forth in the request, AT&T-21STATE may also invoke the provisions set forth in Section 12.0 below.
- 10.12 A Cash Deposit held by AT&T-21STATE shall be returned to CLEC if the following conditions have been met:
- 10.12.1 Payment was made on bills rendered to CLEC by AT&T-21STATE (except such portion of a bill that is subject to a good faith, bona fide dispute and as to which CLEC has complied with all requirements set forth

in Section 12.4 below) as of the Bill Due Date for all but one time during the prior twelve (12) month period and all payments were made with checks that were honored; and

- 10.12.2 There has been no impairment of the established credit and/or financial health from information available from financial sources, including but not limited to Moody's, Standard and Poor's, and the Wall Street Journal. Financial information about CLEC that may be considered includes, but is not limited to, investor warning briefs, rating downgrades, and articles discussing pending credit problems.
- 10.13 The fact that a Cash Deposit or Letter of Credit is requested by AT&T-21STATE shall in no way relieve CLEC from timely compliance with all payment obligations under this Agreement (including, but not limited to, recurring, non-recurring and usage sensitive charges, termination charges and advance payments), nor does it constitute a waiver or modification of the terms of this Agreement pertaining to disconnection or re-entry for non-payment of any amounts required to be paid hereunder.
- 10.14 At least seven (7) calendar days prior to the expiration of any Letter of Credit provided by CLEC as security under this Agreement, CLEC shall renew such Letter of Credit or provide AT&T-21STATE with evidence that CLEC has obtained a suitable replacement for the Letter of Credit. If CLEC fails to comply with the foregoing, AT&T-21STATE shall thereafter be authorized to draw down the full amount of such Letter of Credit and utilize the cash proceeds as security for CLEC account(s). If CLEC provides a security deposit or additional security deposit in the form of a Surety Bond as required herein, CLEC shall renew the Surety Bond or provide AT&T-21STATE with evidence that CLEC has obtained a suitable replacement for the Surety Bond at least seven (7) calendar days prior to the cancellation date of the Surety Bond. If CLEC fails to comply with the foregoing, AT&T-21STATE shall thereafter be authorized to take action on the Surety Bond and utilize the cash proceeds as security for CLEC's account(s). If the credit rating of any bonding company that has provided CLEC with a Surety Bond provided as security hereunder has fallen below "B", AT&T-21STATE will provide written Notice to CLEC that CLEC must provide a replacement bond or other suitable security within fifteen (15) calendar days of AT&T-21STATE's written Notice. If CLEC fails to comply with the foregoing, AT&T-21STATE shall thereafter be authorized to take action on the Surety Bond and utilize the cash proceeds as security for CLEC's account(s). Notwithstanding anything contained in this Agreement to the contrary, AT&T-21STATE shall be authorized to draw down the full amount of any Letter of Credit or take action on any Surety Bond provided by CLEC as security hereunder if CLEC defaults on its account(s) or otherwise fails to make any payment or payments required under this Agreement in the manner and within the time, as required herein.
- 11.0 Billing and Payment of Charges**
- 11.1 Unless otherwise stated, each Party will render monthly bill(s), remittance in full by the Bill Due Date, to the other for Interconnection Services provided hereunder at the applicable rates set forth in the Pricing Schedule.
- 11.2 There will be no offset by the billed Party of payments due herein against any other amount owed by one Party to the other.
- 11.3 A Late Payment Charge will be assessed for all Past Due payments as provided below, as applicable.
- 11.3.1 If any portion of the payment is not received by Billing Party on or before the payment due date as set forth above, or if any portion of the payment is received by Billing Party in funds that are not immediately available to Billing Party, then a late payment and/or interest charge shall be due to Billing Party. The late payment and/or interest charge shall apply to the portion of the payment not received and shall be assessed as set forth in the applicable state tariff, or, if no applicable state tariff exists, as set forth in the Guide Book as published on the AT&T CLEC Online website, or pursuant to the applicable state law as determined by Billing Party. In addition to any applicable late payment and/or interest charges, Billed Party may be charged a fee for all returned checks at the rate set forth in the applicable state tariff, or, if no applicable tariff exists, as set forth in the Guide Book or pursuant to the applicable state law.
- 11.4 If any charge incurred by AT&T-21STATE under this Agreement is Past Due, the unpaid amounts will accrue interest from the day following the Bill Due Date until paid. The interest rate applied will be the lesser of (i) the rate used to compute the Late Payment Charge contained in the applicable AT&T-21STATE intrastate access services tariff for

that state and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.

- 11.5 The Remittance Information to apply payments must accompany the payment. Payment is considered to have been made when the payment and Remittance Information are received by Billing Party. If the Remittance Information is not received with payment, Billing Party will be unable to apply amounts paid to Billed Party's accounts. In such event, Billing Party shall hold such funds until the Remittance Information is received. If Billing Party does not receive the Remittance Information by the Bill due date for any account(s), Late Payment Charges shall apply.
- 11.6 CLEC shall make all payments to AT&T-21STATE via electronic funds transfers (EFTs) through the Automated Clearing House Association (ACH) to the financial institution designated by AT&T-21STATE. Remittance Information will be communicated together with the funds transfer via the ACH network. CLEC must use the CCD+ or the CTX Standard Entry Class code. CLEC and AT&T-21STATE will abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each ACH payment must be received by AT&T-21STATE no later than the Bill Due Date of each bill or Late Payment Charges will apply. AT&T-21STATE is not liable for any delays in receipt of funds or errors in entries caused by CLEC or Third Parties, including CLEC's financial institution. CLEC is responsible for its own banking fees.
- 11.7 Prior to establishing EFT, CLEC will complete a Customer Information Form for Electronic Payments (ECF11 Form) found on AT&T's CLEC Online website. This form provides AT&T-21STATE with CLEC's set up and contract information for electronic payments. AT&T-21STATE banking information will be provided by AT&T-21STATE Treasury & Remittance Operations on AT&T-21STATE approved forms after CLEC's completed ECF11 form is received, testing has completed and certification confirmed.
- 11.8 Processing of payments not made via electronic funds transfers through the ACH network may be delayed. CLEC is responsible for any Late Payment Charges resulting from CLEC's failure to use electronic funds transfers through the ACH network.
- 11.9 If Unpaid Charges are subject to a billing dispute between the Parties, the Non-Paying Party must, prior to the Bill Due Date, give written notice to the Billing Party of the Disputed Amounts and include in such written notice the specific details and reasons for disputing each item listed in Section 13.4 below. The Disputing Party should utilize the preferred form or method provided by the Billing Party to communicate disputes to the Billing Party. On or before the Bill Due Date, the Non-Paying Party must pay: (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts, except for Disputed Amounts arising from compensation for the termination of Section 251(b)(5) Traffic or ISP-Bound Traffic, into an interest bearing escrow account with a Third Party escrow agent that is mutually agreed upon by the Parties.
- 11.10 Requirements to Establish Escrow Accounts:
- 11.10.1 To be acceptable, the Third Party escrow agent must meet all of the following criteria:
- 11.10.1.1 The financial institution proposed as the Third Party escrow agent must be located within the continental United States;
  - 11.10.1.2 The financial institution proposed as the Third Party escrow agent may not be an Affiliate of either Party; and
  - 11.10.1.3 The financial institution proposed as the Third Party escrow agent must be authorized to handle ACH credit transfers.
- 11.10.2 In addition to the foregoing requirements for the Third Party escrow agent, the Disputing Party and the financial institution proposed as the Third Party escrow agent must agree in writing furnished to the Billing Party that the escrow account will meet all of the following criteria:
- 11.10.2.1 The escrow account must be an interest bearing account;
  - 11.10.2.2 all charges associated with opening and maintaining the escrow account will be borne by the Disputing Party;

- 11.10.2.3 that none of the funds deposited into the escrow account or the interest earned thereon may be used to pay the financial institution's charges for serving as the Third Party escrow agent;
- 11.10.2.4 all interest earned on deposits to the escrow account will be disbursed to the Parties in the same proportion as the principal; and
- 11.10.2.5 disbursements from the escrow account will be limited to those:
  - 11.10.2.5.1 authorized in writing by both the Disputing Party and the Billing Party (that is, signature(s) from representative(s) of the Disputing Party only are not sufficient to properly authorize any disbursement); or
  - 11.10.2.5.2 made in accordance with the final, non-appealable order of the arbitrator appointed pursuant to the provisions of Section 13.7 below; or
  - 11.10.2.5.3 made in accordance with the final, non-appealable order of the court that had jurisdiction to enter the arbitrator's award pursuant to Section 13.7 below.
- 11.11 Disputed Amounts in escrow will be subject to Late Payment Charges as set forth in Section 11.3 above.
- 11.12 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provisions set forth in Section 13.0 below.
- 11.13 If the Non-Paying Party disputes any charges and any portion of the dispute is resolved in favor of such Non-Paying Party, the Parties will cooperate to ensure that all of the following actions are completed:
  - 11.13.1 the Billing Party will credit the invoice of the Non-Paying Party for that portion of the Disputed Amounts resolved in favor of the Non-Paying Party, together with any Late Payment Charges assessed with respect thereto no later than the second Bill Due Date after resolution of the dispute;
  - 11.13.2 within ten (10) Business Days after resolution of the dispute, the portion of the escrowed Disputed Amounts resolved in favor of the Non-Paying Party will be released to the Non-Paying Party, together with any interest accrued thereon;
  - 11.13.3 within ten (10) Business Days after resolution of the dispute, the portion of the escrowed Disputed Amounts resolved in favor of the Billing Party will be released to the Billing Party, together with any interest accrued thereon; and
  - 11.13.4 no later than the third Bill Due Date after the resolution of the dispute, the Non-Paying Party will pay the Billing Party the difference between the amount of accrued interest the Billing Party received from the escrow disbursement and the amount of Late Payment Charges the Billing Party is entitled to receive pursuant to Section 11.9 above.
- 11.14 If the Non-Paying Party disputes any charges and the entire dispute is resolved in favor of the Billing Party, the Parties will cooperate to ensure that all of the actions required by Section 11.13.1 above and Section 11.13.3 above are completed within the times specified therein.
- 11.15 Failure by the Non-Paying Party to pay any charges determined to be owed to the Billing Party within the time specified in Section 11.13 above shall be grounds for termination of the Interconnection Services provided under this Agreement.
- 11.16 CLEC will notify AT&T-21STATE at least ninety (90) calendar days or three (3) monthly billing cycles prior to any billing changes. At that time a sample of the new invoice will be provided so that AT&T-21STATE has time to program for any changes that may impact validation and payment of the invoices. If notification is not received in the specified time frame, then invoices will be held and not subject to any Late Payment Charges, until the appropriate amount of time has passed to allow AT&T-21STATE the opportunity to test the new format and make changes deemed necessary.
- 11.17 If either Party requests one (1) or more additional copies of a bill, the requesting Party will pay the Billing Party a reasonable fee for each additional copy as specified in the Pricing Schedule, unless such copy was requested due to failure in delivery of the original bill or correction(s) to the original bill.

## 12.0 Nonpayment and Procedures for Disconnection

- 12.1 If a Party is furnished Interconnection Services under the terms of this Agreement in more than one (1) state, Section 12.2 below through Section 12.19 below, inclusive, shall be applied separately for each such state.
- 12.2 Failure to pay charges shall be grounds for disconnection of Interconnection Services furnished under this Agreement. If a Party fails to pay any charges billed to it under this Agreement, including but not limited to any Late Payment Charges or Unpaid Charges, and any portion of such Unpaid Charges remain unpaid after the Bill Due Date, the Billing Party will send a Discontinuance Notice to such Non-Paying Party. The Non-Paying Party must remit all Unpaid Charges to the Billing Party within fifteen (15) calendar days of the Discontinuance Notice.
- 12.3 AT&T-21STATE will also provide any written notification to any Commission as required by any State Order or Rule.
- 12.4 If the Non-Paying Party desires to dispute any portion of the Unpaid Charges, the Non-Paying Party must complete all of the following actions not later than fifteen (15) calendar days following receipt of the Billing Party's notice of Unpaid Charges:
- 12.4.1 notify the Billing Party in writing which portion(s) of the Unpaid Charges it disputes, including the total Disputed Amounts and the specific details listed in Section 13.4 below of this Agreement, together with the reasons for its dispute; and
- 12.4.2 pay all undisputed Unpaid Charges to the Billing Party; and
- 12.4.3 pay all Disputed Amounts (other than Disputed Amounts arising from Inter-carrier Compensation) into an interest bearing escrow account that complies with the requirements set forth in Section 11.10 above; and
- 12.4.4 furnish written evidence to the Billing Party that the Non-Paying Party has established an interest bearing escrow account that complies with all of the terms set forth in Section 11.10 above and deposited a sum equal to the Disputed Amounts into that account (other than Disputed Amounts arising from Inter-carrier Compensation). Until evidence that the full amount of the Disputed Charges (other than Disputed Amounts arising from Inter-carrier Compensation) has been deposited into an escrow account that complies with Section 11.10 above is furnished to the Billing Party, such Unpaid Charges will not be deemed to be "disputed" under Section 13.0 below.
- 12.5 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provision set forth in Section 13.0 below.
- 12.6 If the Non-Paying Party fails to:
- 12.6.1 pay any undisputed Unpaid Charges in response to the Billing Party's Discontinuance Notice as described in Section 12.2 above;
- 12.6.2 deposit the disputed portion of any Unpaid Charges into an interest bearing escrow account that complies with all of the terms set forth in Section 11.10 above within the time specified in Section 12.2 above;
- 12.6.3 timely furnish any assurance of payment requested in accordance with Section 10.4 above; or
- 12.6.4 make a payment in accordance with the terms of any mutually agreed payment arrangement.
- 12.6.5 The Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law, provide written demand to the Non-Paying Party for payment of any of the obligations set forth in 12.6.1 through 12.6.4 above within ten (10) Business Days. On the day that the Billing Party provides such written demand to the Non-Paying Party, the Billing Party may also exercise any or all of the following options:
- 12.6.5.1 suspend acceptance of any application, request or order from the Non-Paying Party for new or additional Interconnection Service(s);
- 12.6.5.2 suspend completion of any pending application, request or order from the Non-Paying Party for new or additional Interconnection Service(s).

- 12.7 Where required, a copy of the demand provided to CLEC under Section 12.6 above will also be provided to the Commission at the same time.
- 12.8 Notwithstanding anything to the contrary in this Agreement, the Billing Party's exercise of any of its options under Section 12.6.5 above, and Sections 12.6.5.1 above and 12.6.5.2 above:
- 12.8.1 will not delay or relieve the Non-Paying Party's obligation to pay all charges on each and every invoice on or before the applicable Bill Due Date; and
- 12.8.2 will exclude any affected application, request, order or service from any otherwise Performance Measure.
- 12.9 For AT&T MIDWEST REGION 5-STATE only, if the Non-Paying Party fails to pay the Billing Party on or before the date specified in the demand provided under Section 12.6 above of this Agreement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law:
- 12.9.1 cancel any pending application, request or order for new or additional Interconnection Services, under this Agreement; and
- 12.9.2 disconnect any Interconnection Services furnished under this Agreement;
- 12.9.3 discontinue providing any Interconnection Services furnished under this Agreement.
- 12.9.3.1 Notwithstanding any inconsistent provisions in this Agreement, discontinuance of service by:
- 12.9.3.1.1 AT&T INDIANA will comply with Indiana Utility Regulatory Commission rule 170 IAC 7-6.
- 12.10 On the same date that Resale Services to CLEC are disconnected, AT&T-7STATE will start to provide service to CLEC's Resale End Users for a limited transition period. To the extent feasible, these Resale End Users will receive the same services that were provided through CLEC immediately prior to the time of transfer; provided, however, AT&T-7STATE reserves the right to toll restrict (both interLATA and intraLATA) such transferred End Users.
- 12.10.1 Notwithstanding any inconsistent provisions in this Agreement, the provision of services of Resale End Users in AT&T MISSOURI will comply with Missouri Public Service Commission Rule 4 CSR 240-32.120.
- 12.10.2 Notwithstanding any inconsistent provisions in this Agreement, discontinuance of service by AT&T KANSAS will comply with Kansas Corporation Commission Order Number 5 (dated March 25, 2002) in Docket 01-GIMT-649-GIT.
- 12.11 AT&T-7STATE will inform the Commission of the names of all Resale End Users affected by this process.
- 12.12 Any charges for services provided to the Resale End Users by AT&T-7STATE as specified in Section 12.16 below will be billed to CLEC.
- 12.13 The Billing Party has no liability to the Non-Paying Party or its End Users in the event of disconnection of service in compliance with Section 12.17 below thru Section 12.18.1 below AT&T-7STATE has no liability to CLEC or CLEC's End Users in the event of disconnection of service to CLEC and the provision of service for a limited transition period for any Resale End Users by AT&T-7STATE in connection with such disconnection.
- 12.14 Additional charges may become applicable under the terms of this Agreement following discontinuance of service.
- 12.15 Within five (5) calendar days following the disconnection, AT&T-7STATE will notify each Resale End User that because of CLEC's failure to pay AT&T-7STATE, the End User's local service is now being provided by AT&T-7STATE. This notification will also advise each Resale End User that the End User has thirty (30) calendar days from the date of transfer to select a new LSP.
- 12.16 The Resale End User shall be responsible for any and all charges incurred during the selection period other than those billed to CLEC under Section 12.19 below.
- 12.17 If any Resale End User provided service by AT&T-7STATE under Section 12.18 below of this Agreement fails to select a new LSP within thirty (30) calendar days of the transfer AT&T-7STATE, may terminate the Resale End User's service.

- 12.18 Nothing in this Agreement shall be interpreted to obligate to AT&T-7STATE continue to provide local service to any Resale End User beyond the thirty (30) calendar day selection period. Nothing herein shall be interpreted to limit any and all disconnection rights AT&T-7STATE has with regard to such transferred Resale End Users under Applicable Law; provided, however,
- 12.18.1 In AT&T CALIFORNIA only, following expiration of the selection period and disconnection of such Resale End Users, where facilities permit, AT&T CALIFORNIA will furnish the disconnected local residential End Users with "quick dial tone".
- 12.19 Limitation on Back-billing and Credit Claims; Exceptions to Limitation for Certain Situations (True-Ups):
- 12.19.1 Notwithstanding anything to the contrary in this Agreement, a Party shall be entitled to:
- 12.19.1.1 Back-bill for or claim credit for any charges for services provided pursuant to this Agreement that are found to be unbilled, under-billed or over-billed, but only when such charges appeared or should have appeared on a bill dated within the twelve (12) months immediately preceding the date on which the Billing Party provided written notice to the Billed Party of the amount of the back-billing or the Billed Party provided written notice to the Billing Party of the claimed credit amount. The Parties agree that the twelve (12) month limitation on back-billing and credit claims set forth in the preceding sentence shall be applied prospectively only after the Effective Date of this Agreement, meaning that the twelve (12) month period for any back-billing or credit claims may only include billing periods that fall entirely after the Effective Date of this Agreement and will not include any portion of any billing period that began prior to the Effective Date of this Agreement. Nothing herein shall prohibit either Party from rendering bills or collecting for any Interconnection Service(s) more than twelve (12) months after the Interconnection Service(s) was provided when the ability or right to charge or the proper charge for the Interconnection Service(s) was the subject of an arbitration or other Commission docket or any FCC order, including any appeal of such arbitration, docket or FCC order. In such cases (hereinafter a "true-up"), the time period for billing shall be the longer of (a) the period specified by the commission in the final order allowing or approving such charge or (b) eighteen (18) months from the date of the final order allowing or approving such charge or (c) twelve (12) months from the date of approval of any executed amendment to this Agreement required to implement such charge.
- 12.19.1.2 Back-billing and credit claims, and true-ups, as limited above, will apply to all Interconnection Services purchased under this Agreement, except that Intercarrier Compensation is specifically excluded from this Section 12.0 and is addressed separately in the Attachment – 02 Network Interconnection.
- 13.0 Dispute Resolution**
- 13.1 Finality of Disputes:
- 13.1.1 Except as otherwise specifically provided for in this Agreement, no claim may be brought for any dispute arising from this Agreement more than twelve (12) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.
- 13.1.2 Notwithstanding anything contained in this Agreement to the contrary, a Party shall be entitled to dispute only those charges which appeared on a bill dated within the twelve (12) months immediately preceding the date on which the Billing Party received notice of such Disputed Amounts.
- 13.2 Alternative to Litigation:
- 13.2.1 The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, the Parties agree to use the following Dispute Resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.
- 13.3 Commencing Dispute Resolution:

- 13.3.1 Dispute Resolution shall commence upon one Party's receipt of written Notice of a controversy or claim arising out of or relating to this Agreement or its breach. No Party may pursue any claim unless such written Notice has first been given to the other Party. There are three (3) separate Dispute Resolution methods:
- 13.3.1.1 Service Center Dispute Resolution;
  - 13.3.1.2 Informal Dispute Resolution; and
  - 13.3.1.3 Formal Dispute Resolution, each of which is described below.
- 13.4 Service Center Dispute Resolution - the following Dispute Resolution procedures will apply with respect to any billing dispute arising out of or relating to the Agreement. Written Notice sent to AT&T-21STATE for Disputed Amounts must be made on the "Billing Claims Dispute Form".
- 13.4.1 If the written Notice given pursuant to Section 13.3 above discloses that the dispute relates to billing, then the procedures set forth in Section 12.4 above shall be used.
- 13.4.2 For a dispute submitted by CLEC, the dispute shall first be processed by the appropriate service center for resolution.
- 13.4.3 In order to resolve a billing dispute, the Disputing Party shall furnish the other Party written Notice of:
- 13.4.3.1 the date of the bill in question;
  - 13.4.3.2 the account number or other identification (CLEC must provide the CBA/ESBA/ASBS or BAN number) of the bill in question;
  - 13.4.3.3 telephone number, circuit ID number or trunk number in question;
  - 13.4.3.4 any USOC (or other descriptive information) information relating to the item questioned;
  - 13.4.3.5 amount billed;
  - 13.4.3.6 amount in question; and
  - 13.4.3.7 the reason that the Disputing Party disputes the billed amount.
- 13.4.4 When CLEC is the Disputing Party, CLEC must provide evidence to AT&T-21STATE that it has either paid the disputed amount or established an interest bearing escrow account that complies with the requirements set forth in Section 11.10 above of this Agreement and deposited all Unpaid Charges relating to Resale Services and 251(c)(3) UNEs into that escrow account in order for that billing claim to be deemed a "dispute". Failure to provide the information and evidence required by this Section 13.0 not later than twenty-nine (29) calendar days following the Bill Due Date shall constitute CLEC's irrevocable and full waiver of its right to dispute the subject charges.
- 13.4.5 The Parties shall attempt to resolve Disputed Amounts appearing on current billing statements thirty (30) to sixty (60) calendar days from the Bill Due Date (provided the Disputing Party furnishes all requisite information and evidence under Section 13.4 above by the Bill Due Date). If not resolved within thirty (30) calendar days, upon request, the non-Disputing Party will notify the Disputing Party of the status of the dispute and the expected resolution date.
- 13.4.6 The Parties shall attempt to resolve Disputed Amounts appearing on statements prior to the current billing statement within thirty (30) to ninety (90) calendar days, but resolution may take longer depending on the complexity of the dispute. If not resolved within thirty (30) calendar days from the date Notice of the Disputed Amounts was received (provided that CLEC furnishes all requisite information and evidence under Section 13.4 above, upon request, the non-Disputing Party will notify the Disputing Party of the status of the dispute and the expected resolution date.
- 13.4.7 If the Disputing Party is not satisfied by the resolution of the billing dispute under this Section 13.4 above, the Disputing Party may notify the Billing Party in writing that it wishes to invoke the Informal Resolution of Disputes afforded pursuant to Section 13.5 below of this Agreement.
- 13.5 Informal Dispute Resolution:

13.5.1 Upon receipt by one Party of Notice of a dispute by the other Party pursuant to Section 13.3 above or Section 13.4.7 above, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative Dispute Resolution procedures such as mediation to assist in the negotiations. Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit without the concurrence of both Parties. Documents identified in or provided with such communications that were not prepared for purposes of the negotiations are not so exempted, and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

### 13.6 Formal Dispute Resolution:

13.6.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 13.5 above, then either Party may invoke the formal Dispute Resolution procedures described in this Section 13.6. Unless agreed among all Parties, formal Dispute Resolution procedures, including arbitration or other procedures as appropriate, may be invoked not earlier than sixty (60) calendar days after receipt of the letter initiating Dispute Resolution under Section 13.5 above.

#### 13.6.2 Claims Subject to Elective Arbitration:

13.6.2.1 Claims will be subject to elective arbitration pursuant to Section 13.7 below, if, and only if, the claim is not settled through informal Dispute Resolution and both Parties agree to arbitration. If both Parties do not agree to arbitration, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanism.

#### 13.6.3 Claims Not Subject to Arbitration:

13.6.3.1 If the following claims are not resolved through informal Dispute Resolution, they will not be subject to arbitration and must be resolved through any remedy available to a Party pursuant to law, equity or agency mechanism:

13.6.3.1.1 Actions seeking a temporary restraining order or an injunction related to the purposes of this Agreement.

13.6.3.1.2 All claims arising under federal or state statute(s), including antitrust claims.

### 13.7 Arbitration:

13.7.1 Disputes subject to elective arbitration under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree. The arbitrator shall be knowledgeable of telecommunications issues. Each arbitration will be held in Atlanta, Georgia for AT&T SOUTHEAST REGION 9-STATE; Dallas, Texas for AT&T SOUTHWEST REGION 5-STATE; Chicago, Illinois for AT&T MIDWEST REGION 5-STATE; San Francisco, California for AT&T CALIFORNIA; or Reno, Nevada for AT&T NEVADA, as appropriate, unless the Parties agree otherwise. The arbitration hearing will be requested to commence within sixty (60) calendar days of the demand for arbitration. The arbitrator will control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs upon a schedule determined by the arbitrator. The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) calendar days after the close of hearings. The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all disputes. Notwithstanding any rule of the AAA Commercial Arbitration Rules to the contrary, the Parties agree that the arbitrator will have no authority to award punitive damages, exemplary damages, Consequential Damages, multiple damages, or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. The times specified in this Section 13.0 may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Each Party will bear its own costs of these procedures, including attorneys' fees. The Parties will equally split the fees of the arbitration and the

arbitrator. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

### 13.8 Compliance with Dispute Resolution Process

13.8.1 The Parties agree that any actions and/or claims seeking to compel compliance with the Dispute Resolution process should be brought before the Commission in the state where the services in dispute are provided. However, each Party reserves any rights it may have to seek review of any ruling made by the Commission concerning this Agreement by a court of competent jurisdiction.

## 14.0 Audits

- 14.1 Subject to the restrictions set forth in Section 23.0 below and except as may be otherwise expressly provided in this Agreement, the Auditing Party may audit the Audited Party's books, records, data and other documents, as provided herein, once annually, with the audit period commencing not earlier than the Service Start Date for the purpose of evaluating (i) the accuracy of Audited Party's billing and invoicing of the services provided hereunder and (ii) verification of compliance with any provision of this Agreement that affects the accuracy of Auditing Party's billing and invoicing of the services provided to Audited Party hereunder. Notwithstanding the foregoing, an Auditing Party may audit the Audited Party's books, records and documents more than once annually if the previous audit found (i) previously uncorrected net variances or errors in invoices in Audited Party's favor with an aggregate value of at least five percent (5%) of the amounts payable by Auditing Party for audited services provided during the period covered by the audit or (ii) non-compliance by Audited Party with any provision of this Agreement affecting Auditing Party's billing and invoicing of the services provided to Audited Party with an aggregate value of at least five percent (5%) of the amounts payable by Audited Party for audited services provided during the period covered by the audit.
- 14.2 The Parties also must mutually agree on a written scope of the audit and the billing and invoices to be audited prior to the initiation of the audit.
- 14.3 The audit shall be limited to the period which is the shorter of (i) the period subsequent to the last day of the period covered by the audit which was last performed (or if no audit has been performed, the service start date and (ii) the twelve (12) month period immediately preceding the date the Audited Party received notice of such requested audit, but in any event not prior to the Service Start Date.
- 14.4 Such audit shall be conducted by an independent auditor acceptable to both Parties. Auditing Party shall insure that the independent auditor executes a nondisclosure agreement in a form agreed upon by the Parties prior to engaging in any audit work.
- 14.5 Each audit shall be conducted on the premises of the Audited Party during normal business hours. Audited Party shall cooperate fully in any such audit and shall provide the auditor reasonable access to any and all appropriate Audited Party employees and any books, records and other documents reasonably necessary to assess (i) the accuracy of Audited Party's bills and (ii) Audited Party's compliance with the provisions of this Agreement that affect the accuracy of Auditing Party's billing and invoicing of the services provided to Audited Party hereunder. Except where to do so would defeat the purpose of the audit, the Audited Party may redact from the books, records and other documents provided to the auditor any Audited Party information that reveals the identity of End Users of Audited Party.
- 14.6 Each Party shall maintain reports, records and data relevant to the billing of any services that are the subject matter of this Agreement for a period of not less than twenty-four (24) months after creation thereof, unless a longer period is required by Applicable Law.
- 14.7 If any audit confirms any undercharge or overcharge, then Audited Party shall (i) promptly correct any billing error, including making refund of any overpayment by Auditing Party in the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results and (ii) for any undercharge caused by the actions of the Audited Party, immediately compensate Auditing Party for such undercharge, and (iii) in each case, calculate and pay interest as provided in Section 11.3.1 above (depending on the AT&T owned ILEC(s) involved), for the number of calendar days from the date on which such undercharge or overcharge originated until the date on which such credit is issued or payment is made and available.

- 14.8 Except as may be otherwise provided in this Agreement, audits shall be performed at Auditing Party's expense, subject to reimbursement by Audited Party of one-quarter (1/4) of any independent auditor's fees and expenses in the event that an audit finds, and the Parties subsequently verify, a net adjustment in the charges paid or payable by Auditing Party hereunder by an amount that is, on an annualized basis, greater than five percent (5%) of the aggregate charges for the audited services during the period covered by the audit.
- 14.9 Any disputes concerning audit results shall be referred to the Parties' respective personnel responsible for informal resolution. If these individuals cannot resolve the dispute within thirty (30) calendar days of the referral, either Party may request in writing that an additional audit shall be conducted by an independent auditor acceptable to both Parties, subject to the requirements set out in Section 14.1 above. Any additional audit shall be at the requesting Party's expense.

## **15.0 Disclaimer of Representations and Warranties**

- 15.1 **DISCLAIMER.** EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

## **16.0 Limitation of Liability**

- 16.1 Except for any indemnification obligations of the Parties hereunder, each Party's liability to the other for any Loss relating to or arising out of any cause whatsoever, including any negligent act or omission (whether willful or inadvertent) whether based in contract, tort, strict liability or otherwise, relating to the performance of this Agreement, shall not exceed a credit for the actual cost of the facilities, products, services or functions not performed or provided or improperly performed or provided.
- 16.2 Except as otherwise expressly provided in specific Attachments, in the case of any Loss alleged or claimed by a Third Party to have arisen out of the negligence or willful misconduct of any Party, each Party shall bear, and its obligation shall be limited to, that portion (as mutually agreed to by the Parties or as otherwise established) of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.
- 16.3 A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users or Third Parties that relate to any Interconnection Services provided or contemplated under this Agreement that, to the maximum extent permitted by Applicable Law, such Party shall not be liable to such End User or Third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged the End User or Third Party for the Interconnection Services that gave rise to such Loss and (ii) any Consequential Damages. If a Party elects not to place in its tariffs or contracts such limitation(s) of liability, and the other Party incurs a Loss as a result thereof, the first Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitation(s) of liability described in this Section 16.0.
- 16.4 Neither CLEC nor AT&T-21STATE shall be liable to the other Party for any Consequential Damages suffered by the other Party, regardless of the form of action, whether in contract, warranty, strict liability, tort or otherwise, including negligence of any kind, whether active or passive (and including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement constitutes a violation of the Act or other statute), and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions; provided that the foregoing shall not limit a Party's obligation under Section 16.0 to indemnify, defend, and hold the other Party harmless against any amounts payable to a Third Party, including any Losses, and Consequential Damages of such Third Party; provided, however, that nothing in this Section 16.4 shall impose indemnity obligations on a Party for any Loss or Consequential Damages suffered by that Party's End User in connection with any affected Interconnection Services. Except as provided in the prior sentence, each Party ("Indemnifying Party") hereby releases and holds harmless the other Party ("Indemnitee") (and Indemnitee's

Affiliates, and its respective officers, directors, employees and agents) against any Loss or Claim made by the Indemnifying Party's End User.

- 16.5 AT&T-21STATE shall not be liable for damages to an End User's premises resulting from the furnishing of any Interconnection Services, including, if applicable, the installation and removal of equipment and associated wiring, and Collocation Equipment unless the damage is caused by AT&T-21STATE's gross negligence or willful misconduct. AT&T-21STATE does not guarantee or make any warranty with respect to Interconnection Services when used in an explosive atmosphere.
- 16.6 CLEC hereby releases AT&T-21STATE from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided by CLEC to AT&T-21STATE under this Agreement, including any errors or omissions occurring in the Directory Database or the White Pages directory, or any claims by reason of delay in providing the Directory Assistance listing information, printing or provisioning of non-published numbers or the printing or providing of CLEC End User information in the White Pages directory including, but not limited to, special, indirect, Consequential, punitive or incidental damages.
- 16.7 AT&T-21STATE shall not be liable to CLEC, its End User or any other Person for any Loss alleged to arise out of the provision of access to 911 service or any errors, interruptions, defects, failures or malfunctions of 911 service.
- 16.8 This Section 16.0 is not intended to exempt any Party from all liability under this Agreement, but only to set forth the scope of liability agreed to and the type of damages that are recoverable. Both Parties acknowledge that they negotiated regarding alternate limitation of liability provisions but that such provisions would have altered the cost, and thus the price, of providing the Interconnection, Resale Services, 251(c)(3) UNEs, functions, facilities, products and services available hereunder, and no different pricing reflecting different costs and different limits of liability was agreed to.

## **17.0 Joint and Several Liability**

- 17.1 In the event that CLEC consists of two (2) or more separate entities as set forth in this Agreement and/or any Amendments hereto, or any third party places orders under this Agreement using CLEC's company codes or identifiers, all such entities shall be jointly and severally liable for CLEC's obligations under this Agreement.

## **18.0 Indemnity**

- 18.1 Except as otherwise expressly provided herein or in specific Attachments, each Party shall be responsible only for the Interconnection Services which are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party shall bear any responsibility for the Interconnection Services, provided by the other Party, its agents, subcontractors, or others retained by such Parties.
- 18.2 Except as otherwise expressly provided herein or in specific Attachments, and to the extent not prohibited by Applicable Law and not otherwise controlled by tariff, each Party (the "Indemnifying Party") shall release, defend and indemnify the other Party (the "Indemnified Party") and hold such Indemnified Party harmless against any Loss to a Third Party arising out of the negligence or willful misconduct ("Fault") of such Indemnifying Party, its agents, its End Users, contractors, or others retained by such Parties, in connection with the Indemnifying Party's provision of Interconnection Services under this Agreement; provided, however, that (i) with respect to employees or agents of the Indemnifying Party, such Fault occurs while performing within the scope of their employment, (ii) with respect to subcontractors of the Indemnifying Party, such Fault occurs in the course of performing duties of the subcontractor under its subcontract with the Indemnifying Party, and (iii) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.
- 18.3 In the case of any Loss alleged or claimed by a End User of either Party, the Party whose End User alleged or claimed such Loss (the "Indemnifying Party") shall defend and indemnify the other Party (the "Indemnified Party") against any and all such Claims or Losses by its End User regardless of whether the underlying Interconnection Service giving rise to such Claim or Loss was provided or provisioned by the Indemnified Party, unless the Claim or Loss was caused by the gross negligence or willful misconduct of the Indemnified Party.

- 18.4 A Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any Claim or Loss arising from the Indemnifying Party's use of Interconnection Services provided under this Agreement involving:
- 18.4.1 Any Claim or Loss arising from such Indemnifying Party's use of Interconnection Services offered under this Agreement, involving any Claim for libel, slander, invasion of privacy, or infringement of Intellectual Property rights arising from the Indemnifying Party's or its End User's use.
- 18.4.1.1 The foregoing includes any Claims or Losses arising from disclosure of any End User-specific information associated with either the originating or terminating numbers used to provision Interconnection Services provided hereunder and all other Claims arising out of any act or omission of the End User in the course of using any Interconnection Services provided pursuant to this Agreement.
- 18.4.1.2 The foregoing includes any Losses arising from Claims for actual or alleged infringement of any Intellectual Property right of a Third Party to the extent that such Loss arises from an Indemnifying Party's or an Indemnifying Party's End User's use of Interconnection Services, provided under this Agreement; provided, however, that an Indemnifying Party's obligation to defend and indemnify the Indemnified Party shall not apply:
- 18.4.1.2.1 where an Indemnified Party or its End User modifies Interconnection Services, provided under this Agreement; and
- 18.4.1.2.2 no infringement would have occurred without such modification.
- 18.4.2 Any and all penalties imposed on either Party because of the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (CALEA); provided that the Indemnifying Party shall also, at its sole cost and expense, pay any amounts necessary to modify or replace any equipment, facilities or services provided to the Indemnified Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.
- 18.5 CLEC acknowledges that its right under this Agreement to Interconnect with AT&T-21STATE's network and to unbundle and/or combine AT&T-21STATE's 251(c)(3) UNEs (including combining with CLEC's Network Elements) may be subject to or limited by Intellectual Property rights (including without limitation, patent, copyright, trade secret, trade mark, service mark, trade name and trade dress rights) and contract rights of Third Parties.
- 18.6 AT&T-21STATE agrees to use its best efforts to obtain for CLEC, under commercially reasonable terms, Intellectual Property rights to each 251(c)(3) UNE necessary for CLEC to use such 251(c)(3) UNE in the same manner as AT&T-21STATE.
- 18.7 AT&T-21STATE shall have no obligation to attempt to obtain for CLEC any Intellectual Property right(s) that would permit CLEC to use any 251(c)(3) UNE in a different manner than used by AT&T-21STATE.
- 18.8 To the extent not prohibited by a contract with the vendor of the network element sought by CLEC that contains Intellectual Property licenses, AT&T-21STATE shall reveal to CLEC the name of the vendor, the Intellectual Property rights licensed to AT&T-21STATE under the vendor contract and the terms of the contract (excluding cost terms). AT&T-21STATE shall, at CLEC's request, contact the vendor to attempt to obtain permission to reveal additional contract details to CLEC.
- 18.9 All costs associated with the extension of Intellectual Property rights to CLEC pursuant to Section 20.1 below, including the cost of the license extension itself and the costs associated with the effort to obtain the license, shall be a part of the cost of providing the 251(c)(3) UNE to which the Intellectual Property rights relate and apportioned to all requesting carriers using that 251(c)(3) UNE including AT&T-21STATE.
- 18.10 AT&T-21STATE hereby conveys no licenses to use such Intellectual Property rights and makes no warranties, express or implied, concerning CLEC's (or any Third Parties') rights with respect to such Intellectual Property rights and contract rights, including whether such rights will be violated by such Interconnection or unbundling and/or combining of 251(c)(3) UNEs (including combining with CLEC's Network Elements) in AT&T-21STATE's network or CLEC's use of other functions, facilities, products or services furnished under this Agreement. Any licenses or

warranties for Intellectual Property rights associated with 251(c)(3) UNEs are subject to the ownership terms stated in Section 20 of this Agreement.

- 18.11 AT&T-21STATE does not and shall not indemnify, defend or hold CLEC harmless, nor be responsible for indemnifying or defending, or holding CLEC harmless, for any Claims or Losses for actual or alleged infringement of any Intellectual Property right or interference with or violation of any contract right that arises out of, is caused by, or relates to CLEC's Interconnection with AT&T-21STATE's network and unbundling and/or combining AT&T-21STATE's 251(c)(3) UNEs (including combining with CLEC's Network Elements) or CLEC's use of other functions, facilities, products or services furnished under this Agreement. Any indemnities for Intellectual Property rights associated with 251(c)(3) UNEs shall be vendor's indemnities and are subject to the ownership terms stated in Section 20 of this Agreement.
- 18.12 CLEC shall reimburse AT&T-21STATE for damages to AT&T-21STATE's facilities utilized to provide Interconnection Services hereunder caused by the negligence or willful act of CLEC, its agents or subcontractors or CLEC's End User or resulting from CLEC's improper use of AT&T-21STATE's facilities, or due to malfunction of any facilities, functions, products, services or equipment provided by any person or entity other than AT&T-21STATE. Upon reimbursement for damages, AT&T-21STATE will cooperate with CLEC in prosecuting a claim against the person causing such damage. CLEC shall be subrogated to the right of recovery by AT&T-21STATE for the damages to the extent of such payment.
- 18.13 Notwithstanding any other provision in this Agreement, each Party agrees that should it cause any non-standard digital subscriber line ("xDSL") technologies (as that term is defined in the applicable Attachment 14 - xDSL Loops and/or the applicable Commission-ordered tariff, as appropriate) to be deployed or used in connection with or on AT&T-21STATE facilities, that Party ("Indemnifying Party") will pay all costs associated with any damage, service interruption or other Telecommunications Service degradation, or damage to the other Party's ("Indemnitee's") facilities.
- 18.14 Indemnification Procedures:
- 18.14.1 Whenever a claim shall arise for indemnification under this Section 18.0, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.
- 18.14.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party.
- 18.14.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.
- 18.14.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.
- 18.14.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.
- 18.14.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief

that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.

18.14.7 If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.

18.14.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.

18.14.9 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 23.0 below.

## **19.0 Performance Measures**

19.1 Attachment 09 - Performance Measures specifies applicable performance standards. To the extent that remedies are available under such Attachment, such remedies constitute the sole obligation of AT&T-21STATE to pay damages or financial penalties for failure to meet specified performance standards identified in such Attachment and all other Attachments to this Agreement.

## **20.0 Intellectual Property/License**

20.1 Any Intellectual Property originating from or developed by a Party shall remain in the exclusive ownership of that Party.

20.2 Except at otherwise expressly provided in this Agreement, no license under patents, copyrights or any other Intellectual Property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

## **21.0 Notices**

21.1 Notices given by CLEC to AT&T-21STATE under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

21.1.1 delivered by electronic mail (email).

21.1.2 delivered by facsimile.

21.2 Notices given by AT&T-21STATE to the CLEC under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

21.2.1 delivered by electronic mail (email) provided CLEC has provided such information in Section 21.4 below.

21.2.2 delivered by facsimile provided CLEC has provided such information in Section 21.4 below.

21.3 Notices will be deemed given as of the earliest of:

21.3.1 the date of actual receipt;

21.3.2 notice by email shall be effective on the date it is officially recorded as delivered by delivery receipt and in the absence of such record of delivery, it shall be presumed to have been delivered on the date sent;

21.3.3 on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone;

21.4 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	CLEC CONTACT
NAME/TITLE	Matthew Van Hoesen, Esq. Chief Financial Officer and General Counsel
STREET ADDRESS	6448 Parkland Drive
CITY, STATE, ZIP CODE	Sarasota, FL 34243
PHONE NUMBER*	(913) 957-8203
FACSIMILE NUMBER	(941) 3083103
EMAIL ADDRESS	matthew.vanhoesen@usa-groups.com

	AT&T CONTACT
NAME/TITLE	Contract Management ATTN: Notices Manager
FACSIMILE NUMBER	(214) 712-5792
EMAIL ADDRESS	The current email address as provided on AT&T's CLEC Online website

\*Informational only and not to be considered as an official notice vehicle under this Section.

21.5 Either Party may unilaterally change its designated contact name, address, email address, and/or facsimile number for the receipt of Notices by giving written Notice to the other Party in compliance with this Section 21.0. Unless explicitly stated otherwise, any change to the designated contact name, address, email address, and/or facsimile number will replace such information currently on file. Any Notice to change the designated contact name, address, email address, and/or facsimile number for the receipt of Notices shall be deemed effective ten (10) calendar days following receipt by the other Party.

21.6 In addition, CLEC agrees that it is responsible for providing AT&T-21STATE with CLEC's OCN and ACNA numbers for the states in which CLEC is authorized to do business and in which CLEC is requesting that this Agreement apply. In the event that CLEC wants to change and/or add to the OCN and/or ACNA information in the CLEC Profile, CLEC shall send written notice to AT&T-21STATE to be received at least thirty (30) days prior to the change and/or addition in accordance with this Section 21.0 notice provision; CLEC shall also update its CLEC Profile through the applicable form and/or web-based interface.

21.6.1 CLEC may not order services under a new account and/or subsequent state certification, established in accordance with this Section until thirty (30) days after all information specified in this Section is received from CLEC.

21.6.2 CLEC may be able to place orders for certain services in AT&T-21STATE without having properly updated the CLEC Profile; however, at any time during the term of this Agreement without additional notice AT&T may at its discretion eliminate such functionality. At such time, if CLEC has not properly updated its CLEC Profile, ordering capabilities will cease, and CLEC will not be able to place orders until thirty (30) days after CLEC has properly updated its CLEC Profile.

21.7 AT&T-21STATE communicates official information to CLECs via its Accessible Letter, or other applicable, notification processes. These processes involve electronic transmission and/or posting to the AT&T CLEC Online website, inclusive of a variety of subjects including declaration of a force majeure, changes on business processes and policies, and other product/service related notices not requiring an amendment to this Agreement.

## 22.0 Publicity and Use of Trademarks or Service Marks

- 22.1 Neither Party nor its subcontractors or agents shall use in any advertising or sales promotion, press releases, or other publicity matters any endorsements, direct or indirect quotes, or pictures that imply endorsement by the other Party or any of its employees without such first Party's prior written approval. The Parties will submit to each other for written approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied; the Party to whom a request is directed shall respond promptly.
- 22.2 Nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, logos, proprietary trade dress or trade names of the other Party in any advertising, press releases, publicity matters, marketing and/or promotional materials or for any other commercial purpose without prior written approval from such other Party.

## 23.0 Confidentiality

- 23.1 Both Parties agree to treat Proprietary Information received from the other in accordance with the provisions of Section 222 of the Act.
- 23.2 Unless otherwise agreed, the obligations of confidentiality and non-use do not apply to such Proprietary Information that:
- 23.2.1 Was at the time of receipt, already known to the Receiving Party, free of any obligation to keep confidential and evidenced by written records prepared prior to delivery by the Disclosing Party; or
  - 23.2.2 Is, or becomes publicly known through no wrongful act of the Receiving Party; or
  - 23.2.3 Is rightfully received from a Third Party having no direct or indirect secrecy or confidentiality obligation to the Disclosing Party with respect to such information; provided that such Receiving Party has exercised commercially reasonable efforts to determine whether such Third Party has any such obligation; or
  - 23.2.4 Is independently developed by an agent, employee representative or Affiliate of the Receiving Party and such Party is not involved in any manner with the provision of services pursuant to this Agreement and does not have any direct or indirect access to the Proprietary Information; or
  - 23.2.5 Is disclosed to a Third Party by the Disclosing Party without similar restrictions on such Third Party's rights; or
  - 23.2.6 Is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization granted; or
  - 23.2.7 Is required to be made public or disclosed by the Receiving Party pursuant to Applicable Law or regulation or court order or lawful process.

## 24.0 Intervening Law

- 24.1 This Agreement is the result of negotiations between the Parties and may incorporate certain provisions that resulted from arbitration by the appropriate state Commission(s). In entering into this Agreement and any Amendments to such Agreement and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s) which the Parties have not yet fully incorporated into this Agreement (e.g. *In the Matter of Connect America Fund, a National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT No 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011 and subsequent authority) or which may be the subject of further review. If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations ("Change of Law Event") that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions")

the Agreement and/or otherwise affects the rights or obligations of either Party that are addressed by this Agreement, either Party may require modification to the Agreement consistent with the action of the Change of Law Event by providing a written request of either Party in accordance with Section 21.0 above ("Written Notice") to negotiate an amendment to the Agreement. With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to reach agreement on appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications within sixty (60) days from the Written Notice, any disputes between the Parties concerning such actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement. In the absence of a specifically required effective date in the Change of Law Event, such modification shall be effective on the effective date of the amendment incorporating the change.

## **25.0 Regulatory Approval**

25.1 The Parties understand and agree that this Agreement and any amendment or modification hereto will be filed with the Commission for approval in accordance with Section 252 of the Act and may thereafter be filed with the FCC. The Parties believe in good faith and agree that the services to be provided under this Agreement are in the public interest. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252 of the Act without modification.

## **26.0 Governing Law**

26.1 Unless otherwise provided by Applicable Law, this Agreement shall be governed by and construed in accordance with the Act, the FCC Rules and Regulations interpreting the Act and other applicable federal law. To the extent that federal law would apply state law in interpreting this Agreement, the domestic laws of the state in which the Interconnection Services at issue are furnished or sought shall apply, without regard to that state's conflict of laws principles.

## **27.0 Venue**

27.1 Except as specified below, the Parties agree that the only proper venue for any judicial or regulatory proceeding involving or arising out of the interpretation or enforcement of this Agreement as it pertains to any state shall be the city in which the state commission that approved the Agreement for that state is located. Notwithstanding the foregoing, the Parties agree that the only proper venue in the following states is as follows: Illinois, Chicago; Michigan, Detroit; and Missouri, St. Louis.

## **28.0 Changes in End User Local Exchange Service Provider Selection**

28.1 Each Party will abide by applicable federal and state laws and regulations in obtaining End User authorization prior to changing an End User's Local Exchange Carrier to itself and in assuming responsibility for any applicable charges as specified in the FCC's rules regarding Subscriber Carrier Selection Changes (47 CFR 64.1100 through 64.1170), and any applicable state regulation. Each Party shall retain on file all applicable letters and other documentation of authorization relating to its End User's selection of such Party as its LEC, which documentation shall be available for inspection by the other Party at its request during normal business hours and at no charge.

28.2 Only an End User can initiate a challenge to a change in its LEC. If an End User notifies one Party that the End User requests local Exchange Service, and the other Party is such End User's LEC, then the Party receiving such request shall be free to immediately access such End User's CPNI subject to the requirements of Attachment 07 – Operations Support Systems (OSS) restricting access to CPNI in order to immediately provide service to such End User.

28.3 When an End User changes or withdraws authorization from its LEC, each Party shall release End User-specific facilities belonging to the ILEC in accordance with the End User's direction or that of the End User's authorized agent. Further, when an End User abandons its premise (that is, its place of business or domicile), AT&T-21STATE is free to reclaim the 251(c)(3) UNE facilities for use by another End User and is free to issue service orders required to reclaim such facilities.

28.4 When an End User of CLEC elects to discontinue service and to transfer service to another Local Exchange Carrier, including AT&T-21STATE, AT&T-21STATE shall have the right to reuse the facilities provided to CLEC. AT&T-21STATE will notify CLEC that such a request has been processed after the disconnect order has been completed.

28.5 Neither Party shall be obligated by this Agreement to investigate any allegations of unauthorized changes in local Exchange Service (slamming) at the request of the other Party; provided, however, that each Party shall cooperate with any investigation of a complaint alleging an unauthorized change in local Exchange Service at the request of the FCC or the applicable state Commission.

## **29.0 Compliance and Certification**

29.1 Each Party shall comply at its own expense with all Applicable Laws that relate to that Party's obligations to the other Party under this Agreement. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of Applicable Law.

29.2 Each Party warrants that it has obtained all necessary state certification required in each state covered by this Agreement prior to ordering any Interconnection Services from the other Party pursuant to this Agreement. Upon request, each Party shall provide proof of certification.

29.3 Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, Governmental Authorities, building and property owners, other carriers, and any other Third Parties that may be required in connection with the performance of its obligations under this Agreement.

29.4 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the CALEA.

29.5 CLEC shall provide AT&T-21STATE with CLEC's complete and valid OCNs/AECNs as assigned by NECA and ACNA as assigned by iconectiv ("Profile Codes"), for each state to which this Agreement applies. For renegotiated agreements, CLEC shall also provide a list of all OCNs/AECNs and ACNAs associated with products and services purchased prior to the Effective Date of this Agreement. CLEC shall provide the Profile Codes via the appropriate OSS, (e.g., CLEC Profile) within thirty (30) calendar days of this Agreement being approved by the applicable Commission. CLEC shall not order products or services under this Agreement until it has provided its Profile Codes as set forth in this Section.

## **30.0 Law Enforcement**

30.1 AT&T-21STATE and CLEC shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

### **30.1.1 Intercept Devices:**

30.1.1.1 Local and federal law enforcement agencies periodically request information or assistance ("Requesting Authority") from a Telecommunications Carrier. When either Party receives a request ("Receiving Party") associated with an End User of the other Party and the Receiving Party does not provide the network end-office/loop switching functionality to such End User, the Receiving Party will promptly notify the Requesting Authority so that the Requesting Authority may redirect its request to the appropriate Party that provides such functionality. Notwithstanding the foregoing, a Receiving Party shall comply with any valid request of a Requesting Authority to attach a pen register, trap-and-trace or form of intercept on the Receiving Party's Facilities.

### **30.1.2 Subpoenas:**

30.1.2.1 If a Receiving Party receives a subpoena (or equivalent legal demand regardless of nomenclature, e.g., warrant) for information concerning an End User the Receiving Party knows to be an End User of the other Party and for whom the Receiving Party has no responsive information, the Receiving Party shall promptly notify the person or entity that caused issuance of such subpoena so that it may redirect its subpoena to the other Party.

### **30.1.3 Emergencies:**

30.1.3.1 If a Receiving Party receives a request from a law enforcement agency for a temporary number change, temporary disconnect, or one-way denial of outbound calls by the Receiving Party's switch regarding an End User of the other Party, the Receiving Party will comply with a valid

emergency request. However, neither Party shall be held liable for any claims or Losses alleged by the other Party's End Users arising from compliance with such requests on behalf of the other Party's End User and the Party serving such End User agrees to indemnify and hold the other Party harmless against any and all such claims or Losses.

- 30.2 Each of the Parties agree to comply with the applicable state and federal law enforcement authorities, laws, and requirements, including but not limited to, the Communications Assistance for Law Enforcement Act (CALEA) and to report to applicable State and Federal law enforcement authorities as required by law.

### **31.0 Relationship of the Parties/Independent Contractor**

- 31.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.
- 31.2 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

### **32.0 No Third Party Beneficiaries; Disclaimer of Agency**

- 32.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any Third Party beneficiary rights hereunder. This Agreement shall not provide any Person not a Party hereto with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference hereto.

### **33.0 Subcontracting**

- 33.1 If either Party retains or engages any subcontractor to perform any of that Party's obligations under this Agreement, each Party will remain fully responsible for the performance of this Agreement in accordance with its terms, including any obligations either Party performs through subcontractors.
- 33.2 Each Party will be solely responsible for payments due that Party's subcontractors.
- 33.3 No subcontractor will be deemed a Third Party beneficiary for any purposes under this Agreement.
- 33.4 No contract, subcontract or other agreement entered into by either Party with any Third Party in connection with the provision of Interconnection Services hereunder will provide for any indemnity, guarantee or assumption of liability by the other Party to this Agreement with respect to such arrangement, except as consented to in writing by the other Party.
- 33.5 Any subcontractor that gains access to Customer Proprietary Network Information (CPNI) or Proprietary Information covered by this Agreement shall be required by the subcontracting Party to protect such CPNI or Proprietary Information to the same extent the subcontracting Party is required to protect such CPNI or Proprietary Information under the terms of this Agreement.

#### **34.0 Responsibility for Environmental Contamination**

- 34.1 Each Party shall be solely responsible at its own expense for the proper handling, use, removal, excavation, storage, treatment, transport, disposal, or any other management by such Party or any person acting on its behalf of all Hazardous Substances and Environmental Hazards introduced to the affected work location and will perform such activities in accordance with Applicable Law. "Hazardous Substances" means (i) any material or substance that is defined or classified as a hazardous substance, hazardous waste, hazardous material, hazardous chemical, pollutant, or contaminant under any federal, state, or local environmental statute, rule, regulation, ordinance or other Applicable Law dealing with the protection of human health or the environment, (ii) petroleum, oil, gasoline, natural gas, fuel oil, motor oil, waste oil, diesel fuel, jet fuel, and other petroleum hydrocarbons, or (iii) asbestos and asbestos containing material in any form, and (iv) any soil, groundwater, air, or other media contaminated with any of the materials or substances described above. "Environmental Hazard" means (i) the presence of petroleum vapors or other gases in hazardous concentrations in a manhole or other confined space, or conditions reasonably likely to give rise to such concentrations, (ii) asbestos containing materials, or (iii) any potential hazard that would not be obvious to an individual entering the work location or detectable using work practices standard in the industry.
- 34.2 Notwithstanding anything to the contrary in this Agreement and to the fullest extent permitted by Applicable Law, AT&T-21STATE shall, at CLEC's request, indemnify, defend, and hold harmless CLEC, each of its officers, directors and employees from and against any losses, damages, costs, fines, penalties and expenses (including reasonable attorneys and consultant's fees) of every kind and nature to the extent they are incurred by any of those parties in connection with a claim, demand, suit, or proceeding for damages, penalties, contribution, injunction, or any other kind of relief that is based upon, arises out of, is caused by, or results from: (i) the removal or disposal from the work location of a Hazardous Substance by AT&T-21STATE or any person acting on behalf of AT&T-21STATE, or the subsequent storage, processing, or other handling of such Hazardous Substances after they have been removed from the work location, (ii) the Release of a Hazardous Substance, regardless of its source, by AT&T-21STATE or any person acting on behalf of AT&T-21STATE, or (iii) the presence at the work location of an Environmental Hazard for which AT&T-21STATE is responsible under Applicable Law or a Hazardous Substance introduced into the work location by AT&T-21STATE or any person acting on behalf of AT&T-21STATE.
- 34.3 Notwithstanding anything to the contrary in this Agreement and to the fullest extent permitted by Applicable Law, CLEC shall, at AT&T-21STATE's request, indemnify, defend, and hold harmless AT&T-21STATE, each of its officers, directors and employees from and against any losses, damages, costs, fines, penalties and expenses (including reasonable attorney's and consultant's fees) of every kind and nature to the extent they are incurred by any of those parties in connection with a claim, demand, suit, or proceeding for damages, penalties, contribution, injunction, or any other kind of relief that is based upon, arises out of, is caused by, or results from: (i) the removal or disposal of a Hazardous Substance from the work location by CLEC or any person acting on behalf of CLEC, or the subsequent storage, processing, or other handling of such Hazardous Substances after they have been removed from the work location, (ii) the Release of a Hazardous Substance, regardless of its source, by CLEC or any person acting on behalf of CLEC, or (iii) the presence at the work location of an Environmental Hazard for which CLEC is responsible under Applicable Law or a Hazardous Substance introduced into the work location by CLEC or any person acting on behalf of CLEC.

#### **35.0 Force Majeure**

- 35.1 No Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make monetary payments) resulting from a "Force Majeure Event" or any Delaying Event caused by the other Party or any other circumstances beyond the Party's reasonable control. A "Force Majeure Event" is defined as acts or occurrences beyond the reasonable control of a Party or the Parties, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any Governmental Authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, hurricanes, floods, labor difficulties, including without limitation, strikes, slowdowns, picketing, boycotts or other work stoppages, equipment failures, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers, individually and collectively a Force Majeure Event. If a Force Majeure Event shall occur, the Party affected shall give notice to the other Party of such Force Majeure Event within a reasonable

period of time following such an event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like Notice and proceed to perform with dispatch once the causes are removed or cease.

### **36.0 Taxes**

- 36.1 Except as otherwise provided in this Section 36.0, with respect to any purchase of products or services under this Agreement, if any Tax is required or permitted by Applicable Law to be billed to and/or collected from the purchasing Party by the providing Party, then: (i) the providing Party shall have the right to bill the purchasing Party for such Tax; (ii) the purchasing Party shall pay such Tax to the providing Party; and (iii) the providing Party shall pay or remit such Tax to the respective Governmental Authority. Whenever possible, Taxes shall be billed as a separate item on the invoice; provided, however, that failure to include Taxes on an invoice or to state a Tax separately shall not impair the obligation of the purchasing Party to pay any Tax. Nothing shall prevent the providing Party from paying any Tax to the appropriate Governmental Authority prior to the time: (i) it bills the purchasing Party for such Tax, or (ii) it collects the Tax from the purchasing Party. If the providing Party fails to bill the purchasing Party for a Tax at the time of billing the products or services to which the Tax relates, then, as between the providing Party and the purchasing Party, the providing Party shall be liable for any penalties or interest thereon. However, if the purchasing Party fails to pay any Tax properly billed by the providing Party, then, as between the providing Party and the purchasing Party, the purchasing Party shall be solely responsible for payment of the Tax and any penalties or interest thereon. Subject to the provisions of this Section 36.0 governing contests of disputed Taxes, the purchasing Party shall be liable for and the providing Party may collect from the purchasing Party any Tax, including any interest or penalties for which the purchasing Party would be liable under this subsection, which is paid by Providing Party to the respective Governmental Authority within the applicable statute of limitations periods for assessment or collection of such Tax, including extensions; provided, however, that the providing Party notifies the purchasing Party within the earlier of (i) sixty (60) days following the running of such limitations period for including extensions, or (ii) six (6) years following the purchasing Party's payment for the products or services to which such Tax relates.
- 36.2 With respect to any purchase under this Agreement of products or services that are resold by the purchasing Party to a Third Party or used as a component part of or integrated into a product or service sold to a Third Party, if any Tax is imposed on or with respect to such sale by the purchasing Party, the purchasing Party shall pay or remit such Tax to the respective Governmental Authority. If the purchasing Party fails to pay or remit any Tax as required by Applicable Law, then, as between the providing Party and the purchasing Party, the purchasing Party shall remain liable for such Tax and any interest and penalties thereon. Notwithstanding any other provision of this Agreement, the purchasing Party agrees to protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any Tax, any interest or penalties thereon, and any costs or expenses (including attorney fees) incurred by the providing Party as a result of any claim asserted or actions taken by the respective Governmental Authority to assess against or collect from the providing Party any Tax related to any sale by the purchasing Party to a third Party.
- 36.3 To the extent a purchase of products or services under this Agreement is claimed by the purchasing Party to be for resale or otherwise exempt from a Tax, the purchasing Party shall furnish to the providing Party an exemption certificate in the form prescribed by the providing Party and any other information or documentation required by Applicable Law or the respective Governmental Authority. Prior to receiving such exemption certificate and any such other required information or documentation, the Providing Party shall have the right to bill, and the Purchasing Party shall pay, Tax on any products or services furnished hereunder as if no exemption were available, subject to the right of the Purchasing Party to pursue a claim for credit or refund of any such Tax pursuant to the provisions of this Section 36.0 and the remedies available under Applicable Law. If it is the position of the purchasing Party that Applicable Law exempts or excludes a purchase of products or services under this Agreement from a Tax, or that the Tax otherwise does not apply to such a purchase, but Applicable Law does not also provide a specific procedure for claiming such exemption or exclusion or for the purchaser to contest the application of the Tax directly with the respective Governmental Authority prior to payment, then the providing Party may in its discretion agree not to bill

and/or not to require payment of such Tax by the purchasing Party, provided that the purchasing Party (i) furnishes the providing Party with any exemption certificate requested by and in the form prescribed by the providing Party, (ii) furnishes the providing Party with a letter signed by an officer of the purchasing Party setting forth the basis of the purchasing Party's position under Applicable Law; and (iii) furnishes the providing Party with an indemnification agreement, reasonably acceptable to the providing Party, which holds the providing Party harmless from any Tax, interest, penalties, loss, cost or expenses (including attorney fees) that may be incurred by the providing Party in connection with any claim asserted or actions taken by the respective Governmental Authority to assess or collect such Tax from the providing Party.

- 36.4 To the extent permitted by and pursuant to Applicable Law, and subject to the provisions of this Section 36.0, the purchasing Party shall have the right to contest with the respective Governmental Authority, or if necessary under Applicable Law to have the providing Party contest (in either case at the purchasing Party's expense) any Tax that the purchasing Party asserts is not applicable, from which it claims an exemption or exclusion, or which it claims to have paid in error; provided, however, that (i) the purchasing Party shall ensure that no lien is attached to any asset of the providing Party as a result of any contest of a disputed Tax; (ii) with respect to any Tax that could be assessed against or collected from the providing Party by the respective Governmental Authority, the providing Party shall retain the right to determine the manner of contesting such disputed Tax, including but not limited to a decision that the disputed Tax will be contested by pursuing a claim for credit or refund; (iii) except to the extent that the providing Party has agreed pursuant to this Section 36.0 not to bill and/or not to require payment of such Tax by the purchasing Party pending the outcome of such contest, the purchasing Party pays any such Tax previously billed by the providing Party and continues paying such Tax as billed by the providing Party pending the outcome of such contest. In the event that a disputed Tax is to be contested by pursuing a claim for credit or refund, if requested in writing by the purchasing Party, the providing Party shall facilitate such contest (i) by assigning to the purchasing Party its right to claim a credit or refund, if such an assignment is permitted under Applicable Law; or (ii) if an assignment is not permitted, by filing and pursuing the claim on behalf of the purchasing Party but at the purchasing Party's expense. Except as otherwise expressly provided in this Section 36.0, nothing in this Agreement shall be construed to impair, limit, restrict or otherwise affect the right of the providing Party to contest a Tax that could be assessed against or collected from it by the respective Governmental Authority. With respect to any contest of a disputed Tax resulting in a refund, credit or other recovery, as between the purchasing Party and the providing Party, the purchasing Party shall be entitled to the amount that it previously paid, plus any applicable interest allowed on the recovery that is attributable to such amount, and the providing Party shall be entitled to all other amounts.
- 36.5 If either Party is audited by or on behalf of a Governmental Authority with respect to a Tax, and in any contest of a Tax by either Party, the other Party shall cooperate fully and timely by providing records, testimony and such additional information or assistance as may reasonably be necessary to expeditiously resolve the audit or pursue the contest.
- 36.6 All Notices, affidavits, exemption certificates or other communications required or permitted to be given by either Party to the other under this Section 36.0 shall be sent in accordance with Section 21.0 above hereof.
- 36.7 AT&T Texas only: Municipal fees CLEC acknowledges and agrees that it is required to comply with Chapter 283 of the Texas Local Government Code, as it may be amended from time to time, and the reporting and compensation requirements of Subchapter R of the P.U.C. Substantive Rules – Chapter 26, Applicable to Telecommunications Service Providers, as they may be amended from time to time. With respect to municipal fees charged pursuant to Chapter 283, Tex. Loc. Gov't Code, CLEC agrees that it will directly report its access lines to the Public Utility Commission of Texas, will remit the related payments to municipalities, and will otherwise comply with Chapter 283 and applicable P.U.C rules, as they may be amended from time to time. CLEC agrees that its failure to comply with all Chapter 283 requirements, including any failure to provide AT&T-21STATE with a valid Adequate Proof Agreement acknowledging CLEC's obligation to pay municipal fees within thirty (30) days of AT&T-21STATE's request, shall be considered a material breach of this Agreement and shall entitle AT&T-21STATE to any and all remedies provided elsewhere in this Agreement for such a breach, including, but not limited to suspension of all order processing (other than disconnect orders).

### **37.0 Non Waiver**

37.1 Except as otherwise specified in this Agreement, no waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same is in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.

### **38.0 Network Maintenance and Management**

38.1 The Parties will work cooperatively to implement this Agreement. The Parties will exchange appropriate information (for example, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, escalation processes, etc.) to achieve this desired result.

38.2 Each Party will administer its network to ensure acceptable service levels to all users of its network services. Service levels are generally considered acceptable only when End Users are able to establish connections with little or no delay encountered in the network. Each Party will provide a twenty four (24)-hour contact number for Network Traffic Management issues to the other's surveillance management center.

38.3 Each Party maintains the right to implement protective network traffic management controls, such as "cancel to", "call gapping" or seven (7)-digit and ten (10)-digit code gaps, to selectively cancel the completion of traffic over its network, including traffic destined for the other Party's network, when required to protect the public-switched network from congestion as a result of occurrences such as facility failures, switch congestion or failure or focused overload. Each Party shall immediately notify the other Party of any protective control action planned or executed.

38.4 Where the capability exists, originating or terminating traffic reroutes may be implemented by either Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes shall not be used to circumvent normal trunk servicing. Expansive controls shall be used only when mutually agreed to by the Parties.

38.5 The Parties shall cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes to prevent or mitigate the impact of these events on the public-switched network, including any disruption or loss of service to the other Party's End Users. Facsimile (FAX) numbers must be exchanged by the Parties to facilitate event notifications for planned mass calling events.

38.6 Neither Party shall use any Interconnection Service provided under this Agreement or any other service related thereto or used in combination therewith in any manner that interferes with or impairs service over any facilities of AT&T-21STATE, its affiliated companies or other connecting telecommunications carriers, prevents any carrier from using its Telecommunications Service, impairs the quality or the privacy of Telecommunications Service to other carriers or to either Party's End Users, causes hazards to either Party's personnel or the public, damage to either Party's or any connecting carrier's facilities or equipment, including any malfunction of ordering or billing systems or equipment. Upon such occurrence either Party may discontinue or refuse service, but only for so long as the other Party is violating this provision. Upon any such violation, either Party shall provide the other Party notice of the violation at the earliest practicable time.

38.7 AT&T TENNESSEE hereby commits to provide Disaster Recovery to CLEC according to the plan below.

#### **38.7.1 AT&T TENNESSEE Disaster Recovery Plan**

38.7.2 In the unlikely event of a disaster occurring that affects AT&T TENNESSEE's long-term ability to deliver traffic to a CLEC, general procedures have been developed by AT&T TENNESSEE to hasten the recovery process in accordance with the Telecommunications Service Priority (TSP) Program established by the FCC to identify and prioritize telecommunication services that support national security or emergency preparedness (NS/EP) missions. A description of the TSP Program as it may be amended from time to time

- is available on AT&T TENNESSEE's Wholesale – Southeast Region Web site. Since each location is different and could be affected by an assortment of potential problems, a detailed recovery plan is impractical. However, in the process of reviewing recovery activities for specific locations, some basic procedures emerge that appear to be common in most cases.
- 38.7.3 These general procedures should apply to any disaster that affects the delivery of traffic for an extended time period. Each CLEC will be given the same consideration during an outage, and service will be restored as quickly as possible. AT&T TENNESSEE reserves the right to make changes to these procedures as improvements become available or as business conditions dictate.
- 38.7.4 This plan will cover the basic recovery procedures that would apply to every CLEC.
- 38.7.5 Single Point of Contact:
- 38.7.5.1 When a problem is experienced, regardless of the severity, the AT&T TENNESSEE Network Management Center (NMC) will observe traffic anomalies and begin monitoring the situation. Controls will be appropriately applied to insure the sanity of AT&T TENNESSEE's network; and, in the event that a switch or facility node is lost, the NMC will attempt to circumvent the failure using available reroutes.
- 38.7.5.2 AT&T TENNESSEE's NMC will remain in control of the restoration efforts until the problem has been identified as being a long-term outage. At that time, the NMC will contact AT&T TENNESSEE's ECC and relinquish control of the recovery efforts. Even though the ECC may take charge of the situation, the NMC will continue to monitor the circumstances and restore traffic as soon as damaged network elements are revitalized.
- 38.7.5.3 The telephone number for the AT&T TENNESSEE Network Management Center in Atlanta, as published in iconectiv's National Network Management Directory, is 404-321-2516.
- 38.7.6 Identifying the Problem:
- 38.7.6.1 During the early stages of problem detection, the NMC will be able to tell which CLECs are affected by the catastrophe. Further analysis and/or first hand observation will determine if the disaster has affected CLEC equipment only, AT&T TENNESSEE equipment only or a combination. The initial restoration activity will be largely determined by the equipment that is affected.
- 38.7.6.2 Once the nature of the disaster is determined and after verifying the cause of the problem, the NMC will initiate reroutes and/or transfers that are jointly agreed upon by the affected CLECs' Network Management Center and the AT&T TENNESSEE NMC. The type and percentage of controls used will depend upon available network capacity. Controls necessary to stabilize the situation will be invoked and the NMC will attempt to re-establish as much traffic as possible.
- 38.7.6.3 For long-term outages, recovery efforts will be coordinated by the ECC. Traffic controls will continue to be applied by the NMC until facilities are re-established. As equipment is made available for service, the ECC will instruct the NMC to begin removing the controls and allow traffic to resume.
- 38.7.7 Site Control:
- 38.7.7.1 In the total loss of building use scenario, what likely exists will be a smoking pile of rubble. This rubble will contain many components that could be dangerous. It could also contain any personnel on the premises at the time of the disaster. For these reasons, the local fire marshal with the assistance of the police will control the site until the building is no longer a threat to surrounding properties and the companies have secured the site from the general public.
- 38.7.7.2 During this time, the majority owner of the building should be arranging for a demolition contractor to mobilize to the site with the primary objective of reaching the cable entrance facility for a damage assessment. The results of this assessment would then dictate immediate plans for restoration, both short term and permanent.

- 38.7.7.3 In a less catastrophic event, (i.e., the building is still standing and the cable entrance facility is usable), the situation is more complex. The site will initially be controlled by local authorities until the threat to adjacent property has diminished. Once the site is returned to the control of the companies, the following events should occur:
- 38.7.7.3.1 An initial assessment of the main building infrastructure systems (mechanical, electrical, fire and life safety, elevators, and others) will establish building needs. Once these needs are determined, the majority owner should lead the building restoration efforts. There may be situations where the site will not be totally restored within the confines of the building. The companies must individually determine their needs and jointly assess the cost of permanent restoration to determine the overall plan of action.
  - 38.7.7.3.2 Multiple restoration trailers from each company will result in the need for designated space and installation order. This layout and control is required to maximize the amount of restoration equipment that can be placed at the site, and the priority of placements.
  - 38.7.7.3.3 Care must be taken in this planning to ensure other restoration efforts have logistical access to the building. Major components of telephone and building equipment will need to be removed and replaced. A priority for this equipment must also be jointly established to facilitate overall site restoration. (Example: If the AC switchgear has sustained damage, this would be of the highest priority in order to regain power, lighting, and HVAC throughout the building.)
  - 38.7.7.3.4 If the site will not accommodate the required restoration equipment, the companies would then need to quickly arrange with local authorities for street closures, rights of way or other possible options available.
- 38.7.8 Environmental Concerns:
- 38.7.8.1 In the worse case scenario, many environmental concerns must be addressed. Along with the police and fire marshal, the state environmental protection department will be on site to monitor the situation.
  - 38.7.8.2 Items to be concerned with in a large central office building could include:
    - 38.7.8.2.1 Emergency engine fuel supply. Damage to the standby equipment and the fuel handling equipment could have created "spill" conditions that have to be handled within state and federal regulations.
    - 38.7.8.2.2 Asbestos-containing materials that may be spread throughout the wreckage. Asbestos could be in many components of building, electrical, mechanical, outside plant distribution, and telephone systems.
    - 38.7.8.2.3 Lead and acid. These materials could be present in potentially large quantities depending upon the extent of damage to the power room.
    - 38.7.8.2.4 Mercury and other regulated compounds resident in telephone equipment.
    - 38.7.8.2.5 Other compounds produced by the fire or heat.
  - 38.7.8.3 Once a total loss event occurs at a large site, local authorities will control immediate clean up (water placed on the wreckage by the fire department) and site access.
  - 38.7.8.4 At some point, the companies will become involved with local authorities in the overall planning associated with site clean up and restoration. Depending on the clean up approach taken, delays in the restoration of several hours to several days may occur.
  - 38.7.8.5 In a less severe disaster, items listed above are more defined and can be addressed individually depending on the damage.

- 38.7.8.6 In each case, the majority owner should coordinate building and environmental restoration as well as maintain proper planning and site control.
- 38.7.9 The ECC (Emergency Control Center):
- 38.7.9.1 The ECC is located in the Midtown 1 Building in Atlanta, Georgia. During an emergency, the ECC staff will convene a group of pre-selected experts to inventory the damage and initiate corrective actions. These experts have regional access to AT&T TENNESSEE's personnel and equipment and will assume control of the restoration activity anywhere in the nine-state area.
- 38.7.9.2 In the past, the ECC has been involved with restoration activities resulting from hurricanes, ice storms and floods. They have demonstrated their capabilities during these calamities as well as during outages caused by human error or equipment failures. This group has an excellent record of restoring service as quickly as possible.
- 38.7.9.3 During a major disaster, the ECC may move emergency equipment to the affected location, direct recovery efforts of local personnel and coordinate service restoration activities with the CLECs. The ECC will attempt to restore service as quickly as possible using whatever means is available, leaving permanent solutions, such as the replacement of damaged buildings or equipment, for local personnel to administer.
- 38.7.9.4 Part of the ECC's responsibility, after temporary equipment is in place, is to support the NMC efforts to return service to the CLECs. Once service has been restored, the ECC will return control of the network to normal operational organizations. Any long-term changes required after service is restored will be made in an orderly fashion and will be conducted as normal activity.
- 38.7.10 Recovery Procedures:
- 38.7.10.1 The nature and severity of any disaster will influence the recovery procedures. One crucial factor in determining how AT&T TENNESSEE will proceed with restoration is whether or not AT&T TENNESSEE's equipment is incapacitated. Regardless of whose equipment is out of service, AT&T TENNESSEE will move as quickly as possible to aid with service recovery; however, the approach that will be taken may differ depending upon the location of the problem.
- 38.7.11 CLEC Outage:
- 38.7.11.1 For a problem limited to one CLEC (or a building with multiple CLECs), AT&T TENNESSEE has several options available for restoring service quickly. For those CLECs that have agreements with other CLECs, AT&T TENNESSEE can immediately start directing traffic to a provisional CLEC for completion. This alternative is dependent upon AT&T TENNESSEE having concurrence from the affected CLECs.
- 38.7.11.2 Whether or not the affected CLECs have requested a traffic transfer to another CLEC will not impact AT&T TENNESSEE's resolve to re-establish traffic to the original destination as quickly as possible.
- 38.7.12 AT&T TENNESSEE Outage:
- 38.7.12.1 Because AT&T TENNESSEE's equipment has varying degrees of impact on the service provided to the CLECs, restoring service from damaged AT&T TENNESSEE equipment is different. The outage will probably impact a number of Carriers simultaneously. However, the ECC will be able to initiate immediate actions to correct the problem.
- 38.7.12.2 A disaster involving any of AT&T TENNESSEE's equipment locations could impact the CLECs, some more than others. A disaster at a Central Office (CO) would only impact the delivery of traffic to and from that one location, but the incident could affect many Carriers. If the CO is a Serving Wire Center (SWC), then traffic from the entire area to those Carriers served from that switch would also be impacted. If the switch functions as an Access Tandem, or there is a tandem in the building, traffic from every CO to every CLEC could be interrupted. A disaster that

destroys a facility hub could disrupt various traffic flows, even though the switching equipment may be unaffected.

- 38.7.12.3 The NMC would be the first group to observe a problem involving AT&T TENNESSEE's equipment. Shortly after a disaster, the NMC will begin applying controls and finding re-routes for the completion of as much traffic as possible. These reroutes may involve delivering traffic to alternate Carriers upon receiving approval from the CLECs involved. In some cases, changes in translations will be required. If the outage is caused by the destruction of equipment, then the ECC will assume control of the restoration.
- 38.7.13 Loss of a CO:
  - 38.7.13.1 When AT&T TENNESSEE loses a CO, the ECC will
    - 38.7.13.1.1 Place specialists and emergency equipment on notice;
    - 38.7.13.1.2 Inventory the damage to determine what equipment and/or functions are lost;
    - 38.7.13.1.3 Move containerized emergency equipment and facility equipment to the stricken area, if necessary;
    - 38.7.13.1.4 Begin reconnecting service on a parity basis for Hospitals, Police and other emergency agencies or customers served by AT&T TENNESSEE or the CLEC in accordance with the TSP priority restoration coding scheme entered in the AT&T TENNESSEE Maintenance database prior to the emergency.
- 38.7.14 Loss of a CO with SWC Functions:
  - 38.7.14.1 The loss of a CO that also serves as a SWC will be restored as described in Section 38.7.13.
- 38.7.15 Loss of a CO with Tandem Functions:
  - 38.7.15.1 When AT&T TENNESSEE loses a CO building that serves as an Access Tandem and as a SWC, the ECC will:
    - 38.7.15.1.1 Place specialists and emergency equipment on notice;
    - 38.7.15.1.2 Inventory the damage to determine what equipment and/or functions are lost;
    - 38.7.15.1.3 Move containerized emergency equipment and facility equipment to the stricken area, if necessary;
    - 38.7.15.1.4 Begin reconnecting service on a parity basis for Hospitals, Police and other emergency agencies or customers served by AT&T TENNESSEE or the CLEC in accordance with the TSP priority restoration coding scheme entered in the AT&T TENNESSEE Maintenance database prior to the emergency;
    - 38.7.15.1.5 Re-direct as much traffic as possible to the alternate access tandem (if available) for delivery to those CLECs utilizing a different location as a SWC;
    - 38.7.15.1.6 Begin aggregating traffic to a location near the damaged building. From this location, begin re-establishing trunk groups to the CLECs for the delivery of traffic normally found on the direct trunk groups. (This aggregation point may be the alternate access tandem location or another CO on a primary facility route.)
- 38.7.16 Loss of a Facility Hub:
  - 38.7.16.1 In the event that AT&T TENNESSEE loses a facility hub, the recovery process is much the same as above. Once the NMC has observed the problem and administered the appropriate controls, the ECC will assume authority for the repairs. The recovery effort will include:
    - 38.7.16.1.1 Placing specialists and emergency equipment on notice;
    - 38.7.16.1.2 Inventorying the damage to determine what equipment and/or functions are lost;

- 38.7.16.1.3 Moving containerized emergency equipment to the stricken area, if necessary;
- 38.7.16.1.4 Reconnecting service on a parity basis for Hospitals, Police and other emergency agencies or customers served by AT&T TENNESSEE or CLEC in accordance with the TSP priority restoration coding scheme entered in the AT&T TENNESSEE Maintenance database prior to the emergency; and
- 38.7.16.1.5 If necessary, AT&T TENNESSEE will aggregate the traffic at another location and build temporary facilities. This alternative would be viable for a location that is destroyed and building repairs are required.

38.7.17 Combined Outage (CLEC and AT&T TENNESSEE Equipment):

- 38.7.17.1 In some instances, a disaster may impact AT&T TENNESSEE's equipment as well as the CLEC's. This situation will be handled in much the same way as described in Section 3.7.15. Since AT&T TENNESSEE and the CLEC will be utilizing temporary equipment, close coordination will be required.

38.7.18 T1 Identification Procedures:

- 38.7.18.1 During the restoration of service after a disaster, AT&T TENNESSEE may be forced to aggregate traffic for delivery to a CLEC. During this process, T1 traffic may be consolidated onto DS3s and may become unidentifiable to the Carrier. Because resources will be limited, AT&T TENNESSEE may be forced to "package" this traffic entirely differently than normally received by the CLECs. Therefore, a method for identifying the T1 traffic on the DS3s and providing the information to the Carriers is required.

38.7.19 Acronyms:

CLEC	- Competitive Local Exchange Carrier
CO	- Central Office (AT&T TENNESSEE)
DS3	- Facility that carries 28 T1s (672 circuits)
ECC	- Emergency Control Center (AT&T TENNESSEE)
NMC	- Network Management Center
SWC	- Serving Wire Center (AT&T TENNESSEE switch)
T1	- Facility that carries 24 circuits
TSP	- Telecommunications Service Priority

38.7.20 Hurricane Information:

- 38.7.20.1 During a hurricane, AT&T TENNESSEE will make every effort to keep CLECs updated on the status of our network. Information centers will be set up throughout AT&T TENNESSEE. These centers are not intended to be used for escalations, but rather to keep the CLECs informed of network related issues, area damages and dispatch conditions, etc.
- 38.7.20.2 Hurricane-related information can also be found on AT&T TENNESSEE's Wholesale - Southeast Region Web site by clicking on the link "Relief Information" in the special alert box located on the Web page. Additionally, information concerning Mechanized Disaster Reports can also be found by clicking on the link "Click here for information concerning Disaster Recovery Reports" on the Hurricane Relief page.

38.7.21 AT&T TENNESSEE Disaster Management Plan:

- 38.7.21.1 AT&T TENNESSEE maintenance centers have geographical and redundant communication capabilities. In the event of a disaster removing any maintenance center from service another

geographical center would assume maintenance responsibilities. The contact numbers will not change and the transfer will be transparent to the CLEC.

### **39.0 End User Inquiries**

- 39.1 Except as otherwise required by Section 28.1 above, each Party will refer all questions regarding the other Party's services or products directly to the other Party at a telephone number specified by that Party.
- 39.2 Except as otherwise required by Section 28.1 above, each Party will ensure that all of its representatives who receive inquiries regarding the other Party's services:
- 39.2.1 Direct the callers who inquire about the other Party's services or products to their local service provider.
- 39.2.2 Do not in any way disparage or discriminate against the other Party or its products or services.
- 39.3 Except as otherwise provided in this Agreement, CLEC shall be the primary point of contact for CLEC's End Users with respect to the services CLEC provides such End Users.
- 39.4 CLEC acknowledges that AT&T-21STATE may, upon End User request, provide services directly to such End User similar to those offered to CLEC under this Agreement.

### **40.0 Expenses**

- 40.1 Except as expressly set forth in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the matters covered by this Agreement.
- 40.2 AT&T-21STATE and CLEC shall each be responsible for one-half (1/2) of expenses payable to a Third Party for Commission fees or other charges (including regulatory fees, reproduction and delivery expense and any costs of notice or publication, but not including attorney's fees) associated with the filing of this Agreement or any amendment to this Agreement.
- 40.2.1 Prior to the filing of this Agreement and each and every Amendment filed in connection with this Agreement in the State of Nevada, CLEC will submit a check in the amount of two hundred dollars (\$200.00), payable to Public Utilities Commission of Nevada, to cover its portion of the expenses incurred with filing this Agreement. Upon receipt of CLEC's check, the Agreement will be processed for filing with the Commission.

### **41.0 Conflict of Interest**

- 41.1 The Parties represent that no employee or agent of either Party has been or will be employed, retained, paid a fee, or otherwise received or will receive any personal compensation or consideration from the other Party, or any of the other Party's employees or agents in connection with the negotiation of this Agreement or any associated documents.

### **42.0 Survival**

- 42.1 The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to continue beyond the termination or expiration of this Agreement: Section 8.0 above and Section 8.4 above on Termination; 10.6 above on Cash Deposits, Section 10.7 above on Deposit Interest, Section 10.8 above on Drawing on Cash Deposits; Section 11.10 above, Escrow requirements; Sections 11.1 above thru Section 11.7 above on Billing & Payment of Charges; Section 12.0 above on Non Payment and Procedures for Disconnection, Section 14.0 above on Audits, Section 15.0 above on Warranties, Section 18.0 above Indemnity; Section 19.0 above Performance Measures; Section 20.0 above Intellectual Property/License; Section 21.0 above Notices; Section 22.0 above Publicity and Use of Trademarks or Service Marks; Section 23.0 above Confidentiality; Section 26.0 above Governing Law; Section 27.0 above Jurisdiction and Venue; Section 29.4 above CALEA Compliance; Section 36.0 above Taxes; Section 37.0 above Non Waivers and Section 44.0 below Amendments and Modifications.

#### **43.0 Scope of Agreement**

- 43.1 This Agreement is intended to describe and enable specific Interconnection and compensation arrangements between the Parties. This Agreement is the arrangement under which the Parties may purchase from each other Interconnection Services. Except as agreed upon in writing, neither Party shall be required to provide the other Party a function, facility, product, service or arrangement described in the Act that is not expressly provided herein.
- 43.2 Except as specifically contained herein or provided by the FCC or any Commission within its lawful jurisdiction, nothing in this Agreement shall be deemed to affect any access charge arrangement.

#### **44.0 Amendments and Modifications**

- 44.1 Except as otherwise provided for in this Agreement, no provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties.

#### **45.0 Authority**

- 45.1 Each of the AT&T owned ILEC(s) for which this Agreement is executed represents and warrants that it is a corporation or limited partnership duly organized, validly existing and in good standing under the laws of its State of incorporation or formation. Each of the AT&T owned ILEC(s) for which this Agreement is executed represents and warrants that AT&T Services, Inc. has full power and authority to execute and deliver this Agreement as agent for that AT&T owned ILEC. Each of the AT&T owned ILEC(s) for which this Agreement is executed represents and warrants that it has full power and authority to perform its obligations hereunder.
- 45.2 CLEC represents and warrants that it is a Cooperative duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. CLEC represents and warrants that it has been or will be certified as a LEC by the Commission(s) prior to submitting any orders hereunder and is or will be authorized to provide the Telecommunications Services contemplated hereunder in the territory contemplated hereunder prior to submission of orders for such Service.
- 45.3 Each Person whose signature (including e.g., an electronic signature) appears on the signature page represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

#### **46.0 Execution of Agreement**

- 46.1 Signatures by all Parties to this Agreement are required to effectuate this Agreement.
- 46.2 This Agreement may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

#### **47.0 Entire Agreement**

- 47.1 The terms contained in this Agreement and any Attachments, Exhibits, Schedules, and Addenda constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written between the Parties during the negotiations of this Agreement and through the execution and/or Effective Date of this Agreement. This Agreement shall not operate as or constitute a novation of any agreement or contract between the Parties that predates the execution and/or Effective Date of this Agreement.
- 47.2 The Parties acknowledge that CLEC is not required to purchase all types of Interconnection Services potentially available from AT&T and therefore may elect not to include all potential Attachments in the Agreement. To the extent that a provision of the General Terms and Conditions refers a type of Interconnection Service for which there is no Attachment, reference to such Interconnection Service shall have no effect.

# **ATTACHMENT 02 – ALL TRAFFIC – FCC ICC – NETWORK INTERCONNECTION**

## TABLE OF CONTENTS

<u>Section</u>	<u>Page Number</u>
1.0 Introduction .....	3
2.0 Definitions .....	3
3.0 Network Interconnection Methods .....	5
4.0 Interconnection Trunking.....	9
5.0 Out of Exchange Traffic.....	17
6.0 Intercarrier Compensation .....	19
7.0 Recording .....	32
8.0 Transit Traffic .....	34

## 1.0 Introduction

- 1.1 This Attachment sets forth terms and conditions for Network Interconnection, Trunking and Intercarrier Compensation for AT&T-21STATE and CLEC.
- 1.1.1 This Attachment describes the Network Interconnection Methods (NIM) provided by AT&T-21STATE including, the physical architecture for Interconnection of the Parties' facilities and equipment for the transmission and routing of Telephone Exchange Service traffic and Exchange Access traffic between the respective End Users of the Parties pursuant to Section 251(c)(2) of the Act.
- 1.1.2 This Attachment describes the trunking requirements of CLEC and AT&T-21STATE. Any references to incoming and outgoing trunk groups are from the perspective of CLEC. Described herein are the required and optional trunk groups for Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic, ISP-Bound Traffic, IntraLATA Toll Traffic, IXC carried Meet Point Traffic, Third Party Traffic, Mass Calling, E911, Operator Services and Directory Assistance Traffic. Requirements associated with Out of Exchange Traffic are also included.
- 1.1.3 Intercarrier Compensation arrangements for intercarrier Telecommunications traffic exchanged between AT&T-21STATE and CLEC are provided for within this Agreement.
- 1.1.3.1 In AT&T-12STATE, the Intercarrier Compensation provisions of this Attachment apply to Telecommunications traffic originated and terminated between the Parties over each Party's own facilities (Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic, ISP-Bound Traffic, Optional EAS Traffic (also known as "Optional Calling Area Traffic")) or originated by CLEC over local circuit switching purchased by CLEC from AT&T-12STATE on a wholesale basis (non-resale) in a separate agreement and used in providing wireline local telephone exchange (dial tone) service to its End Users (Wholesale Local Switching Traffic).
- 1.1.3.2 In the AT&T SOUTHEAST REGION 9-STATE region, the Intercarrier Compensation provisions of this Attachment apply to Telecommunications traffic originated and terminated between the Parties over each Party's own facilities only (Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic, ISP-Bound Traffic, Optional EAS Traffic (also known as "Optional Calling Area Traffic")).
- 1.1.4 AT&T-21STATE will provide Recording, Message Processing and message detail services to a Facility-Based Provider. The terms and conditions under this Attachment will also apply when the Facility-Based Provider is the Recording Company.

## 2.0 Definitions

- 2.1 "Network Interconnection Methods (NIMs)" mean, but are not limited to, Physical Collocation, Virtual Collocation, Fiber Meet Point; and other technically feasible methods of obtaining Interconnection which is incorporated into the Interconnection Agreement by amendment. One or more of these methods must be used to effect the Interconnection pursuant to Section 251(c)(2) of the Act.
- 2.2 "Access Tandem Switch" is a switching machine within the Public Switched Telecommunications Network (PSTN) that is used to connect and switch trunk circuits between and among End Office Switches for IXC carried traffic and IntraLATA Toll Traffic as designed and used in some regions as well as switching Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic and ISP-Bound Traffic as designed and used in some regions.
- 2.3 "Access Usage Record (AUR)" is a message Record which contains the usage measurement reflecting the service feature group, duration and time of day for a message and is subsequently used to bill access to IXCs.
- 2.4 "Assembly and Editing" means the aggregation of recorded customer message details to create individual message Records and the verification that all necessary information required ensuring all individual message Records meet industry specifications is present.
- 2.5 "Billing Company" is the company that bills End Users for the charges incurred in transported calls.
- 2.6 "Billable Message" is a message Record containing details of a completed transported call which is used to bill an End User.
- 2.7 "Charge Number" means the CCS signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling Party.
- 2.8 "Data Transmission" is the forwarding of Billable Message detail and/or AUR detail in EMI format over a mutually agreed upon medium to the appropriate Billing Company.

- 2.9 "Entrance Facilities" are the transmission facilities (typically wires or cables) that connect CLEC's network with AT&T-21STATE's network for the mutual exchange of traffic. These Entrance Facilities connect CLEC's network from CLEC's Switch or point of presence ("POP") within the LATA to the AT&T-21STATE Serving Wire Center of such Switch or POP for the transmission of telephone exchange service and/or exchange access service.
- 2.10 "Fiber Meet Point", operating at a mutually agreed SONET rate, is a method of interconnection utilizing fiber at a technically feasible and mutually agreed physical meet point. It also represents the point at which one carrier's responsibility for service begins and the other carrier's responsibility ends. The use of a Fiber Meet Point as a method of interconnection under 251(c)(2) of the Act is solely for the mutual exchange of 251(b)(5) local/IntraLATA traffic between the Parties.
- 2.11 "Interexchange Carrier (IXC) Transported" are Telecommunications Services provided by an IXC or traffic transported by facilities belonging to an IXC.
- 2.12 "IntraLATA Toll Trunk Group" is a trunk group carrying only non-IXC carried IntraLATA Toll Traffic.
- 2.13 "ISP-Bound Traffic" is as defined in Section 6.2.2 below.
- 2.14 "Local/Access Tandem Switch" is a switching machine within the PSTN that is used to connect and switch trunk circuits between and among other Central Office Switches for Section 251(b)(5)/IntraLATA Toll Traffic and IXC-carried traffic.
- 2.15 "Local Interconnection Trunk Groups" are trunks used to carry Section 251(b)(5)/IntraLATA Toll Traffic between CLEC End Users and AT&T-21STATE End Users. Local Interconnection Trunk Groups are established according to Telcordia Technical Reference GR 317-CORE.
- 2.15.1 They are established and used as two-way trunk groups in AT&T-12STATE.
- 2.15.2 They may be established and used as either one-way or two-way (upon mutual agreement) trunk groups in AT&T SOUTHEAST REGION 9-STATE.
- 2.16 "Local/IntraLATA Tandem Switch" is a switching machine within the PSTN that is used to connect and switch trunk circuits between and among subtending End Office Switches for Section 251(b)(5)/IntraLATA Toll Traffic.
- 2.17 "Local Only Tandem Switch" is a switching machine within the PSTN that is used to connect and switch trunk circuits between and among other End Office Switches for Section 251(b)(5) and ISP-Bound Traffic.
- 2.18 "Local Only Trunk Groups" are trunk groups used to carry Section 251(b)(5) and ISP-Bound Traffic only.
- 2.19 "Local Tandem" is any Local Only, Local/IntraLATA, Local/Access or Access Tandem Switch serving a particular local calling area.
- 2.20 "Meet Point Trunk Group" (AT&T-12STATE only) is a trunk group which carries traffic between the CLEC's End Users and IXCs via AT&T-12STATE Access or Local/Access Tandem Switches.
- 2.21 "Message Processing" is the creation of individual EMI formatted Billable Message detail Records from individual Recordings that reflect specific billing detail for use in billing the End User and/or AURs from individual Recordings that reflect the service feature group, duration and time of day for a message, Carrier Identification Code, among other fields, for use in billing access to the IXCs. Message Processing includes performing CMDS online edits required to ensure message detail and AURs are consistent with CMDS specifications.
- 2.22 "Non-toll VoIP-PSTN Traffic" is a subset of VoIP-PSTN Traffic as further defined in Section 6.2 below.
- 2.23 "Offers Service" is when CLEC opens an NPA-NXX, ports a CLEC number to serve an End User or pools a block of numbers to serve End Users.
- 2.24 "Out of Exchange LEC (OE-LEC)", for purposes of this Attachment only, means CLEC when it is operating within AT&T-21STATE's incumbent local Exchange Area and also providing Telecommunications Services in another ILEC's incumbent local Exchange Area in the same LATA unless traffic is associated with Commission ordered InterLATA local calling.
- 2.25 "Out of Exchange Traffic" for purposes of this Attachment only, is Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic, ISP-Bound Traffic, FX, IntraLATA traffic and/or InterLATA Section 251(b)(5) Traffic exchanged pursuant to an FCC approved or court ordered InterLATA boundary waiver that:
- 2.25.1 Originates from an OE-LEC End User located in another ILEC's incumbent local Exchange Area and terminates to an AT&T-21STATE End User located in an AT&T-21STATE local Exchange Area; or
- 2.25.2 Originates from an AT&T-21STATE End User located in an AT&T-21STATE local Exchange Area and terminates to an OE-LEC End User located in another ILEC's incumbent local Exchange Area.

- 2.26 "Point of Interconnection (POI)" is a point on the AT&T-21STATE network (End Office or Tandem building) where the Parties deliver Section 251(b)(5)/IntraLATA Toll Traffic to each other and also serves as a demarcation point between the facilities that each Party is physically and financially responsible to provide.
- 2.27 "Provision of Message Detail" is the sorting of all Billable Message detail and AUR detail by Revenue Accounting Office, Operating Company Number or Service Bureau, splitting of data into packs for invoicing and loading of data into files for Data Transmission to CLEC for those Records created internally or received from other Local Exchange Carrier Companies or IXCs through AT&T-21STATE's internal network or national CMDS.
- 2.28 "Record" means the logical grouping of information as described in the programs that process information and create the data files.
- 2.29 "Recording" is the creation and storage on a mutually agreed upon medium of the basic billing details of a message in AMA format converted to EMI layout.
- 2.30 "Recording Company" is the company that performs the functions of Recording and Message Processing of IXC transported messages and the Provision of Message Detail.
- 2.31 "Section 251(b)(5) Traffic" is Telecommunications traffic as defined in Section 6.2 below.
- 2.32 "Section 251(b)(5)/IntraLATA Toll Traffic" for purposes of this Attachment means, (i) Section 251(b)(5) Traffic and/or (ii) ISP-Bound Traffic and/or (iii) IntraLATA Toll Traffic originating from an End User obtaining local dial tone from either Party where that Party is both the Section 251(b)(5) Traffic and IntraLATA Toll provider.
- 2.33 "Third Party Trunk Group" (AT&T SOUTHEAST REGION 9-STATE only) is a trunk group between CLEC and AT&T SOUTHEAST REGION 9-STATE's Tandem that is designated and utilized to transport Traffic that neither originates with nor terminates to an AT&T SOUTHEAST REGION 9-STATE End User, including interexchange traffic (whether IntraLATA or InterLATA) to/from CLEC End Users and IXCs. All such traffic is collectively referred to as Third Party Traffic.
- 2.34 "VoIP-PSTN" or "PSTN-VoIP Traffic" is traffic exchanged between the Parties that either originates in IP-format and terminates to the PSTN, or originates on the PSTN and terminates in IP format.
- 2.35 "Wholesale Local Switching Traffic" for the purposes of this Attachment, means call usage:
- 2.35.1 originating from a CLEC End User over local circuit switching purchased by CLEC from AT&T-21STATE on a wholesale basis and terminating to an AT&T-21STATE End User in the same ILEC Exchange Area as defined by the ILEC Local (or "General") Exchange Tariff or other mandatory local calling area.
  - 2.35.2 originating from an AT&T-21STATE End User and terminating over local switching purchased by CLEC from AT&T-21STATE on a wholesale basis to a CLEC End User in the same ILEC Exchange Area as defined by the ILEC Local (or "General") Exchange Tariff or other mandatory local calling area.

### **3.0 Network Interconnection Methods**

- 3.1 The Interconnection provided herein may not be used solely for the purpose of originating a Party's own interexchange traffic.
- 3.2 Network Interconnection Architecture Plan:
- 3.2.1 AT&T-21STATE's network is partly comprised of End Office Switches, Local Only Tandem Switches (AT&T-10STATE), Local/IntraLATA Tandem Switches, Local/Access Tandem Switches and Access Tandem Switches. AT&T-21STATE's network architecture in any given local Exchange Area and/or LATA can vary markedly from another local Exchange Area/LATA. Using one or more of the NIMs herein, the Parties will agree to a physical architecture plan for a specific Interconnection area. A physical architecture plan will, at a minimum, include the location of CLEC's switch(es) and AT&T-21STATE's End Office Switch(es) and/or Tandem Switch(es) to be interconnected, the facilities that will connect the two (2) networks and which Party will provide (be financially responsible for) the Interconnection facilities. At the time of implementation in a given local Exchange Area or LATA the plan will be documented and signed by appropriate representatives of the Parties, indicating their mutual agreement to the physical architecture plan.
  - 3.2.2 The Parties may utilize any method of Interconnection described in this Attachment. Unless otherwise specified in this Attachment, each Party is financially responsible for the provisioning of facilities on its side of the negotiated POI(s). Each Party is responsible for the appropriate sizing, operation and maintenance of the transport facility to its side of the POI(s). The Parties agree to provide sufficient facilities for the trunk groups required in Section 4.0 below for the exchange of traffic between CLEC and AT&T-21STATE.

3.2.2.1 For each NXX code used by either Party, the Party that owns the NXX (or pooled code block) must maintain network facilities (whether owned or leased) used to actively provide, in part, local Telecommunications Service in the geographic area assigned to such NXX code. If either Party uses its NXX Code to provide Foreign Exchange (FX) service to its customers outside of the geographic area assigned to such code, that Party shall be solely responsible to transport traffic between its Foreign Exchange service customers and such code's geographic area.

### 3.2.3 Types of Points of Interconnection:

3.2.3.1 A "Tandem Serving Area (TSA)" is an AT&T-21STATE area defined by the sum of all local calling areas served by AT&T-21STATE End Offices that subtend an AT&T-21STATE Tandem for Section 251(b)(5)/IntraLATA Toll Traffic as defined in the LERG.

3.2.3.2 The Parties will interconnect their network facilities at a minimum of one CLEC designated POI within AT&T-21STATE's network in the LATA where CLEC Offers Service.

3.2.3.3 A "Single POI" is a single point of Interconnection within a LATA on AT&T-21STATE's network that is established to interconnect AT&T-21STATE's network and CLEC's network for the exchange of Section 251(b)(5)/IntraLATA Toll Traffic.

3.2.3.4 The Parties agree that CLEC has the right to choose a Single POI or multiple POIs.

3.2.3.5 When CLEC has established a Single POI (or multiple POIs) in a LATA, CLEC agrees to establish an additional POI:

3.2.3.5.1 at an AT&T-21STATE TSA separate from the existing POI arrangement when traffic through the existing POI arrangement to that AT&T-21STATE TSA exceeds twenty-four (24) DS1s at peak over three (3) consecutive months; or

3.2.3.5.2 at an AT&T-21STATE End Office in a local calling area not served by an AT&T-21STATE Tandem for Section 251(b)(5)/IntraLATA Toll Traffic when traffic through the existing POI arrangement to that local calling area exceeds twenty-four (24) DS1s at peak over three (3) consecutive months.

3.2.3.6 The additional POI(s) will be established within ninety (90) calendar days of notification that the threshold has been met.

3.2.4 A Party seeking to change the physical architecture plan shall provide thirty (30) calendar days advance written Notice of such intent. After Notice is served, the normal project planning process as described in Section 3.0 above will be followed for all physical architecture plan changes.

3.2.5 CLEC is solely responsible, including financially, for the facilities that carry Operator Services/Directory Assistance ("OS/DA"), E911, Mass Calling, Third Party and Meet Point Trunk Groups.

### 3.2.6 Technical Interfaces:

3.2.6.1 The Interconnection facilities provided by each Party shall be formatted using either Alternate Mark Inversion (AMI) line code with Superframe format framing or Bipolar 8-Zero Substitution with Extended Superframe (B8ZS ESF) format framing or any mutually agreeable line coding and framing.

## 3.3 Methods of Interconnection:

3.3.1 Physical and Virtual Collocation - Attachment 12 - Collocation describes the terms and conditions for Interconnection via Collocation.

### 3.3.2 Leased Entrance Facilities:

3.3.2.1 When CLEC does not elect to collocate transport terminating equipment at an AT&T-21STATE Tandem or End Office, CLEC may self provision facilities, deploy third party interconnection facilities, or lease existing Entrance Facilities from AT&T-21STATE.

3.3.2.2 AT&T-21STATE shall provide CLEC existing Entrance Facilities when used solely for interconnection purposes within the meaning of Section 251(c)(2) of the Act, i.e., for the transmission and routing of telephone exchange service and/or exchange access service, at the rates set forth in the Pricing Sheets. An Entrance Facility is existing if, at the time of CLEC's

- request, the facility is present in AT&T-21STATE's network and available for use as an Entrance Facility and no special construction is required.
- 3.3.2.3 CLEC may not purchase Entrance Facilities pursuant to this Agreement for any other purpose, including, without limitation (i) as unbundled network elements under Section 251(c)(3) of the Act, (ii) for backhauling traffic (e.g., to provide a final link in the dedicated transmission path between CLEC's customer and CLEC's switch, or to carry traffic to and from its own end users), or (iii) 911, OS/DA, High Volume Call In ("HVCI"), Third Party and Meet Point Trunk Groups.
- 3.3.2.4 CLEC must submit Access Service Requests ("ASRs") to AT&T-21STATE to perform conversions for reclassifications of the wholesale service or group of wholesale services to an Entrance Facility purchased pursuant to this Agreement and at the rates referenced in the Pricing Sheets. AT&T-21STATE will follow project guidelines as described in Section 4.7.
- 3.3.2.5 Entrance Facility Audits:
- 3.3.2.5.1 AT&T-21STATE may audit CLEC's compliance with the use of Entrance Facilities for Interconnection purposes by obtaining and paying for an independent auditor to audit, on no more frequently than an annual basis (consecutive 12 month period following the commencement of an audit), CLEC's compliance with the conditions set forth in Sections 3.3.2.1–3.3.2.4 above ("Entrance Facility Requirements").
- 3.3.2.5.2 AT&T-21STATE will send such Audit Notice to CLEC no less than thirty (30) calendar days prior to the date upon which AT&T-21STATE seeks to commence an audit and shall identify the independent auditor.
- 3.3.2.5.3 The independent auditor shall perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants, which will require the auditor to perform an "examination engagement" and issue an opinion that includes the auditor's determination regarding CLEC's compliance with the Entrance Facility Requirements.
- 3.3.2.5.4 The independent auditor's report will conclude whether CLEC complied in all material respects with the Entrance Facility Requirements. AT&T-21STATE shall provide CLEC with a copy of the independent auditor's report within ten (10) business days from the date of receipt. The independent auditor's report shall state the scope of the audit that was performed.
- 3.3.2.5.5 If the auditor's report concludes that CLEC failed to comply with the Entrance Facility Requirements, CLEC must:
- 3.3.2.5.5.1 submit orders to AT&T-21STATE to either convert all noncompliant Entrance Facilities to the equivalent or substantially similar wholesale service or disconnect non-compliant facilities within 45 days of the date CLEC receives a copy of the auditor's report;
- 3.3.2.5.5.2 remit payment in accordance with the payment provisions of the Agreement for true-up charges assessed by AT&T-21STATE for the difference between the amount billed by AT&T-21STATE and the amount that AT&T-21STATE would have billed had CLEC purchased the Entrance Facilities from the applicable AT&T-21STATE tariff at month-to-month rates plus late payment charges from the date that the noncompliance of the Entrance Facility Requirements, in whole or in part, began. AT&T-21STATE reserves its rights to make the effective bill date for conversions 45 days after CLEC's receipt of a copy of the auditor's report;
- 3.3.2.5.5.3 reimburse AT&T-21STATE for 100% of the cost of the independent auditor if the number of circuits found to be non-compliant is 10% or greater than the number of circuits investigated. If the number of circuits found to be non-compliant is less than 10%, CLEC will reimburse AT&T-21STATE in an amount that is in direct proportion to the number of circuits found to be non-compliant.

- 3.3.2.5.6 With respect to any noncompliant Entrance Facility for which CLEC fails to submit a conversion or disconnect order or dispute the auditor's finding to the Commission within such 45-day time period, AT&T-21STATE may initiate and effect such a conversion. AT&T-21STATE will take reasonable steps to avoid disruption to CLEC's customers' service or degradation in service quality in the case of conversion. AT&T-21STATE reserves its rights to make the effective bill date for conversions 45 days after CLEC's receipt of a copy of the auditor's report. In no event shall rates set under Section 252(d)(1) apply for the use of any Entrance Facility for any period in which the Entrance Facility does not meet the Entrance Facility Requirements.
  - 3.3.2.5.7 If CLEC disagrees as to the findings or conclusions of the auditor's report, CLEC shall provide Notice requesting dispute resolution to AT&T-21STATE. Such dispute resolution discussions shall be completed with fourteen (14) days. The Dispute Resolution process set forth in the General Terms and Conditions of the Agreement shall not apply to a dispute of the findings or conclusions of the auditor's report. At the conclusion of this fourteen (14) day period, CLEC may file a complaint at the Commission.
  - 3.3.2.5.8 If CLEC initiates a proceeding at the Commission, CLEC may elect to pay into an escrow account the true up amount, and on a monthly basis prospectively the difference between the rates set forth in the Agreement and the month-to-month rates in the applicable AT&T-21STATE tariff in lieu of AT&T converting the Entrance Facilities identified in CLEC's dispute resolution before the Commission pending resolution. If the Commission upholds the auditor's finding, the disputed amounts held in escrow shall be paid to AT&T-21STATE and AT&T-21STATE shall retain any disputed amounts already paid by CLEC in addition to late payment charges.
- 3.3.3 Fiber Meet Point:
- 3.3.3.1 Fiber Meet Point between AT&T-21STATE and CLEC can occur at any mutually agreeable and technically feasible point at an AT&T-21STATE Tandem or End Office building within each LATA.
  - 3.3.3.2 When the Parties agree to Interconnect their networks pursuant to the Fiber Meet Point, a single point-to-point linear chain SONET system must be utilized (in a Unidirectional Path Switched Ring (UPSR) software configuration for AT&T SOUTHEAST REGION 9-STATE). Only Local Interconnection Trunk Groups shall be provisioned over this jointly provided facility.
  - 3.3.3.3 Neither Party will be allowed to access the Data Communications Channel (DCC) of the other Party's Fiber Optic Terminal (FOT). The Fiber Meet Point will be designed so that each Party may, as far as is technically feasible, independently select the transmission, multiplexing and fiber terminating equipment to be used on its side of the POI(s). The Parties will work cooperatively to achieve equipment and vendor compatibility of the FOT equipment.
  - 3.3.3.4 Requirements for Interconnection specifications will be defined in joint engineering planning sessions between the Parties.
  - 3.3.3.5 In addition to the semi-annual trunk forecast process, discussed in Section 4.0 below, discussions to provide relief to existing facilities can be initiated by either Party. Actual system augmentations will be initiated only upon mutual agreement. Facilities will be planned to accommodate the verified and agreed upon trunk forecast for the Local Interconnection Trunk Group(s).
  - 3.3.3.6 The Parties will negotiate a project service date and corresponding work schedule to construct relief facilities prior to facilities exhaust.
  - 3.3.3.7 CLEC will provide fiber cable to the last entrance (or AT&T-21STATE designated) manhole at the AT&T-21STATE Tandem or End Office building. AT&T-21STATE shall make all necessary preparations in the manhole to receive and to allow and enable CLEC to deliver fiber optic facilities into that manhole. CLEC will provide a sufficient length of fiber cable for AT&T-21STATE to pull through to the AT&T-21STATE cable vault. CLEC shall deliver and maintain

such strands at its own expense up to the POI. AT&T shall take the fiber from the manhole and terminate it inside AT&T-21STATE's Tandem or End Office building at the cable vault at AT&T-21STATE's expense. In this case, the POI shall be at the AT&T-21STATE designated manhole location. Each Party shall provide its own source for the synchronized timing of its FOT equipment.

3.3.3.8 CLEC and AT&T-21STATE will mutually agree on the capacity of the FOT(s) to be utilized based on equivalent DS1s or DS3s. Each Party will also agree upon the optical frequency and wavelength necessary to implement the Interconnection. The Parties will develop and agree upon methods for the capacity planning and management for these facilities, terms and conditions for over provisioning facilities and the necessary processes to implement facilities as indicated in Section 4.0 below of this document.

3.3.3.9 Electrical handoffs for Fiber Meet Point will be at the DS1 or DS3 level. When a DS3 handoff is agreed to by the Parties, AT&T-21STATE will provide any multiplexing required for DS1 facilities or trunking at its end and CLEC will provide any DS1 multiplexing required for facilities or trunking at its end.

#### 3.4 Responsibilities of the Parties:

3.4.1 For each local Interconnection within an AT&T-21STATE area, CLEC shall provide written notice to AT&T-21STATE of the need to establish Interconnection in each local Exchange Area (AT&T SOUTHWEST REGION 5-STATE) or LATA (AT&T MIDWEST REGION 5-STATE, AT&T SOUTHEAST REGION 9-STATE and AT&T WEST REGION 2-STATE). CLEC shall provide all applicable network information on forms acceptable to AT&T-21STATE (as set forth in AT&T-21STATE's CLEC Handbook, published on the AT&T CLEC Online website).

3.4.2 Upon receipt of CLEC's Notice to interconnect, the Parties shall schedule a meeting to document the network architecture (including trunking) as discussed in Section 3.2.1 above. The Interconnection Activation Date for an Interconnection shall be established based on then-existing force and load, the scope and complexity of the requested Interconnection and other relevant factors.

3.4.3 Either Party may add or remove switches. The Parties shall provide one hundred and twenty (120) calendar days written Notice to establish such Interconnection; and the terms and conditions of this Attachment will apply to such Interconnection.

3.4.4 The Parties recognize that a facility handoff point must be agreed upon to establish the demarcation point for maintenance and provisioning responsibilities for each Party on its side of the POI.

### 4.0 Interconnection Trunking

#### 4.1 Provisioning and Administration of Trunk Groups:

4.1.1 CLEC shall issue ASRs for two-way trunk groups and for one-way trunk groups originating at CLEC's switch. AT&T-21STATE shall issue ASRs for one-way trunk groups originating at the AT&T-21STATE switch.

4.1.2 Trunk groups for ancillary services (e.g., OS/DA, BLVI, High Volume Call In and E911) and Meet Point or Third Party (as appropriate) Trunk Groups can be established between CLEC's switch and the appropriate AT&T-21STATE Tandem Switch as further provided in this Section 4.0.

#### 4.1.3 Signaling Protocol:

4.1.3.1 SS7 Signaling is AT&T-21STATE's preferred method for signaling. Where MF signaling is currently used, the Parties agree to use their best efforts to convert to SS7. If SS7 services are provided by AT&T-21STATE, they will be provided in accordance with the provisions of the applicable access tariffs.

4.1.3.2 Where MF signaling is currently used, the Parties agree to interconnect their networks using MF or dual tone MF (DTMF) signaling, subject to availability at the End Office Switch or Tandem Switch at which Interconnection occurs. The Parties acknowledge that the use of MF signaling may not be optimal. AT&T-21STATE will not be responsible for correcting any undesirable characteristics, service problems or performance problems that are associated with MF/SS7

inter-working or the signaling protocol required for Interconnection with CLEC employing MF signaling.

- 4.1.4 The number of digits to be exchanged by the Parties shall be ten (10) unless otherwise mutually agreed.
- 4.1.5 Where available, a trunk group utilization report (TIKI) may be accessed from the AT&T CLEC Online website. The report is provided in an MS-Excel format.

#### 4.2 Embedded Base-One-Way trunks (AT&T-12STATE only):

- 4.2.1 AT&T-12STATE acknowledges that CLEC may have an embedded base of one-way trunks ordered and installed prior to the Effective Date of this Agreement that were used for termination of CLEC's Section 251(b)(5)/IntraLATA Toll Traffic to AT&T-12STATE (Embedded Base). To the extent that CLEC has such an Embedded Base, CLEC shall only augment trunk groups in the Embedded Base with the mutual agreement of the Parties. CLEC shall not order any new one-way trunk groups following the Effective Date of this Agreement. Moreover, the Parties agree that the Embedded Base will be converted to two-way trunk groups under the following circumstances:
  - 4.2.1.1 With reasonable notification from AT&T-12STATE and upon AT&T-12STATE's request, CLEC shall convert all of its Embedded Base to two-way trunks.
  - 4.2.1.2 At any time an Embedded Base trunk group (either originating or terminating) requires augmentation, AT&T-12STATE can require the associated originating and terminating trunks to be converted to a single two-way trunk group prior to the augmentation.
  - 4.2.1.3 When any network changes are to be performed on a project basis (i.e., central office conversions, tandem re-homes, etc.), upon request and reasonable notice by AT&T-12STATE, CLEC will convert all of its Embedded Base affected by the project within the intervals and due dates required by the project parameters.
  - 4.2.1.4 In addition to the foregoing, CLEC may choose, at any time, to convert its Embedded Base to two-way trunk groups.
  - 4.2.1.5 The Parties will coordinate any trunk group migration, trunk group prioritization and implementation schedule. AT&T-12STATE agrees to develop a cutover plan within thirty (30) days of notification to CLEC of the need to convert pursuant to Section 4.2.1.1 above and Section 4.2.1.3 above.

#### 4.3 Establishment of Local Only and Local Interconnection Trunk Groups Per Region:

- 4.3.1 When CLEC Offers Service in a Local Exchange Area or LATA, the following trunk groups described in this Section 4.3 shall be used to transport traffic between CLEC End Users and AT&T-21STATE End Users.
- 4.3.2 Local Only and Local Interconnection Trunk Group(s) in each Local Exchange Area: AT&T SOUTHWEST REGION 5-STATE. These trunk groups will utilize SS7 where available and multi-frequency (MF) signaling protocol where SS7 is not available.
  - 4.3.2.1 A two-way Local Only Trunk Group shall be established between CLEC's switch and each AT&T SOUTHWEST REGION 5-STATE Local Only Tandem Switch in the local Exchange Area. Inter-Tandem switching is not provided.
  - 4.3.2.2 A two-way Local Interconnection Trunk Group shall be established between CLEC's switch and each AT&T SOUTHWEST REGION 5-STATE Local/IntraLATA Tandem Switch and each Local/Access Tandem Switch in the local Exchange Area. Inter-Tandem switching is not provided.
  - 4.3.2.3 AT&T SOUTHWEST REGION 5-STATE reserves the right to initiate a one-way IntraLATA Trunk Group to CLEC in order to provide Tandem relief when a community of interest is outside the local Exchange Area in which CLEC is interconnected.
  - 4.3.2.4 Where traffic from CLEC switch to an AT&T SOUTHWEST REGION 5-STATE End Office is sufficient (24 or more trunks), a Local Interconnection Trunk Group shall also be established to the AT&T SOUTHWEST REGION 5-STATE End Office. Once such trunks are provisioned, traffic from CLEC to AT&T SOUTHWEST REGION 5-STATE must be redirected to route first to the Direct End Office Trunk Group (DEOT) with overflow traffic alternate routed to the appropriate AT&T SOUTHWEST REGION 5-STATE Tandem that switches Section 251(b)(5)/IntraLATA Toll

- Traffic. If an AT&T SOUTHWEST REGION 5-STATE End Office does not subtend an AT&T SOUTHWEST REGION 5-STATE Tandem that switches Section 251(b)(5)/IntraLATA Toll Traffic, a direct final DEOT will be established by CLEC and there will be no overflow of Section 251(b)(5)/IntraLATA Toll Traffic.
- 4.3.2.5 A Local Interconnection Trunk Group shall be established from CLEC's switch to each AT&T SOUTHWEST REGION 5-STATE End Office in a local Exchange Area that has no Local Tandem. This trunk group shall be established as a direct final.
- 4.3.2.6 When AT&T SOUTHWEST REGION 5-STATE has a separate Local Only Tandem Switch(es) in the local Exchange Area and a separate Access Tandem Switch that serves the same local Exchange Area, a two-way IntraLATA Toll Trunk Group shall be established to the AT&T SOUTHWEST REGION 5-STATE Access Tandem Switch. In addition a two-way Local Only Trunk Group(s) shall be established from CLEC's switch to each AT&T SOUTHWEST REGION 5-STATE Local Only Tandem Switch.
- 4.3.2.7 Each Party shall deliver to the other Party over the Local Only Trunk Group(s) only such traffic that originates and terminates in the same local exchange area.
- 4.3.3 Local Only and/or Local Interconnection Trunk Group(s) in each LATA: AT&T MIDWEST REGION 5-STATE, AT&T SOUTHEAST REGION 9-STATE, and AT&T WEST REGION 2-STATE:
- 4.3.3.1 Tandem Trunking - AT&T MIDWEST REGION 5-STATE and AT&T WEST REGION 2-STATE:
- 4.3.3.1.1 Section 251(b)(5) and ISP Bound Traffic shall be routed on Local Only Trunk Groups established at all AT&T MIDWEST REGION 5-STATE and AT&T WEST REGION 2-STATE Local Only Tandems in the LATA for calls destined to or from all AT&T MIDWEST REGION 5-STATE End Offices that subtend the designated Tandem. These trunk groups shall be two-way and will utilize SS7 signaling.
- 4.3.3.1.2 In AT&T MIDWEST REGION 5-STATE and AT&T WEST REGION 2-STATE all Section 251(b)(5)/IntraLATA Toll Traffic shall be routed on two-way Local Interconnection Trunk Groups using SS7 signaling. These trunk groups shall be established at all Local/IntraLATA and Local/Access Tandem switches in AT&T MIDWEST REGION 5-STATE and at the Access Tandem Switches in AT&T WEST REGION 2-STATE in the LATA, for calls destined to or from End Offices that subtend each Tandem.
- 4.3.3.1.3 A Local Interconnection Trunk Group shall be established from CLEC's switch to each AT&T MIDWEST REGION 5-STATE and each AT&T WEST REGION 2-STATE End Office in any LATA where the AT&T MIDWEST REGION 5-STATE and AT&T WEST REGION 2-STATE End Office does not subtend an AT&T MIDWEST REGION 5-STATE and AT&T WEST REGION 2-STATE Local Tandem. This trunk group shall be established as a direct final.
- 4.3.3.2 Tandem Trunking - AT&T SOUTHEAST REGION 9-STATE:
- 4.3.3.2.1 Section 251(b)(5)/IntraLATA Toll Traffic shall be routed on Local Interconnection Trunk Groups established at each AT&T SOUTHEAST REGION 9-STATE Access Tandem in the LATA where CLEC homes its NPA/NXX codes for calls destined to or from all AT&T SOUTHEAST REGION 9-STATE End Offices that subtend the designated Tandem. These trunk groups shall be one-way except where two-way trunks have been mutually agreed and will utilize SS7 signaling. Where CLEC does not interconnect at every Access Tandem switch location in the LATA, CLEC must use Multiple Tandem Access (MTA) to route traffic to End Users through those Tandems within the LATA to which CLEC is not interconnected. To utilize MTA, CLEC must establish Local Interconnection Trunk Groups to a minimum of one (1) Access Tandem within each LATA as required. AT&T SOUTHEAST REGION 9-STATE will route CLEC originated 251(b)(5)/IntraLATA Toll traffic for LATA-wide transport and termination. Compensation for MTA is described in Section 6.4 below.

#### 4.3.4 Direct End Office Trunking:

4.3.4.1 DEOTs transport Section 251(b)(5)/IntraLATA Toll Traffic between CLEC's switch and an AT&T-21STATE End Office and are not switched at a Tandem location. When actual or projected End Office Section 251(b)(5)/IntraLATA Toll Traffic requires twenty-four (24) or more trunks CLEC shall establish the following:

4.3.4.1.1 a two-way DEOT in AT&T-12STATE;

4.3.4.1.2 a one-way DEOT in AT&T SOUTHEAST REGION 9-STATE (except where the parties have agreed to use two-way trunks.)

4.3.4.2 Once such trunks are provisioned, traffic from CLEC to AT&T-21STATE must be redirected to route first to the DEOT with overflow traffic alternate routed to the appropriate AT&T-21STATE Tandem that switches Section 251(b)(5)/IntraLATA Toll Traffic. If an AT&T-21STATE End Office does not subtend an AT&T-21STATE Tandem that switches Section 251(b)(5)/IntraLATA Toll Traffic, a direct final DEOT will be established by CLEC and there will be no overflow of Section 251(b)(5)/IntraLATA Toll Traffic.

4.3.4.3 All traffic received by AT&T-21STATE on the DEOT from CLEC must terminate in the End Office, (i.e., no Tandem switching will be performed in the End Office). Where End Office functionality is provided in a remote End Office switch of a host/remote configuration, CLEC shall establish the DEOT at the host switch.

#### 4.3.5 Meet Point Trunk Group - AT&T-12STATE:

4.3.5.1 IXC carried traffic shall be transported between CLEC's switch and the AT&T-12STATE Access Tandem Switch or Local/Access Tandem Switch over a Meet Point Trunk Group separate from Section 251(b)(5)/IntraLATA Toll Traffic. The Meet Point Trunk Group will be established for the transmission and routing of exchange access traffic between CLEC's End Users and IXCs via an AT&T-12STATE Access Tandem Switch or Local/Access Tandem Switch.

4.3.5.2 Meet Point Trunk Groups shall be provisioned as two-way and each Party is responsible for delivering traffic utilizing SS7 signaling, except MF signaling will be used on a separate Meet Point Trunk Group to complete originating calls to switched access customers that use MF FGD signaling protocol.

4.3.5.3 When AT&T-12STATE has more than one Access or Local/Access Tandem Switch in a local exchange area or LATA, CLEC shall establish a Meet Point Trunk Group to every AT&T-12STATE Access or Local/Access Tandem Switch where CLEC has homed its NXX code(s) or is the code holder of a pooled code block.

4.3.5.4 AT&T-12STATE will not block switched access traffic delivered to any AT&T-12STATE Access Tandem Switch or Local/Access Tandem Switch for completion on CLEC's network. The Parties understand and agree that Meet Point trunking arrangements are available and functional only to/from switched access customers who directly connect with any AT&T-12STATE Access Tandem Switch or Local/Access Tandem Switch that CLEC's switch subtends in each LATA. In no event will AT&T-12STATE be required to route such traffic through more than one of its Tandem Switches for connection to/from switched access customers. AT&T-12STATE shall have no responsibility to ensure that any switched access customer will accept traffic that CLEC directs to the switched access customer.

4.3.5.5 CLEC shall provide all SS7 signaling information including, without limitation, charge number and originating line information (OLI). For terminating FGD, AT&T-12STATE will pass all SS7 signaling information including, without limitation, Calling Party Number (CPN) if it receives CPN from FGD carriers. All privacy indicators will be honored. Where available, network signaling information such as transit network selection (TNS) parameter, carrier identification codes (CIC) (CCS platform) and CIC/OZZ information (non SS7 environment) will be provided by CLEC wherever such information is needed for call routing or billing. The Parties will follow all Ordering and Billing Forum (OBF) adopted standards pertaining to TNS and CIC/OZZ codes.

- 4.3.5.6 Notwithstanding anything to the contrary in this Agreement, all Switched Access Traffic shall be delivered to the terminating Party over feature group access trunks per the terminating Party's access tariff(s).
- 4.3.6 Third Party Trunk Group - AT&T SOUTHEAST REGION 9-STATE:
- 4.3.6.1 Third Party Traffic trunks shall be two-way trunks and must be ordered by CLEC to deliver and receive Third Party Traffic. Establishing Third Party Traffic trunks at Access and Local Tandems provides Intra-Tandem Access to the Third Party also interconnected at those Tandems. CLEC shall be responsible for all recurring and nonrecurring charges associated with Third Party Traffic trunks and facilities.
- 4.3.7 800/(8YY) Traffic - AT&T-21STATE:
- 4.3.7.1 If CLEC chooses AT&T-21STATE to handle 800/(8YY) database queries from AT&T-21STATE's switches, all CLEC originating 800/(8YY) traffic will be routed over the Meet Point Trunk Groups or the Third Party Trunk Groups. This traffic will include a combination of both IXC 800/(8YY) service and CLEC 800/(8YY) service which will be identified and segregated by carrier through the database query function in the AT&T-21STATE Access or Local/Access Tandem Switch.
- 4.3.7.2 Where CLEC requests that AT&T-21STATE perform the Service Switching Point (SSP) function (e.g., the database query) on originating Toll Free Service 800/(8YY) calls, all such calls shall be delivered using GR-394 format over the Meet Point Trunk Group or over the Third Party Trunk Group. Carrier Code "0110" and Circuit Code (to be determined for each LATA) shall be used for all such calls.
- 4.3.7.3 CLEC may handle its own 800/(8YY) database queries from its own switch. Where it does so, CLEC will determine the nature of the 800/(8YY) call (local/intraLATA or IXC-carried) based on the response from the database. If the query determines that the call is a local or IntraLATA 800/(8YY) number, CLEC will route the post-query local or IntraLATA converted ten-digit local number to AT&T-21STATE over the Local Interconnection Trunk Group and shall provide an 800/(8YY) billing Record to AT&T-21STATE. If the query reveals the call is an IXC-carried 800/(8YY) number, CLEC shall route the post-query IXC-carried call (800/(8YY) number) directly from its switch for carriers interconnected with its network or over the Meet Point Trunk Group or Third Party Trunk Group, as appropriate, to carriers not directly connected to its network but which are connected to AT&T-21STATE's Access or Local/Access Tandem Switch. Calls will be routed to AT&T-21STATE over the appropriate trunk group as defined above, within the LATA in which the calls originate.
- 4.3.7.4 All post-query Toll Free Service 800/(8YY) calls for which CLEC performs the SSP function, if delivered to AT&T-21STATE, shall be delivered using GR-394 format over the Meet Point Trunk Group or over the Third Party Trunk Group for calls destined to IXCs, or shall be delivered by CLEC using GR-317 format over the Local Only and/or Local Interconnection Trunk Group for calls destined to End Offices that directly subtend the Tandem.
- 4.3.8 E911 Trunk Group:
- 4.3.8.1 Attachment 05 - 911/E911 specifies E911 trunk group requirements.
- 4.3.9 High Volume Call In (HVCI)/Mass Calling (Choke) Trunk Group - AT&T-21STATE:
- 4.3.9.1 CLEC must establish a dedicated trunk group to the designated Public Response HVCI/Mass Calling Network Access Tandem in each Serving Area. This trunk group shall be one-way outgoing only and shall utilize MF signaling. As the HVCI/Mass Calling trunk group is designed to block all excessive attempts toward HVCI/Mass Calling NXXs, it is necessarily exempt from the one percent (1%) blocking standard described elsewhere in this Attachment. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group. The Parties will not exchange live traffic until successful testing is completed by both Parties.
- 4.3.9.1.1 Upon demonstration that the CLEC switch is unable to utilize MF signaling, the CLEC may utilize SS7 signaling for its HVCI/Mass Calling Trunk Group.

4.3.9.2 The HVCI trunk group shall be sized as follows:

Number of Access Lines Served	Number of Mass Calling Trunks
0 – 10,000	2
10,001 – 20,000	3
20,001 – 30,000	4
30,001 – 40,000	5
40,001 – 50,000	6
50,001 – 60,000	7
60,001 – 75,000	8
75,000 +	9 maximum

4.3.9.3 If CLEC should acquire a HVCI/Mass Calling customer, (e.g., a radio station) CLEC shall notify AT&T-21STATE at least sixty (60) days in advance of the need to establish a one-way outgoing SS7 or MF trunk group from the AT&T-21STATE HVCI/Mass Calling Serving Office to the CLEC End User's serving office. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group.

4.3.9.4 If CLEC finds it necessary to issue a new choke telephone number to a new or existing HVCI/Mass Calling customer, CLEC may request a meeting to coordinate with AT&T-21STATE the assignment of the HVCI/Mass Calling telephone number from the existing choke NXX. In the event that the CLEC establishes a new choke NXX, CLEC must notify AT&T-21STATE a minimum of ninety (90) days prior to deployment of the new HVCI/Mass Calling NXX. AT&T-21STATE will perform the necessary translations in its End Offices and Tandem(s) and issue ASRs to establish a one-way outgoing SS7 or MF trunk group from the AT&T-21STATE Public Response HVCI/Mass Calling Network Access Tandem to CLEC's choke serving office.

4.3.10 Operator Services/Directory Assistance/Inward Assistance Operator Services Trunk Group(s):

4.3.10.1 Attachment 06 - Customer Information Services specifies the trunk group requirements for Operator Services/Directory Assistance/Inward Assistance Operator Services.

4.4 Trunk Forecasting Responsibilities:

4.4.1 CLEC agrees to provide an initial forecast for all trunk groups described in this Attachment. AT&T-21STATE shall review this trunk forecast and provide any additional information that may impact the trunk forecast information provided by CLEC. Subsequent trunk forecasts shall be provided on a semi-annual basis, not later than January 1<sup>st</sup> and July 1<sup>st</sup> of each year in order to be considered in the semi-annual publication of the AT&T-21STATE General Trunk Forecast. Parties agree to the use of Common Language Location Identification (CLLI) coding and Common Language Circuit Identification for Message Trunk coding (CLCI-MSG) which is described in TELCORDIA TECHNOLOGIES documents BR795-100-100 and BR795-400-100 respectively. Inquiries pertaining to use of TELCORDIA TECHNOLOGIES Common Language Standards and document availability should be directed to TELCORDIA TECHNOLOGIES at 1-800-521-2673.

4.4.2 The semi-annual forecasts shall include:

4.4.2.1 Yearly forecasted trunk quantities for all trunk groups required in this Attachment for a minimum of three (3) (current plus two (2) future) years; and

4.4.2.2 A description of major network projects anticipated for the next six (6) months. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, orders greater than eight (8) DS1s, or other activities that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.

4.4.2.3 The Parties shall agree on these forecasts to ensure efficient trunk utilization. For forecast quantities that are in dispute, the Parties shall make all reasonable efforts to develop a mutually agreeable forecast.

4.4.2.4 Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as mutually agreed to by the Parties. The Parties shall make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate these orders.

4.4.3 CLEC shall be responsible for forecasting two-way trunk groups. AT&T-21STATE shall be responsible for forecasting the one-way trunk groups terminating to CLEC and CLEC shall be responsible for forecasting the one-way trunk groups terminating to AT&T-21STATE, unless otherwise specified in this Attachment.

4.4.4 Each Party shall provide a specified point of contact for planning and forecasting purposes.

4.5 Trunk Design Blocking Criteria:

4.5.1 Trunk requirements for forecasting and servicing shall be based on the blocking objectives shown in the Table below. Trunk requirements shall be based upon time consistent average busy season busy hour twenty (20) day averaged loads applied to industry standard Neal-Wilkinson Trunk Group Capacity algorithms (using Medium day-to-day Variation and 1.0 Peakedness factor until actual traffic data is available).

Trunk Group Type	Design Blocking Objective
Local Interconnection Trunk Group – Direct End Office (Primary High)	ECCS <sup>1</sup>
Local Interconnection Trunk Group – Direct End Office (Final)	2%
IntraLATA Toll Trunk Group (Local/Access or Access Tandem Switch)	1%
Local Interconnection Trunk Group (Local Tandem)	1%
Meet Point (Local/Access or Access Tandem Switch) (AT&T-12STATE only)	0.5%
E911	1%
Operator Services (DA/DACC)	1%
Operator Services (0+, 0-)	1%
Busy Line Verification/Emergency Interrupt	1%
Third Party (AT&T SOUTHEAST REGION 9-STATE only)	1%

4.6 Trunk Servicing:

4.6.1 Both Parties will jointly manage the capacity of Local Only, Local Interconnection, Third Party and Meet Point Trunk Groups. Either Party may send a Trunk Group Service Request (TGSR) to the other Party to trigger changes to the Local Only, Local Interconnection, Third Party and Meet Point Trunk Groups based on capacity assessment. The TGSR is a standard industry support interface developed by the OBF of the Carrier Liaison Committee of the Alliance for Telecommunications Solutions (ATIS) organization. TELCORDIA TECHNOLOGIES Special Report STS000316 describes the format and use of the TGSR. Contact TELCORDIA TECHNOLOGIES at 1-800-521-2673 regarding the documentation availability and use of this form.

4.6.2 Orders greater than eight (8) DS1s shall be submitted as a project as described in Section 4.7 below.

4.6.3 Utilization: Utilization shall be defined as Trunks Required as a percentage of Trunks In Service.

---

<sup>1</sup> During implementation the Parties will mutually agree on an Economic Centum Call Seconds (ECCS) or some other means for the sizing of this trunk group.

#### 4.6.3.1 In A Blocking Situation (Over-utilization):

- 4.6.3.1.1 In a blocking situation, CLEC is responsible for issuing ASRs on all two-way Local Only, Local Interconnection, Third Party and Meet Point Trunk Groups and one-way CLEC originating Local Only and/or Local Interconnection Trunk Groups to reduce measured blocking to design objective blocking levels based on analysis of trunk group data. If an ASR is not issued, AT&T-21STATE will issue a TGSR. CLEC will issue an ASR within three (3) business days after receipt and review of the TGSR. CLEC will note "Service Affecting" on the ASR.
- 4.6.3.1.2 In a blocking situation, AT&T-21STATE is responsible for issuing ASRs on one-way AT&T-21STATE originating Local Only and/or Local Interconnection Trunk Groups to reduce measured blocking to design objective blocking levels based on analysis of trunk group data. If an ASR is not issued, CLEC will issue a TGSR. AT&T-21STATE will issue an ASR within three (3) business days after receipt and review of the TGSR.
- 4.6.3.1.3 If an alternate final Local Only Trunk Group or Local Interconnection Trunk Group is at seventy-five percent (75%) utilization, a TGSR may be sent to CLEC for the final trunk group and all subtending high usage trunk groups that are contributing any amount of overflow to the alternate final route.
- 4.6.3.1.4 If a direct final Meet Point Trunk Group is at seventy-five percent (75%) utilization, a TGSR may be sent to CLEC. If a direct final Third Party Trunk Group is at ninety percent (90%) utilization, a TGSR may be sent to CLEC.

#### 4.6.3.2 Underutilization:

- 4.6.3.2.1 Underutilization of Local Only Trunk Groups, Local Interconnection Trunk Groups, Third Party Trunk Group and Meet Point Trunk Groups exists when provisioned capacity is greater than the current need. Those situations where more capacity exists than actual usage requires will be handled in the following manner:
  - 4.6.3.2.1.1 If a Local Only Trunk Group, Local Interconnection Trunk Group, Third Party Trunk Group or a Meet Point Trunk Group is under sixty-five percent (65%) of CCS capacity on a monthly average basis for AT&T-12STATE or under eighty percent (80%) for AT&T SOUTHEAST REGION 9-STATE, for each month of any three (3) consecutive months period, either Party may request the issuance of an order to resize the Local Only Trunk Group, Local Interconnection Trunk Group, Third Party Trunk Group or the Meet Point Trunk Group, which shall be left with not less than twenty-five percent (25%) excess capacity for AT&T-12STATE or not less than fifteen percent (15%) for AT&T SOUTHEAST REGION 9-STATE. In all cases, grade of service objectives shall be maintained.
  - 4.6.3.2.1.2 Either Party may send a TGSR to the other Party to trigger changes to the Local Only Trunk Groups, Local Interconnection Trunk Groups, Third Party Trunk Groups or Meet Point Trunk Groups based on capacity assessment. Upon receipt of a TGSR, the receiving Party will issue an ASR to the other Party within twenty (20) business days after receipt of the TGSR.
  - 4.6.3.2.1.3 Upon review of the TGSR, if a Party does not agree with the resizing, the Parties will schedule a joint planning discussion within the twenty (20) business days. The Parties will meet to resolve and mutually agree to the disposition of the TGSR.

4.6.3.2.1.4 If AT&T-21STATE does not receive an ASR, or if CLEC does not respond to the TGSR by scheduling a joint discussion within the twenty (20) business day period, AT&T-21STATE will attempt to contact CLEC to schedule a joint planning discussion. If CLEC will not agree to meet within an additional five (5) business days and present adequate reason for keeping trunks operational, AT&T-21STATE reserves the right to issue ASRs to resize the Local Only Trunk Groups, Local Interconnection Trunk Groups, Third Party Trunk Groups or Meet Point Trunk Groups.

4.6.4 The Parties will process trunk service requests submitted via a properly completed ASR within ten (10) business days of receipt of such ASR unless defined as a major project. Incoming orders will be screened by AT&T-21STATE for reasonableness based upon current utilization and/or consistency with forecasts. If the nature and necessity of an order requires determination, the ASR will be placed in held status and a joint planning discussion conducted. The Parties agree to expedite this discussion in order to minimize delay in order processing. Extension of this review and discussion process beyond two (2) Business Days from ASR receipt will require the ordering Party to supplement the order with proportionally adjusted Customer Desired Due Dates. Facilities must also be in place before trunk orders can be completed.

#### 4.7 Projects:

4.7.1 Projects require the coordination and execution of multiple orders or related activities between and among AT&T-21STATE and CLEC work groups, including but not limited to the initial establishment of Local Only, Local Interconnection, Third Party or Meet Point Trunk Groups and service in an area, NXX code moves, rehomes, facility grooming, or network rearrangements.

4.7.1.1 Orders that comprise a project (i.e., greater than eight (8) DS1s) shall be submitted at the same time and their implementation shall be jointly planned and coordinated.

#### 4.7.2 Projects - Tandem Rehomes/Switch Conversion/Major Network Projects:

4.7.2.1 AT&T-21STATE will advise CLEC of all projects significantly affecting CLEC trunking. Such projects may include Tandem Rehomes, Switch Conversions and other major network changes. An Accessible Letter with project details will be issued at least six (6) months prior to the project due dates. AT&T-21STATE may follow with a TGSR approximately four (4) to six (6) months before the due date of the project. A separate TGSR will be issued for each CLEC trunk group and will specify the required CLEC ASR issue date. Failure to submit ASR(s) by the required date may result in AT&T-21STATE ceasing to deliver traffic until the ASR(s) are received and processed.

### 5.0 Out of Exchange Traffic

5.1 Interconnection services are available for the purposes of exchanging traffic to/from a non-AT&T-21STATE incumbent exchange in accordance with this Section 5.0.

5.2 The Parties acknowledge and agree that AT&T-21STATE is only obligated to make available Interconnection under Section 251(c)(2) of the Act to CLEC at technically feasible points within AT&T-21STATE's network and not in locations, such as territories of other ILECs, where AT&T-21STATE does not maintain a network. Other Attachments to this Agreement set forth the terms and conditions pursuant to which AT&T-21STATE agrees to provide CLEC with access to Unbundled Network Elements under Section 251(c)(3) of the Act, Collocation under Section 251(c)(6) of the Act and/or Resale under Section 251(c)(4) of the Act in AT&T-21STATE's incumbent local Exchange Areas for the provision of CLEC's Telecommunications Services.

5.3 For purposes of this Attachment, OE-LEC intends to operate and/or provide Telecommunications Services outside of AT&T-21STATE incumbent local Exchange Areas and desires to interconnect OE-LEC's network with AT&T-21STATE's network(s).

5.4 For purposes of this Attachment, OE-LEC agrees to interconnect with AT&T-21STATE pursuant to Section 251(a) of the Act.

## 5.5 Network Connections For Out of Exchange Traffic:

- 5.5.1 OE-LEC represents that it operates as a CLEC within AT&T-21STATE Exchange Areas and has a POI located within AT&T-21STATE Exchange Areas for the purpose of providing telephone Exchange Service and Exchange Access in such AT&T-21STATE Exchange Areas. Based upon the foregoing, the Parties agree that AT&T-21STATE's originating traffic will be delivered to OE-LEC's existing POI arrangements in the LATA where the traffic originates in accordance with the POI requirements set forth in this Agreement. AT&T-21STATE will accept OE-LEC's Out of Exchange Traffic at its Tandem Switch over local interconnection facilities that currently exist or may exist in the future between the Parties to or from OE-LEC's out of Exchange Areas to or from AT&T-21STATE's End Offices. When such Out of Exchange Traffic is Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic and ISP-Bound Traffic that is exchanged between the End Users of OE-LEC and AT&T-21STATE, the Parties agree to establish a direct End Office trunk group when traffic levels exceed one DS1 (24 DS0s) to or from an AT&T-21STATE End Office.
- 5.5.2 OE-LEC shall establish a trunk group for Out of Exchange Traffic from OE-LEC to each AT&T-21STATE serving Tandem in a LATA. This requirement may be waived upon mutual agreement of the Parties.
- 5.5.2.1 In AT&T SOUTHEAST REGION 9-STATE, where CLEC does not interconnect at every AT&T serving Tandem in a LATA, CLEC must use Multiple Tandem Access (MTA) to route traffic in accordance with Section 4.3.3.3.1 above.
- 5.5.3 Transport facilities for 911, Mass Calling, OS/DA, Third Party and Meet Point Trunk Groups are the responsibility of OE-LEC from OE-LEC to the serving Tandem or platform that provides each such service type.
- 5.5.4 OE-LEC shall route originating Out of Exchange Traffic to the serving Tandem as defined by the Tandem owner in the LERG.
- 5.5.5 If AT&T-21STATE is not the serving Tandem as reflected in the LERG, the OE-LEC shall route Out of Exchange Traffic directly to the serving AT&T-21STATE End Office.
- 5.5.6 Except as otherwise provided in this Section 5.0, for OE-LEC originated/AT&T-21STATE terminated traffic or AT&T-21STATE originated/ OE-LEC terminated traffic, if any such traffic is improperly routed by one Party over any trunk groups to the other Party and/or not routed in accordance with this Section 5.0, the Parties will work cooperatively to correct the problem.
- 5.5.7 AT&T-21STATE shall not compensate any Third Party Local Exchange Carrier and/or Telecommunications Carrier for any traffic that is inappropriately routed to AT&T-21STATE (as reflected in the LERG). The obligation to correctly route traffic also includes traffic that is destined to End Offices that do not subtend an AT&T-21STATE Tandem. Any compensation due AT&T-21STATE for such misrouted traffic shall be paid by OE-LEC. AT&T-21STATE shall provide notice to OE-LEC pursuant to the Notices provisions of this Agreement that such misrouting has occurred. In the notice, OE-LEC shall be given thirty (30) calendar days to cure such misrouting.
- 5.5.8 Neither Party shall deliver traffic destined to terminate at the other Party's End Office via a Third Party ILEC's End Office or Tandem.
- 5.5.9 Connection of a trunk group from OE-LEC to AT&T-21STATE's Tandem(s) will provide OE-LEC access to End Offices, IXCs, LECs, CMRS providers and NXXs which subtend that Tandem(s). Connection of a trunk group from one Party to the other Party's End Office(s) will provide the connecting Party access only to the NXXs served by that individual End Office(s) to which the connecting Party interconnects. Direct End Office Trunk groups that connect the Parties End Office(s) shall provide the Parties access only to the NXXs that are served by that End Office(s).
- 5.5.9.1 In AT&T SOUTHEAST REGION 9-STATE, if OE-LEC does not choose Access Tandem interconnection at every AT&T SOUTHEAST REGION 9-STATE Access Tandem within a LATA, OE-LEC must utilize AT&T SOUTHEAST REGION 9-STATE's MTA Interconnection. To utilize MTA, OE-LEC must establish an interconnection trunk group(s) at a minimum of one AT&T SOUTHEAST REGION 9-STATE Access Tandem within each LATA as required.

5.5.10 AT&T-21STATE will open OE-LEC NPA-NXX codes, rated to or identified to reside in non-AT&T-21STATE Exchange Areas, in AT&T-21STATE Tandems and End Offices using AT&T-21STATE's standard code opening timeframes.

5.6 Intercarrier Compensation for Out of Exchange Traffic:

5.6.1 The compensation arrangement for Out of Exchange Traffic exchanged between the Parties is described in Section 6.0 below.

5.7 InterLATA Section 251(b)(5) Traffic:

5.7.1 AT&T-21STATE will exchange AT&T-21STATE InterLATA Section 251(b)(5) Traffic that is covered by an FCC approved or court ordered InterLATA boundary waiver. AT&T-21STATE will exchange such traffic using two-way direct final trunk groups (i) via a facility to OE-LEC's POI in the originating LATA, or (ii) via a facility meet point arrangement at or near the Exchange Area Boundary (EAB), (iii) via a mutually agreed to meet point facility within the AT&T-21STATE Exchange Area covered under such InterLATA waiver, or (iv) via another mutually agreeable method. If the exchange where the traffic is terminating is not an AT&T-21STATE exchange, AT&T-21STATE shall exchange such traffic using a two-way Direct Final (DF) trunk group (i) via a facility to OE-LEC's POI within the originating LATA, (ii) via a mutually agreed to facility meet point arrangement at or near the EAB, or (iii) via another mutually agreeable method. AT&T-21STATE will not provision or be responsible for facilities located outside of AT&T-21STATE Exchange Areas.

5.7.2 The Parties agree that the AT&T-21STATE InterLATA Section 251(b)(5) Traffic from each AT&T-21STATE End Office will not overflow to an alternate route.

5.7.3 OE-LEC must provide AT&T-21STATE a separate Access Customer Terminal Location (ACTL) and Local Routing Number (LRN) specific to each InterLATA local calling arrangement covered by an FCC approved or court ordered InterLATA boundary waiver.

## 6.0 Inter-carrier Compensation

6.1 Responsibilities of the Parties:

6.1.1 For all traffic originated on a Party's network including, without limitation, Switched Access Traffic, such Party shall provide CPN as defined in 47 C.F.R. § 64.1600(c) and in accordance with Section 6.1.3 below. CPN shall, at a minimum, include information in an industry recognized standard format, consistent with the requirements of the NANP containing an NPA and seven digit (NXX-XXXX) telephone number. Each Party to this Agreement will be responsible for passing on any CPN it receives from a Third Party for traffic delivered to the other Party. In addition, each Party agrees that it shall not strip, alter, modify, add, delete, change, or incorrectly assign any CPN. If either Party identifies improper, incorrect, or fraudulent use of local Exchange Services (including, but not limited to PRI, ISDN and/or Smart Trunks), or identifies stripped, altered, modified, added, deleted, changed and/or incorrectly assigned CPN, the Parties agree to cooperate with one another to investigate and take corrective action.

6.1.2 If one Party is passing CPN but the other Party is not properly receiving information, the Parties will work cooperatively to correct the problem.

6.1.3 For traffic which is originated by one Party to be terminated on the other Party's network in AT&T SOUTHWEST REGION 5-STATE, AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE, if the percentage of such calls passed with CPN is greater than ninety percent (90%), all calls delivered by one Party to the other for termination without CPN will be billed as either Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic or IntraLATA Toll Traffic in direct proportion to the total MOUs (MOUs) of calls delivered by one Party to the other with CPN. If the percentage of calls passed with CPN is less than ninety percent (90%), all calls delivered by one Party to the other without CPN will be billed at Intrastate Switched Access rates.

6.1.4 For those CLEC to AT&T WEST REGION 2-STATE call usage based charges where actual charge information is not determinable by AT&T WEST REGION 2-STATE because the jurisdiction (i.e., intrastate vs. local) or origin of the CLEC to AT&T WEST REGION 2-STATE traffic is unidentifiable, the Parties will

jointly develop a Percent Local Usage (PLU) factor in order to determine the appropriate charges to be billed to the CLEC in accordance with Section 6.13.2 or a default factor of fifty percent (50%) will be applied.

- 6.1.5 For AT&T SOUTHEAST REGION 9-STATE, each Party will report to the other Percent Interstate Usage (PIU), Percent Local Usage (PLU) and Percent Local Facility (PLF) factors in order to determine the appropriate charges to be billed to the originating Party in accordance with Section 6.13.3 below.
  - 6.1.6 CLEC has the sole obligation to enter into compensation arrangements with all Third Parties with whom CLEC exchanges traffic including without limitation anywhere CLEC originates traffic to or terminates traffic from an End User being served by a Third Party who has purchased a local switching product from AT&T-21STATE on a wholesale basis (non-resale) which is used by such Telecommunications carrier to provide wireline local telephone Exchange Service (dial tone) to its End Users. In no event will AT&T-21STATE have any liability to CLEC or any Third Party if CLEC fails to enter into such compensation arrangements. In the event that traffic is exchanged with a Third Party with whom CLEC does not have a traffic compensation agreement, CLEC will indemnify, defend and hold harmless AT&T-21STATE against any and all losses including without limitation, charges levied by such Third Party. The Third Party and CLEC will bill their respective charges directly to each other. AT&T-21STATE will not be required to function as a billing intermediary, (e.g., clearinghouse). AT&T-21STATE may provide information regarding such traffic to Third Party carriers or entities as appropriate to resolve traffic compensation issues.
  - 6.1.7 Notwithstanding the classification of traffic under this Attachment, either Party is free to define its own "local" calling area(s) for purposes of its provision of Telecommunications services to its End Users.
  - 6.1.8 For Section 251(b)(5) Traffic, ISP-Bound Traffic, Optional EAS Traffic, IntraLATA Toll Traffic, Non-toll VoIP-PSTN Traffic and Wholesale Local Switching Traffic in AT&T-12STATE, the Party whose End User originates such traffic shall compensate the Party who terminates such traffic to its End User for the transport and termination of such traffic at the applicable rate(s) provided in this Attachment and the Pricing Schedule and/or the applicable switched access tariffs.
  - 6.1.9 To the extent that the Parties are not currently exchanging traffic in a given LATA or local calling area, the Parties' obligation to pay intercarrier compensation to each other shall commence on the date the Parties agree that the Interconnection is complete (i.e., each Party has established its originating trunks as well as all ancillary traffic trunking such as Operator Services, 911 or Mass Calling trunks) and is capable of fully supporting originating and terminating End User traffic. In addition, the Parties agree that test traffic is not subject to compensation pursuant to this Attachment.
  - 6.1.10 The Parties acknowledge that Section 6.0 above addresses the method of compensation for traffic properly exchanged by the Parties under this Agreement.
- 6.2 Reciprocal Compensation for Termination of Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic and ISP Bound Traffic:
- 6.2.1 For purposes of this Agreement, Section 251(b)(5) Traffic and Non-toll VoIP-PSTN Traffic shall mean Telecommunications traffic exchanged over the Parties' own facilities in which the originating End User of one Party and the terminating End User of the other Party are both physically located in the same ILEC Local Exchange Area as defined by the ILEC Local (or "General") Exchange Tariff on file with the applicable state Commission or regulatory agency; or both physically located within neighboring ILEC Local Exchange Areas that are within the same common mandatory local calling area. This includes but is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other types of mandatory expanded local calling scopes.
  - 6.2.2 For purposes of this Agreement, in accordance with the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Compensation Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April, 27, 2001) ("FCC ISP Compensation Order"), "ISP-Bound Traffic" shall mean Telecommunications traffic exchanged between CLEC and AT&T-21STATE over each Party's own facilities in which the originating End User of one Party and the ISP served by the other Party are:

- 6.2.2.1 both physically located in the same ILEC Local Exchange Area as defined by the ILEC's Local (or "General") Exchange Tariff on file with the applicable state commission or regulatory agency; or
- 6.2.2.2 both physically located within neighboring ILEC Local Exchange Areas that are within the same common mandatory local calling area. This includes, but it is not limited to, mandatory EAS, mandatory ELCS or other types of mandatory expanded local calling scopes.
- 6.2.3 AT&T-21STATE made an offer (the "Offer") to all Telecommunications carriers to exchange Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic and ISP-Bound Traffic pursuant to the terms and conditions of the FCC's interim ISP terminating compensation plan of the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001)) ("FCC ISP Compensation Order") which was remanded but not vacated in *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. 2002).
- 6.2.4 In AT&T-21STATE, the Parties agree to compensate each other for Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic and ISP-Bound Traffic at the FCC's interim ISP terminating compensation rate as set forth in the Pricing Sheets until June 30, 2017.
- 6.2.5 Beginning July 1, 2017, pursuant to the Report and Order and Further Notice of Proposed Rulemaking issued by the FCC in the Matter of Developing an Unified Intercarrier Compensation Regime, FCC 11-161 and FCC 11-189 in CC Docket No. 01-92 (rel. November 18, 2011 and December 23, 2011) the Parties will implement bill and keep in lieu of reciprocal compensation rates for the termination of Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic and ISP Bound Traffic as set forth in the Pricing Sheets.
- 6.2.6 CLEC shall only be paid End Office Switching rate element(s).
- 6.2.7 For purposes of this Section 6.2.10, all Section 251(b)(5) Traffic, all Non-toll VoIP-PSTN Traffic, all ISP-Bound Traffic and all Wholesale Local Switching Traffic shall be referred to as "Billable Traffic" and will be billed in accordance with Section 6.13 below.
  - 6.2.7.1 Each Party will invoice the other Party on a monthly basis for combined Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic and ISP-Bound Traffic exchanged between the Parties at the rate set forth in the Pricing Schedules.
- 6.3 Intercarrier Compensation for Wholesale Local Switching Traffic for AT&T-12STATE
  - 6.3.1 Where CLEC purchases local switching from AT&T-21STATE either on a stand alone basis or in combination pursuant to the terms of a separately negotiated commercial agreement (herein after referred to as "Wholesale Local Switching" or "switching on a wholesale basis"), CLEC shall establish agreements with and will deal directly with Third Party carriers, such as independent companies, ILECs, CMRS or wireless carriers and other CLECs, for purposes of reciprocal compensation for calls originated by or terminated to the End Users served by such arrangements. AT&T-21STATE is required to provide CLEC with timely, complete and correct information to enable CLEC to meet the requirements of this Section.
  - 6.3.2 The following reciprocal compensation terms shall apply to all traffic exchanged between AT&T-12STATE and CLEC when CLEC purchases local switching from AT&T-12STATE on a wholesale basis:
    - 6.3.2.1 For intra-switch Wholesale Local Switching Traffic exchanged between AT&T-12STATE and CLEC, the Parties agree to impose no call termination charges pertaining to reciprocal compensation on each other.
    - 6.3.2.2 For interswitch Wholesale Local Switching Traffic exchanged between AT&T-12STATE and CLEC where CLEC's End User originates a call that is terminated to an AT&T-12STATE End User, such traffic shall be paid for reciprocally at the rate applicable for 251(b)(5) and ISP-Bound Traffic, set forth in the Pricing Sheets.
  - 6.3.3 The following intercarrier compensation terms shall apply to all traffic exchanged between AT&T SOUTHEAST REGION 9-STATE and CLEC when CLEC purchases Wholesale Local Switching.

- 6.3.3.1 For calls terminating to Third Parties, such as other CLECs, wireless carriers and independent companies, CLEC shall establish agreements with and will deal directly with Third Party carriers for purposes of intercarrier compensation for calls originated by or terminated to the End Users served by such arrangements. If CLEC does not have such an agreement with a Third Party carrier and AT&T SOUTHEAST REGION 9-STATE is charged termination charges by a Third Party terminating a call originated by CLEC, or if such Third Party carrier bills AT&T SOUTHEAST REGION 9-STATE for terminating such calls, despite the existence of such an agreement, then AT&T SOUTHEAST REGION 9-STATE may, at its option:
- 6.3.3.1.1 Pay such charges as billed by the Third Party carrier and charge End Office Switching or its equivalent to CLEC as set forth in the Pricing Sheet; or
  - 6.3.3.1.2 Pay such charges as billed by the Third Party carrier and CLEC will reimburse the full amount of such charges within thirty (30) days of AT&T SOUTHEAST REGION 9-STATE's request for reimbursement.
- 6.3.3.2 The following reciprocal compensation terms shall apply to all traffic exchanged between AT&T SOUTHEAST REGION 9-STATE and CLEC when CLEC purchases local switching from AT&T SOUTHEAST REGION 9-STATE on a wholesale basis.
- 6.3.3.2.1 For intra-switch Wholesale Local Switching Traffic exchanged between AT&T SOUTHEAST REGION 9-STATE and CLEC, the Parties agree to impose no call termination charges pertaining to reciprocal compensation on each other.
- 6.3.3.3 For inter switch 7 or 10-digit dialed Wholesale Local Switching Traffic originated by CLEC, intercarrier compensation shall apply as follows:
- 6.3.3.3.1 For interswitch Wholesale Local Switching Traffic exchanged between AT&T SOUTHEAST REGION 9-STATE and CLEC where CLEC's End User originates a call that is terminated to an AT&T SOUTHEAST REGION 9-STATE End User or to an End User served by AT&T SOUTHEAST REGION 9-STATE resold services in the AT&T SOUTHEAST REGION 9-STATE area, CLEC shall compensate AT&T for such traffic at the End Office Switching rate or its equivalent as set forth in the Pricing Sheet.
  - 6.3.3.3.2 For calls originated by a Third Party and terminating to CLEC where such CLEC purchases Wholesale Local Switching from AT&T SOUTHEAST REGION 9-STATE to provide service to its End User, AT&T SOUTHEAST REGION 9-STATE shall charge the originating CLEC for End Office Switching or its equivalent as set forth in the Pricing Sheet at the terminating end office. AT&T SOUTHEAST REGION 9-STATE shall not charge the terminating CLEC for End Office Switching or its equivalent at the terminating end office.
- 6.3.3.4 For inter switch 7 or 10-digit dialed Wholesale Local Switching Traffic terminated by CLEC, intercarrier compensation shall apply as follows:
- 6.3.3.4.1 For calls originated by an AT&T SOUTHEAST REGION 9-STATE End User or by an End User served by AT&T SOUTHEAST REGION 9-STATE resold services, AT&T SOUTHEAST REGION 9-STATE shall not charge CLEC for End Office Switching at the terminating end office for use of the network component; therefore, CLEC may not charge AT&T SOUTHEAST REGION 9-STATE intercarrier compensation or any other charges for termination of such calls.
  - 6.3.3.4.2 For calls originated by a Third Party CLEC where such CLEC purchases Wholesale Local Switching from AT&T SOUTHEAST REGION 9-STATE to provide service to its End User, AT&T SOUTHEAST REGION 9-STATE shall not charge CLEC for End Office Switching at the terminating end office for use of the network component; therefore, CLEC shall not charge the originating CLEC or AT&T SOUTHEAST

REGION 9-STATE intercarrier compensation or any other charges for termination of such calls.

6.3.3.5 For intraLATA 1+ dialed Wholesale Local Switching Traffic terminating to CLEC where the originating carrier uses AT&T SOUTHEAST REGION 9-STATE's Carrier Identification Code (CIC) for its End User's LPIC, then intercarrier compensation shall apply as follows:

6.3.3.5.1 For calls originated by an AT&T SOUTHEAST REGION 9-STATE End User or by an End User served by AT&T SOUTHEAST REGION 9-STATE resold services, AT&T SOUTHEAST REGION 9-STATE shall charge CLEC for End Office Switching or its equivalent as set forth in the Pricing Sheet at the terminating end office for use of the end office switching network components used in terminating such calls. CLEC may charge AT&T SOUTHEAST REGION 9-STATE for intercarrier compensation at the rate for End Office Switching or its equivalent as set forth in the Pricing Sheet. CLEC shall not charge originating or terminating switched access rates to AT&T SOUTHEAST REGION 9-STATE for termination of those calls.

6.3.3.6 For intraLATA 1+ dialed Wholesale Local Switching Traffic originated by CLEC where CLEC uses AT&T SOUTHEAST REGION 9-STATE Carrier Identification Code (CIC) for its End User's Local Preferred Interexchange Carrier (LPIC), intercarrier compensation shall apply as follows:

6.3.3.6.1 For calls terminating to AT&T SOUTHEAST REGION 9-STATE or to an End User served by AT&T SOUTHEAST REGION 9-STATE resold services, AT&T SOUTHEAST REGION 9-STATE shall charge CLEC for End Office Switching or its equivalent as set forth in the Pricing Sheet.

6.3.3.6.2 For calls terminating to a Third Party LEC where such LEC is utilizing AT&T SOUTHEAST REGION 9-STATE Wholesale Local Switching to provide service to its End User, AT&T SOUTHEAST REGION 9-STATE shall charge CLEC for End Office Switching or its equivalent as set forth in the Pricing Sheet. AT&T SOUTHEAST REGION 9-STATE will not charge the terminating LEC for End Office Switching at the terminating end office. In the event that AT&T SOUTHEAST REGION 9-STATE is charged terminating charges by the LEC, AT&T SOUTHEAST REGION 9-STATE may pay such charges and CLEC will reimburse AT&T SOUTHEAST REGION 9-STATE the full amount of such charges within thirty (30) days following AT&T SOUTHEAST REGION 9-STATE's request for reimbursement.

6.3.3.7 For calls originated by or terminating to interexchange carriers (IXCs) through a switched access service arrangement, CLEC may bill the IXC in accordance with the CLEC's tariff and will not bill AT&T SOUTHEAST REGION 9-STATE any charges for such calls. CLEC shall pay AT&T SOUTHEAST REGION 9-STATE applicable charges for the use of AT&T SOUTHEAST REGION 9-STATE's network in accordance with the rates set forth in the Pricing Sheet.

6.4 Multiple Tandem Access (MTA) Interconnection (AT&T SOUTHEAST REGION 9-STATE):

6.4.1 Compensation for MTA shall be at the applicable Tandem Switching and transport charges specified in Pricing Schedule and shall be billed in addition to any call transport and termination charges.

6.4.2 To the extent CLEC routes its traffic in such a way that utilizes AT&T SOUTHEAST REGION 9-STATE's MTA service without properly ordering MTA, CLEC shall pay AT&T SOUTHEAST REGION 9-STATE the associated MTA charges.

6.5 Other Telecommunications Traffic:

6.5.1 Except as set forth in Section 6.2 above, the terms of this Attachment are not applicable to (i) interstate or intrastate Exchange Access traffic, (ii) Information Access traffic, or (iii) any other type of traffic found to be exempt from reciprocal compensation by the FCC or the Commission, with the exception of ISP-Bound Traffic which is addressed in this Attachment. All Exchange Access traffic and IntraLATA Toll Traffic shall continue to be governed by the terms and conditions of the applicable federal and state tariffs.

- 6.5.2 FX services are retail service offerings purchased by FX End Users which allow such FX End Users to obtain exchange service from a mandatory local calling area other than the mandatory local calling area where the FX customer is physically located, but within the same LATA as the number that is assigned. FX service enables particular End Users to avoid what might otherwise be toll calls between the FX End User's physical location and End Users in the foreign exchange. FX Telephone Numbers are those telephone numbers with rating and routing points that are different from those of the geographic area in which the End User is physically located. FX Telephone Numbers that deliver second dial tone with the ability for the calling party to enter access codes and an additional recipient telephone number remain classified as FGA calls and are subject to the originating and terminating carriers' tariffed Switched Exchange Access rates (also known as "Meet Point Billed" compensation). There are two types of FX service:
- 6.5.2.1 "Dedicated FX Traffic" shall mean those calls routed by means of a physical, dedicated circuit delivering dial tone or otherwise serving an End User's station from a serving Central Office (also known as End Office) located outside of that station's mandatory local calling area. Dedicated FX Service permits the End User physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another "foreign" exchange, thereby creating a local presence in that "foreign" exchange.
- 6.5.2.2 "Virtual Foreign Exchange (FX) Traffic" and "FX-type Traffic" shall refer to those calls delivered to telephone numbers that are rated as local to the other telephone numbers in a given mandatory local calling area, but where the recipient End User's station assigned that telephone number is physically located outside of that mandatory local calling area. Virtual FX Service also permits an End User physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another "foreign" exchange, thereby creating a local presence in the "foreign" exchange. Virtual FX Service differs from Dedicated FX Service, however, in that Virtual FX End Users continue to draw dial tone or are otherwise served from a Central (or End) Office which may provide service across more than one Commission-prescribed mandatory local calling area, whereas Dedicated FX Service End Users draw dial tone or are otherwise served from a Central (or End) Office located outside their mandatory calling area.
- 6.5.2.3 FX Traffic is not Section 251(b)(5) Traffic and instead the transport and termination compensation for FX Traffic is subject to a Bill and Keep arrangement in AT&T-21STATE.
- 6.5.2.3.1 To the extent that ISP-Bound Traffic is provisioned via an FX-type arrangement, such traffic is subject to a Bill and Keep arrangement. "Bill and Keep" refers to an arrangement in which neither of two interconnecting parties charges the other for terminating FX traffic that originates on the other party's network.
- 6.5.2.4 Segregating and Tracking FX Traffic:
- 6.5.2.4.1 For AT&T-21STATE, the terminating carrier is responsible for separately identifying IntraLATA Virtual FX, Dedicated FX and FX-type traffic from other types of Intercarrier traffic for compensation purposes. The terminating carrier will be responsible for providing the originating carrier with an FX usage summary which includes a ten (10) digit telephone number level detail of the MOUs terminated to FX Telephone Numbers on its network each month (or in each applicable billing period, if not billed monthly), or by any means mutually agreed by the Parties.
- 6.5.2.4.2 Terminating carrier will not assess compensation charges to the Voice FX MOU and ISP FX MOU in AT&T-21STATE.
- 6.5.2.4.3 In AT&T-21STATE either Party may request an audit of the FX Usage Summary or the FX Factor on no fewer than thirty (30) Business Day's written Notice and any audit shall be accomplished during normal business hours at the office of the Party being audited. Such audit must be performed by a mutually agreed-to auditor paid for by the Party requesting the audit. If mutual agreement cannot be reached, the Parties shall use one of the following independent auditors: PricewaterhouseCoopers, Ernst & Young, KPMG, or Deloitte Touche Tohmatsu

(Big-4 Auditors). Selection of the Big-4 Auditor shall be made by the Party requesting the audit and the selected Big-4 Auditor must be independent as determined by current accounting and auditing standards promulgated by the appropriate accounting governing body. Such audits shall be requested within six (6) months of having received the FX Usage Summary or the FX Factor and associated usage from the other Party and may not be requested more than twice per year, once per calendar year, unless the audit finds there has been a five percent (5%) or higher net error or variance in calculations, in which case a subsequent audit is required. Based upon the audit, previous compensation, billing and/or settlements will be adjusted for the past six (6) months.

6.5.2.4.3.1 If the FX factor is adjusted based upon the audit results, the adjusted FX factor will apply for the six (6) month period following the completion of the audit. If, as a result of the audit, either Party has overstated the FX factor or underreported the FX Usage by five percent (5%) or more, that Party shall reimburse the auditing Party for the cost of the audit and will pay for the cost of a subsequent audit which is to happen within nine (9) months of the initial audit.

6.5.3 Private Line Services include private line-like and special access services and are not subject to intercarrier compensation. Private Line Services are defined as a point-to-point connection that provides a dedicated circuit of pre-subscribed bandwidth between two (2) or more points.

6.5.4 The Parties recognize and agree that ISP and Internet traffic (excluding ISP-Bound Traffic as defined in Section 6.2 above) could also be exchanged outside of the applicable local calling scope, or routed in ways that could make the rates and rate structure in Section 6.2 above not apply, including but not limited to ISP calls that meet the definitions of:

6.5.4.1 FX Traffic

6.5.4.2 Optional EAS Traffic

6.5.4.3 IntraLATA Toll Traffic

6.5.4.4 800, 888, 877, ("8YY") Traffic

6.5.4.5 FGA Traffic

6.5.4.6 MCA Traffic

6.5.5 The Parties agree that, for the purposes of this Attachment, either Party's End Users remain free to place ISP calls under any of the above classifications. Notwithstanding anything to the contrary herein, to the extent such ISP calls are placed, the Parties agree that the compensation mechanisms set forth in Section 6.2 above do not apply. The applicable rates, terms and conditions for: (a) FX Traffic are set forth in Section 6.5.2 above; (b), Optional EAS Traffic are set forth in Section 6.6 below; (c) 8YY Traffic are set forth in Section 6.9 below; (d) FGA Traffic are set forth in Section 6.5.2 above; (e) IntraLATA Toll Traffic are set forth in Section 6.12 below; and/or (f) MCA Traffic are set forth in Section 6.7 below.

6.6 Optional Calling Area Traffic - AT&T ARKANSAS, AT&T KANSAS and AT&T TEXAS:

6.6.1 Compensation for Optional Calling Area (OCA) Traffic, (also known as Optional Extended Area Service and Optional EAS) is for the termination of intercompany traffic to and from the Commission approved one-way or two-way optional exchanges(s) and the associated metropolitan area except mandatory extended traffic as addressed in Section 6.2 above. The transport and termination rate applies when AT&T ARKANSAS, AT&T KANSAS or AT&T TEXAS transports traffic and terminates it at its own switch.

6.6.2 In the context of this Attachment, Optional Calling Areas (OCAs) exist only in the states of Arkansas, Kansas and Texas and are outlined in the applicable state Local Exchange tariffs. This rate is independent of any retail service arrangement established by either Party. CLEC and AT&T ARKANSAS, AT&T KANSAS and AT&T TEXAS are not precluded from establishing their own local calling areas or prices for

purposes of retail telephone service; however the terminating rates to be used for any such offering will still be administered as described in this Attachment.

6.6.3 The state specific OCA Transport and Termination rates are identified in the Pricing Schedule.

6.7 MCA Traffic - AT&T MISSOURI:

6.7.1 For compensation purposes in the state of Missouri, Section 251(b)(5) Traffic and ISP-Bound Traffic shall be further defined as MCA Traffic and Non-MCA Traffic. MCA Traffic is traffic originated by a party providing a local calling scope plan pursuant to the Missouri Public Service Commission Orders in Case No. TO-92-306 and Case No. TO-99-483 (MCA Orders) and the call is Section 251(b)(5) Traffic based on the calling scope of the originating party pursuant to the MCA Orders. Non-MCA Traffic is all Section 251(b)(5) Traffic and ISP-Bound Traffic that is not defined as MCA Traffic.

6.7.1.1 Either party providing Metropolitan Calling Area (MCA) service shall offer the full calling scope prescribed in Case No. TO-92-306, without regard to the identity of the called Party's local service provider. The Parties may offer additional toll-free outbound calling or other services in conjunction with MCA service, but in any such offering the Party shall not identify any calling scope other than that prescribed in Case No. TO-92-306 as "MCA" service.

6.7.1.2 Pursuant to the Missouri Public Service Commission Order in Case No. TO-99-483, MCA Traffic shall be exchanged on a Bill and Keep intercompany compensation basis meaning that the Party originating a call defined as MCA Traffic shall not compensate the terminating Party for terminating the call.

6.7.2 The Parties agree to use the LERG to provision the appropriate MCA NXXs in their networks. The LERG should be updated at least forty-five (45) calendar days in advance of opening a new code to allow the other Party the ability to make the necessary network modifications. If the Commission orders the Parties to use an alternative other than the LERG, the Parties will comply with the Commission's final order.

6.7.3 If CLEC provides service via Resale or in conjunction with ported numbers in the MCA, the appropriate MCA NXXs will be updated by AT&T MISSOURI.

6.8 Primary Toll Carrier Arrangements:

6.8.1 A Primary Toll Carrier (PTC) is a company that provides IntraLATA Toll Traffic Service for its own End User customers and potentially for a Third Party ILEC's End User customers. In this ILEC arrangement, the PTC would receive the ILEC End User IntraLATA toll traffic revenues and pay the ILEC for originating these toll calls. The PTC would also pay the terminating switched access charges on behalf of the ILEC. In AT&T GEORGIA, AT&T KENTUCKY, AT&T NEVADA, AT&T OKLAHOMA, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE wherein Primary Toll Carrier arrangements are mandated and AT&T GEORGIA, AT&T KENTUCKY, AT&T NEVADA, AT&T OKLAHOMA, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE is functioning as the PTC for a Third Party ILEC's End User customers, the following provisions apply to the IntraLATA toll traffic which is subject to the PTC arrangement:

6.8.1.1 AT&T NEVADA and/or AT&T OKLAHOMA shall deliver such IntraLATA toll traffic that originated from that Third Party ILEC and terminated to CLEC as the terminating carrier in accordance with the terms and conditions of such PTC arrangement mandated by the respective state Commission. Where AT&T NEVADA and/or AT&T OKLAHOMA is functioning as the PTC for Third Party ILEC's End User customers, AT&T NEVADA and/or AT&T OKLAHOMA shall pay CLEC on behalf of the originating Third Party ILEC for the termination of such IntraLATA toll traffic at the terminating switched access rates as set forth in CLEC's intrastate access service tariff, but such compensation shall not exceed the compensation contained in the AT&T-21STATE intrastate access service tariff in the respective state.

6.8.1.2 AT&T GEORGIA, AT&T KENTUCKY, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE shall deliver such IntraLATA toll traffic that originated from that Third Party ILEC and terminated to CLEC as the terminating carrier in accordance with the terms and conditions of such PTC arrangement mandated by the respective state Commission. Where AT&T GEORGIA, AT&T

KENTUCKY, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE is functioning as the PTC for a Third Party ILEC's End User customers, the following provisions apply to the minutes of use terminating to CLEC. AT&T GEORGIA, AT&T KENTUCKY, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE and CLEC will work cooperatively to develop a percentage of the amount of state specific PTC ILEC originated intraLATA toll minutes of use that are within the state specific total ILEC originated minutes of use reflected in the monthly EMI 11-01-01 Records provided to CLEC by AT&T GEORGIA, AT&T KENTUCKY, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE. CLEC will apply this state specific percentage against the state specific total ILEC originated EMI 11-01-01 minutes of use each month to determine the amount of PTC intraLATA toll minutes of use for which AT&T GEORGIA, AT&T KENTUCKY, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE will compensate CLEC. Such percentage will be updated no more than twice each year. AT&T GEORGIA, AT&T KENTUCKY, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE will compensate CLEC for this PTC traffic as it would for AT&T-21STATE originated traffic as set forth in CLEC's Interconnection Agreement with AT&T-21STATE.

- 6.8.1.3 AT&T GEORGIA, AT&T KENTUCKY, AT&T NEVADA, AT&T OKLAHOMA, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE shall deliver such IntraLATA toll traffic that originated from CLEC and terminated to the Third Party ILEC as the terminating carrier in accordance with the terms and conditions of such PTC arrangement mandated by the respective state Commission. CLEC shall pay AT&T GEORGIA, AT&T KENTUCKY, AT&T NEVADA, AT&T OKLAHOMA, AT&T SOUTH CAROLINA and/or AT&T TENNESSEE for the use of its facilities at the rates set forth in AT&T-21STATE's intrastate access service tariff in the respective state. CLEC shall pay the ILEC directly for the termination of such traffic originated from CLEC.

6.9 IntraLATA 800 Traffic:

- 6.9.1 The Parties shall provide to each other IntraLATA 800 Access Detail Usage Data for Customer billing and IntraLATA 800 Copy Detail Usage Data for access billing in Exchange Message Interface (EMI) format. On a monthly basis, at a minimum, the Parties agree to provide this data to each other at no charge. In the event of errors, omissions, or inaccuracies in data received from either Party, the liability of the Party providing such data shall be limited to the provision of corrected data only. If the originating Party does not send an End User billable Record to the terminating Party, the originating Party will not bill the terminating Party any interconnection charges for this traffic.
- 6.9.2 IntraLATA 800 Traffic calls are billed to and paid for by the called or terminating Party, regardless of which Party performs the 800 query. For AT&T SOUTHEAST REGION 9-STATE, each Party shall pay the other the appropriate switched access charges set forth in the AT&T SOUTHEAST REGION 9-STATE intrastate or interstate switched access tariffs. CLEC will pay AT&T SOUTHEAST REGION 9-STATE the database query charge as set forth in the AT&T SOUTHEAST REGION 9-STATE intrastate or interstate access services Tariff as filed and in effect with the FCC or appropriate Commission as applicable. Where technically feasible, each Party will provide to the other Party the appropriate Records, in accordance with industry standards, necessary for billing intraLATA 8YY customers. The Records provided will be in a standard EMI format. AT&T SOUTHEAST REGION 9-STATE provision of 8YY Toll Free Dialing (TFD) to CLEC requires interconnection from CLEC to AT&T SOUTHEAST REGION 9-STATE's 8YY Signal Channel Point (SCP). Such interconnections shall be established pursuant to AT&T-21STATE's Common Channel Signaling Interconnection Guidelines and Telcordia's CCS Network Interface Specification document, TR-TSV-000905. CLEC shall establish SS7 interconnection at the AT&T SOUTHEAST REGION 9-STATE Local Signal Transfer Points serving the AT&T SOUTHEAST REGION 9-STATE 8YY SCPs that CLEC desires to query. The terms and conditions for 8YY TFD are set out in AT&T SOUTHEAST REGION 9-STATE's intrastate access services tariff.

6.10 Meet-Point Billing (MPB) and IXC Switched Access Traffic Compensation:

- 6.10.1 Intercarrier compensation for Switched Access Traffic shall be on a MPB basis as described below.
- 6.10.2 The Parties will establish MPB arrangements in order to jointly provide Switched Access Services via the respective carrier's Tandem Office Switch in accordance with the MPB guidelines contained in the OBF's

Multiple Exchange Carriers Ordering and Design (MECOD) and Multiple Exchange Carrier Access Billing (MECAB) documents, as amended from time to time.

- 6.10.3 Billing for the Switched Exchange Access Services jointly provided by the Parties via MPB arrangements shall be according to the Multiple Bill/Single Tariff method. As described in the MECAB document, each Party will render a bill in accordance with its own tariff for that portion of the service it provides. Each Party will bill its own network access service rates. The Residual Interconnection Charge (RIC), if any, will be billed by the Party providing the End Office function.
  - 6.10.4 The Parties will maintain provisions in their respective federal and state access tariffs, or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff, sufficient to reflect this MPB arrangement, including MPB percentages.
  - 6.10.5 As detailed in the MECAB document, the Parties will exchange all information necessary to accurately, reliably and promptly bill third parties for Switched Access Services traffic jointly handled by the Parties via the MPB arrangement, when the Parties do not have all detailed Recordings for billing.
    - 6.10.5.1 The Parties agree that AT&T SOUTHEAST REGION 9-STATE will bill IXCs for originating and terminating access charges from AT&T SOUTHEAST REGION 9-STATE Recordings when AT&T SOUTHEAST REGION 9-STATE has direct connections with IXCs via AT&T SOUTHEAST REGION 9-STATE's access tandem. AT&T SOUTHEAST REGION 9-STATE will pass EMI Records to CLEC when AT&T SOUTHEAST REGION 9-STATE is the Official Recording Company. The Parties also agree that AT&T SOUTHEAST REGION 9-STATE and CLEC will exchange EMI records when each are acting as the Official Recording Company and the CLEC is the access tandem company with direct connections with IXCs.
    - 6.10.5.2 The Parties also agree that AT&T-12STATE and CLEC will exchange EMI Records when each is acting as the Official Recording Company. As described in the MECAB document, the Official Recording Company for Tandem routed traffic is: (1) the End Office company for originating traffic, (2) the Tandem company for terminating traffic and (3) the SSP company for originating 800 traffic.
  - 6.10.6 Information shall be passed or exchanged in a mutually acceptable electronic file transfer protocol. Where the EMI Records cannot be transferred due to a transmission failure, Records can be provided via a mutually acceptable medium. The provision of Access Usage Records (AURs) to accommodate MPB will be on a reciprocal, no charge basis. Each Party agrees to provide the other Party with AURs based upon mutually agreed upon intervals.
  - 6.10.7 MPB shall also apply to all jointly provided Switched Access MOU traffic bearing the 900, or toll free NPAs (e.g., 800, 877, 866, 888 NPAs, or any other non-geographic NPAs).
    - 6.10.7.1 For AT&T-12STATE, the Party that performs the SSP function (launches the query to the 800 database) will bill the 800 Service Provider for this function.
    - 6.10.7.2 For AT&T SOUTHEAST REGION 9-STATE, CLEC will pay the database query charge set forth in the AT&T SOUTHEAST REGION 9-STATE intrastate or interstate access services Tariff.
  - 6.10.8 AT&T-21STATE and CLEC agree to provide the other Party with notification of any discovered errors in the record exchange process within ten (10) Business Days of the discovery.
  - 6.10.9 In the event of a loss of data, both Parties shall cooperate to reconstruct the lost data within sixty (60) calendar days of notification and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data, based upon no less than three (3) and no more than twelve (12) consecutive months of prior usage data.
- 6.11 Compensation for Origination and Termination of InterLATA Traffic:
- 6.11.1 Where a CLEC originates or terminates its own End User InterLATA Traffic not subject to MPB, the CLEC must purchase feature group access service from AT&T-21STATE's state or federal access tariffs, whichever is applicable, to carry such InterLATA Traffic.

## 6.12 IntraLATA Toll Traffic Compensation:

6.12.1 For both intrastate and interstate IntraLATA Message Telephone Service (MTS) toll traffic, compensation to either Party for termination of such traffic will be at terminating access rates. For both intrastate and interstate IntraLATA 800 Service, compensation to either Party for origination of such traffic will be at originating access rates, including the Carrier Common Line (CCL) charge where applicable. The appropriate access rates are set forth in each Party's intrastate access service tariff, but such compensation shall not exceed the compensation contained in AT&T-21STATE's tariff in whose exchange area the End User is located.

## 6.13 Billing Arrangements for Termination of Section 251(b)(5) Traffic, Non-toll VoIP-PSTN Traffic, ISP-Bound Traffic, Optional EAS Traffic and IntraLATA Toll Traffic:

6.13.1 In AT&T-21STATE, each Party, unless otherwise agreed to by the Parties, will calculate terminating Interconnection MOUs based on standard switch Recordings made within terminating carrier's network for Non-toll VoIP-PSTN Traffic, Optional EAS Traffic, ISP-Bound Traffic, IntraLATA Toll Traffic and in AT&T-12STATE, Wholesale Local Switching Traffic. These Recordings are the basis for each Party to generate bills to the other Party.

6.13.1.1 Where CLEC is using terminating Recordings to bill intercarrier compensation, AT&T-12STATE will provide the terminating Records where available by means of the Daily Usage File (DUF) to identify traffic that originates from an End User being served by a Third Party telecommunications carrier using an AT&T-12STATE non-resale offering whereby AT&T-12STATE provides the End Office switching on a wholesale basis. Such Records will contain the Operating Company Number (OCN) of the responsible LEC that originated the calls which CLEC may use to bill such originating carrier for MOUs terminated on CLEC's network.

6.13.2 For those usage based charges where actual charge information is not determinable by AT&T WEST REGION 2-STATE because the jurisdiction (i.e., intrastate vs. local) or origin of the traffic is unidentifiable, the Parties will jointly develop a Percent Local Usage (PLU) factor in order to determine the appropriate charges. PLU is calculated by dividing the sum of Section 251(b)(5) Traffic and Non-toll VoIP-PSTN Traffic MOU and ISP-Bound Traffic MOU delivered to a Party for termination by the total MOU delivered to a Party for termination.

6.13.2.1 CLEC and AT&T WEST REGION 2-STATE agree to exchange such reports and/or data as provided in this Attachment to facilitate the proper billing of traffic. Either Party may request an audit of such usage reports on no fewer than thirty (30) Business Days written Notice and any audit shall be accomplished during normal business hours at the office of the Party being audited. Such audit must be performed by a mutually agreed-to auditor paid for by the Party requesting the audit. If mutual agreement cannot be reached within one (1) month of the date of the written request for an audit, the Parties shall use one (1) of the following independent auditors: PricewaterhouseCoopers, Ernst & Young, KPMG, or Deloitte Touche Tohmatsu (Big-4 Auditors). Selection of the Big-4 Auditor shall be made by the Party requesting the audit and the selected Big-4 Auditor must be independent as determined by current accounting and auditing standards promulgated by the appropriate accounting governing body. Such audit shall be requested within six (6) months of having received the usage reports from the other Party and may not be requested more than twice per year, once per calendar year for each call detail type unless the audit finds there has been a five percent (5%) or higher net error or variance in calculations. Based upon the audit, previous compensation, billing and/or settlements will be adjusted for the past six (6) months. If, as a result of the audit, either Party has overstated the PLU or underreported the call detail usage by five percent (5%) or more, that Party shall reimburse the auditing Party for the cost of the audit.

## 6.13.3 AT&T SOUTHEAST REGION 9-STATE Jurisdictional Reporting Process:

6.13.3.1 Each Party shall report to the other the projected PIU factors, including but not limited to PIU associated with facilities (PIUE) and Terminating PIU (TPIU) factors. The application of the PIU will determine the respective interstate traffic percentages to be billed at AT&T SOUTHEAST

REGION 9-STATE's FCC No. 1 Tariff rates. All jurisdictional report requirements, rules and regulations for IXCs specified in AT&T SOUTHEAST REGION 9-STATE's interstate and/or intrastate access services tariff(s) will apply to CLEC. After interstate and intrastate traffic percentages have been determined by use of PIU procedures, the PLU and PLF factors will be used for application and billing of local traffic and facilities. The intrastate toll traffic shall be billed at AT&T SOUTHEAST REGION 9-STATE's intrastate access services tariff rates. Each Party shall update its PIUs on the first of January, April, July and October of each year and shall send it to the other Party to be received no later than thirty (30) calendar days after the first of each such month to be effective the first bill period the following month, respectively, for all services showing the percentages of use for the past three (3) months ending the last day of December, March, June and September. Additional requirements associated with PIU calculations and reporting shall be as set forth in AT&T SOUTHEAST REGION 9-STATE's Jurisdictional Factors Reporting Guide.

- 6.13.3.2 Each Party shall report to the other a PLU factor. The application of the PLU will determine the amount of local or ISP-Bound minutes to be billed to the other Party. Each Party shall update its PLU on the first of January, April, July and October of each year and shall send it to the other Party to be received no later than thirty (30) calendar days after the first of each such month to be effective the first bill period the following month, respectively, based on local and ISP-Bound usage for the past three (3) months ending the last day of December, March, June and September, respectively. Requirements associated with PLU calculation and reporting shall be as set forth in AT&T SOUTHEAST REGION 9-STATE's Jurisdictional Factors Reporting Guide.
- 6.13.3.3 Each Party shall report to the other a PLF factor. The application of the PLF will determine the portion of switched dedicated transport to be billed per the local jurisdiction rates. The PLF shall be applied to multiplexing, local channel and interoffice channel switched dedicated transport utilized in the provision of Local Interconnection Trunks. Each Party shall update its PLF on the first of January, April, July and October of the year and shall send it to the other Party to be received no later than thirty (30) calendar days after the first of each such month to be effective the first bill period the following month, respectively. Requirements associated with PLF calculation and reporting shall be as set forth in AT&T SOUTHEAST REGION 9-STATE's Jurisdictional Factors Reporting Guide.
- 6.13.3.4 Notwithstanding the provisions in Section 6.13.3.1 above, Section 6.13.3.2 above and Section 6.13.3.3 above where AT&T SOUTHEAST REGION 9-STATE has message Recording technology that identifies the jurisdiction of traffic terminated to AT&T SOUTHEAST REGION 9-STATE, such information shall, at AT&T SOUTHEAST REGION 9-STATE's option, be utilized to determine the appropriate jurisdictional reporting factors (i.e., PLU, PIU and/or PLF), in lieu of those provided by CLEC. In the event that AT&T SOUTHEAST REGION 9-STATE opts to utilize its own data to determine jurisdictional reporting factors, AT&T SOUTHEAST REGION 9-STATE shall notify CLEC at least fifteen (15) calendar days prior to the beginning of the calendar quarter in which AT&T SOUTHEAST REGION 9-STATE will begin to utilize its own data.
- 6.13.3.5 On thirty (30) calendar days written Notice, CLEC must provide AT&T SOUTHEAST REGION 9-STATE the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic. CLEC shall retain Records of call detail for a minimum of nine (9) months from which the PLU, PLF and/or PIU can be ascertained. The audit shall be conducted during normal business hours at an office designated by CLEC. Audit requests shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by an independent auditor chosen by AT&T SOUTHEAST REGION 9-STATE. The audited factor (PLF, PLU and/or PIU) shall be adjusted based upon the audit results and shall apply to the usage for the audited period through the time period when the audit is completed, to the usage for the quarter prior to the audit period and to the usage for the two (2) quarters following the completion of the audit. If, as a result of an audit, CLEC is found to have overstated the PLF, PLU and/or PIU by five percentage

points (5%) or more, CLEC shall reimburse AT&T SOUTHEAST REGION 9-STATE for the cost of the audit.

- 6.13.4 In states in which AT&T-21STATE has offered to exchange Section 251(b)(5) Traffic and ISP-Bound Traffic pursuant to the FCC's interim ISP terminating compensation plan set forth in the FCC ISP Compensation Order, ISP-Bound Traffic will be calculated using the 3:1 Presumption as set forth in Section 6.2.10 above of this Attachment.
- 6.13.5 The measurement of MOUs over Local Interconnection Trunk Groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection Trunk Group will be totaled for the entire monthly bill and then rounded to the next whole minute.
- 6.13.6 All ISP-Bound Traffic for a given usage month shall be due and owing at the same time as payments for Section 251(b)(5) Traffic and Non-toll VoIP-PSTN Traffic under this Attachment. The Parties agree that all terms and conditions regarding disputed MOUs, nonpayment, partial payment, late payment, interest on outstanding balances, or other billing and payment terms shall apply to ISP-Bound Traffic the same as for Section 251(b)(5) Traffic and Non-toll VoIP-PSTN Traffic under this Attachment.
- 6.13.7 For billing disputes arising from Inter-carrier Compensation charges, the Party challenging the disputed amounts (the "Non-Paying Party") may withhold payment for the amounts in dispute (the "Disputed Amounts") from the Party rendering the bill (the "Billing Party") only for so long as the dispute remains pending pursuant to the dispute resolution procedures of the General Terms and Conditions. Late payment charges and interest will continue to accrue on the Disputed Amounts while the dispute remains pending. The Non-Paying Party need not pay late payment charges or interest on the Disputed Amounts for so long as the dispute remains pending pursuant to the dispute resolution procedures of the General Terms and Conditions. Upon resolution of the dispute pertaining to the Disputed Amounts in accordance with the dispute resolution provisions of the General Terms and Conditions: (1) the Non-Paying Party will remit the appropriate Disputed Amounts to the Billing Party, together with all related interest and late payment charges, to the Billing Party within ten (10) business days of the resolution of the dispute, if (and to the extent) the dispute is resolved in favor of the Billing Party; and/or (2) the Billing Party will render all appropriate credits and adjustments to the Non-Paying Party for the Disputed Amounts, together with all appropriate interest and late payment charges, within ten (10) business days of the resolution of the dispute, if (and to the extent) the dispute is resolved in favor of the Non-Paying Party.
- 6.13.8 In the event of a loss of data, both Parties shall cooperate to reconstruct the lost data within sixty (60) calendar days of notification and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data, based upon no less than three (3) and no more than twelve (12) consecutive months of prior usage data.
- 6.14 Switched Access Traffic:
- 6.14.1 For purposes of this Agreement only, Switched Access Traffic shall mean all traffic that originates from an End User physically located in one (1) local exchange and delivered for termination to an End User physically located in a different local exchange (excluding traffic from exchanges sharing a common mandatory local calling area as defined in AT&T-21STATE's local exchange tariffs on file with the applicable state commission) including, without limitation, any traffic that terminates over a Party's circuit switch, including traffic from a service that (i) originates over a circuit switch and uses Internet Protocol (IP) transport technology (regardless of whether only one provider uses IP transport or multiple providers are involved in providing IP transport) and/or (ii) originates from the End User's premises in IP format and is transmitted to the switch of a provider of voice communication applications or services when such switch utilizes IP technology. Notwithstanding anything to the contrary in this Agreement, all Switched Access Traffic shall be delivered to the terminating Party over feature group access trunks per the terminating Party's access tariff(s) and shall be subject to applicable intrastate and interstate switched access charges not to exceed AT&T's access tariff rates; provided, however, the following categories of Switched Access Traffic are not subject to the above stated requirement relating to routing over feature group access trunks:

- 6.14.1.1 IntraLATA Toll Traffic or Optional EAS Traffic from a CLEC End User that obtains local dial tone from CLEC where CLEC is both the Section 251(b)(5) Traffic provider and the IntraLATA toll provider;
  - 6.14.1.2 IntraLATA Toll Traffic or Optional EAS Traffic from an AT&T-21STATE End User that obtains local dial tone from AT&T-21STATE where AT&T-21STATE is both the Section 251(b)(5) Traffic provider and the IntraLATA toll provider;
  - 6.14.1.3 Switched Access Traffic delivered to AT&T-21STATE from an IXC where the terminating number is ported to another CLEC and the IXC fails to perform the LNP query; and/or
  - 6.14.1.4 Switched Access Traffic delivered to either Party from a Third Party CLEC over Local Interconnection Trunk Groups destined to the other Party.
- 6.15 Notwithstanding anything to the contrary in this Agreement, each Party reserves its rights, remedies and arguments relating to the application of switched access charges for traffic exchanged by the Parties prior to the Effective Date of this Agreement and described in the FCC's Order issued in the Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services Exempt from Access Charges, WC Docket No. 01-361 (Released April 21, 2004).
- 6.15.1 In the limited circumstances in which a Third Party CLEC delivers Switched Access Traffic as described in Section 6.14.1.4 above to either Party over Local Interconnection Trunk Groups, such Party may deliver such Switched Access Traffic to the terminating Party over Local Interconnection Trunk Groups. If it is determined that such traffic has been delivered over Local Interconnection Trunk Groups and unless the traffic was delivered over Local Interconnection Trunk Groups pursuant to an agreement filed with, and approved by, the Commission, the terminating Party may object to the delivery of such traffic by providing written notice to the delivering Party pursuant to the Notice provisions set forth in the General Terms and Conditions and request removal of such traffic. The Parties will work cooperatively to identify the traffic with the goal of removing such traffic from the Local Interconnection Trunk Groups. If the delivering Party has not removed or is unable to remove such Switched Access Traffic as described in Section 6.14.1.4 above from the Local Interconnection Trunk Groups within sixty (60) calendar days of receipt of Notice from the other Party, the Parties agree to jointly file a complaint or any other appropriate action with the applicable Commission to seek any necessary permission to remove the traffic from such interconnection trunks up to and including the right to block such traffic and to obtain compensation, if appropriate, from the Third Party CLEC delivering such traffic to the extent it is not blocked.

## 7.0 Recording

### 7.1 Responsibilities of the Parties:

- 7.1.1 AT&T-21STATE will record all IXC transported messages for CLEC carried over all Feature Group Switched Access Services that are available to AT&T-21STATE provided Recording equipment or operators. Unavailable messages (i.e., certain operator messages that are not accessible by AT&T-21STATE-provided equipment or operators) will not be recorded. The Recording equipment will be provided at locations selected by AT&T-21STATE.
- 7.1.2 AT&T-21STATE will perform Assembly and Editing, Message Processing and provision of applicable AUR detail for IXC transported messages if the messages are recorded by AT&T-21STATE.
- 7.1.3 AT&T-21STATE will provide AURs that are generated by AT&T-21STATE.
- 7.1.4 Assembly and Editing will be performed on all IXC transported messages recorded by AT&T-21STATE.
- 7.1.5 Standard EMI Record formats for the provision of Billable Message detail and AUR detail will be established by AT&T-21STATE and provided to CLEC.
- 7.1.6 Recorded Billable Message detail and AUR detail will not be sorted to furnish detail by specific End Users, by specific groups of End Users, by office, by feature group or by location.
- 7.1.7 AT&T-21STATE will provide message detail to CLEC in data files, (a File Transfer Protocol or Connect:Direct "NDM"), or any other mutually agreed upon process to receive and deliver messages using software and hardware acceptable to both Parties. In order for the CLEC to receive End User billable

Records, the CLEC may be required to obtain CMDS Hosting service from AT&T or another CMDS Hosting service provider. AT&T-9STATE requires CLEC to obtain CMDS Hosting service from AT&T-9STATE or another CMDS Hosting service provider in order to receive AURs and End User billable records.

- 7.1.8 CLEC will identify separately the location where the Data Transmissions should be sent (as applicable) and the number of times each month the information should be provided. AT&T-21STATE reserves the right to limit the frequency of transmission to existing AT&T-21STATE processing and work schedules, holidays, etc.
- 7.2 AT&T-21STATE will determine the number of data files required to provide the AUR detail to CLEC.
- 7.2.1 Recorded Billable Message detail and/or AUR detail previously provided CLEC and lost or destroyed through no fault of AT&T-21STATE will not be recovered and made available to CLEC except on an individual case basis at a cost determined by AT&T-21STATE.
- 7.2.2 When AT&T-21STATE receives rated Billable Messages from an IXC or another LEC that are to be billed by CLEC, AT&T-21STATE may forward those messages to CLEC.
- 7.2.3 AT&T-21STATE will record the applicable detail necessary to generate AURs and forward them to CLEC for its use in billing access to the IXC.
- 7.2.4 When CLEC is the Recording Company, the CLEC agrees to provide its recorded Billable Messages detail and AUR detail data to AT&T-21STATE under the same terms and conditions of this Section.
- 7.3 Basis of Compensation:
- 7.3.1 AT&T-21STATE as the Recording Company, agrees to provide recording, Assembly and Editing, Message Processing and Provision of Message Detail for AURs ordered/required by the CLEC in accordance with this Section on a reciprocal, no-charge basis. CLEC, as the Recording Company, agrees to provide any and all AURs required by AT&T-21STATE on a reciprocal, no-charge basis. The Parties agree that this mutual exchange of Records at no charge to either Party shall otherwise be conducted according to the guidelines and specifications contained in the MECAB document.
- 7.4 Limitation of Liability:
- 7.4.1 Except as otherwise provided herein, Limitation of Liability will be governed by the General Terms and Conditions of this Agreement.
- 7.4.2 Except as otherwise provided herein, neither Party shall be liable to the other for any special, indirect, or consequential damage of any kind whatsoever. A Party shall not be liable for its inability to meet the terms of this Agreement where such inability is caused by failure of the first Party to comply with the obligations stated herein. Each Party is obliged to use its best efforts to mitigate damages.
- 7.4.3 When either Party is notified that, due to error or omission, incomplete data has been provided to the non-Recording Company, each Party will make reasonable efforts to locate and/or recover the data and provide it to the non-Recording Company at no additional charge. Such requests to recover the data must be made within sixty (60) calendar days from the date the details initially were made available to the non-Recording Company. If written notification is not received within sixty (60) calendar days, the Recording Company shall have no further obligation to recover the data and shall have no further liability to the non-Recording Company.
- 7.4.4 If, despite timely notification by the non-Recording Company, message detail is lost and unrecoverable as a direct result of the Recording Company having lost or damaged tapes or incurred system outages while performing recording, Assembly and Editing, rating, Message Processing and/or transmission of message detail, both Parties will estimate the volume of lost messages and associated revenue based on information available to it concerning the average revenue per minute for the average interstate and/or intrastate call. In such events, the Recording Company's liability shall be limited to the granting of a credit adjusting amounts otherwise due from it equal to the estimated net lost revenue associated with the lost message detail.
- 7.4.5 Each Party will not be liable for any costs incurred by the other Party when transmitting data files via data lines and a transmission failure results in the non-receipt of data.

## 8.0 Transit Traffic

### 8.1 Introduction

8.1.1 This Section 8 sets forth the rates, terms and conditions for Transit Traffic Service when AT&T ARKANSAS, AT&T CALIFORNIA, AT&T INDIANA, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T NORTH CAROLINA, AT&T OHIO, AT&T OKLAHOMA, and/or AT&T TEXAS ("AT&T-TSP") acts as a transit service provider for CLEC. Transit Traffic Service is provided to Telecommunications Carriers for Telecommunications Traffic that does not originate with, or terminate to, AT&T-TSP's End Users. Transit Traffic Service allows CLEC to exchange CLEC originated traffic with a Third Party Terminating Carrier, to which CLEC is not directly interconnected, and it allows CLEC to receive traffic originated by a Third Party Originating Carrier.

8.1.2 AT&T-TSP offers Transit Traffic Services to interconnected CLECs or to interconnected Out of Exchange Local Exchange Carriers.

### 8.2 Definitions

The definitions in this Section 8 are only for the purpose of Transit Traffic Service as set forth in this Section 8. If a definition herein conflicts with any definition in the General Terms and Conditions of the Agreement or this Attachment 02, then the definition herein governs for the purpose of this Section 8. To the extent that defined terms in the Agreement are used in this Section, but for which no definition appears herein, then the definition in the Agreement controls.

8.2.1 "AT&T - Transit Service Provider" or ("AT&T-TSP") means as applicable, AT&T ARKANSAS, AT&T CALIFORNIA, AT&T INDIANA, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OHIO, AT&T OKLAHOMA, AT&T NORTH CAROLINA, and/or AT&T TEXAS as those entities provide Transit Traffic Services to CLEC and Third Parties.

8.2.2 "Calling Party Number" or "CPN" is as defined in 47 C.F.R. § 64.1600(c).

8.2.3 "Local" means physically located in the same ILEC Local Exchange Area as defined by the ILEC Local (or "General") Exchange Tariff on file with the applicable state Commission or regulatory agency; or physically located within neighboring ILEC Local Exchange Areas that are within the same common mandatory local calling area. This includes but is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other types of mandatory expanded local calling scopes.

8.2.4 "Loss" or "Losses" means any and all losses, costs (including court costs), claims, damages (including fines, penalties, or civil judgments and settlements), injuries, liabilities and expenses (including attorneys' fees).

8.2.5 "Third Party Originating Carrier" means a Telecommunications Carrier that originates Transit Traffic that transits AT&T-TSP's network and is delivered to CLEC.

8.2.6 "Third Party Terminating Carrier" means a Telecommunications Carrier to which traffic is terminated when CLEC originates traffic that is sent through AT&T-TSP's network, i.e., CLEC is using AT&T-TSP's Transit Traffic Service.

8.2.7 "Transit Traffic" means traffic originating on CLEC's network that is switched and transported by AT&T-TSP and delivered to a Third Party Terminating Carrier's network or traffic from a Third Party Originating Carrier's network. A call that is originated or terminated by a CLEC purchasing local switching pursuant to a commercial agreement with AT&T-TSP is not considered Transit Traffic for the purposes of this Attachment. Additionally Transit Traffic does not include traffic to/from IXCs.

8.2.8 "Transit Traffic MOUs" means all Transit Traffic minutes of use to be billed at the Transit Traffic rate by AT&T-TSP.

8.2.9 "Transit Traffic Service" is an optional switching and intermediate transport service provided by AT&T-TSP for Transit Traffic between CLEC and a Third Party Originating or Terminating Carrier, where CLEC is directly interconnected with an AT&T-TSP Tandem.

### 8.3 Responsibilities of the Parties

- 8.3.1 AT&T-TSP will provide CLEC with Transit Traffic Service to all Third Party Terminating Carriers with which AT&T-TSP is interconnected, within the same LATA, or outside of that LATA, to the extent a LATA boundary waiver exists.
- 8.3.2 Transit Traffic Service rates apply to all Transit Traffic that originates on CLEC's network. Transit Traffic Service rates are only applicable when calls do not originate with (or terminate to) an AT&T-TSP End User.

#### 8.4 CLEC Originated Traffic

- 8.4.1 CLEC acknowledges and agrees that it is solely responsible for compensating Third Party Terminating Carriers for Transit Traffic that CLEC originates. AT&T-TSP will directly bill CLEC for CLEC-originated Transit Traffic. AT&T-TSP will not act as a billing intermediary, i.e., clearinghouse, between CLEC and Third Party Terminating Carriers, nor will AT&T-TSP pay any termination charges to the Third Party Terminating Carriers on behalf of CLEC.
- 8.4.2 If CLEC originates Transit Traffic destined to a Third Party Terminating Carrier with which CLEC does not have a traffic compensation arrangement, then CLEC will indemnify, defend and hold harmless AT&T-TSP against any and all Losses, including, without limitation, charges levied by such Third Party Terminating Carrier against AT&T-TSP for such Transit Traffic. Furthermore, If CLEC originates Transit Traffic destined for a Third Party Terminating Carrier with which CLEC does not have a traffic compensation arrangement, and a regulatory agency or court orders AT&T-TSP to pay such Third Party Terminating Carrier for the Transit Traffic AT&T-TSP has delivered to the Third Party Terminating Carrier, then CLEC will indemnify AT&T-TSP for any and all Losses related to such regulatory agency or court order, including, but not limited to, Transit Traffic termination charges, interest on such Transit Traffic Termination charges, and any billing and collection costs that AT&T-TSP may incur to collect any of the foregoing charges, interest or costs from CLEC.
- 8.4.3 CLEC shall be responsible for sending CPN and other appropriate information, as applicable, for calls delivered to AT&T-TSP's network. CLEC shall not strip, alter, modify, add, delete, change, or incorrectly assign or re-assign any CPN. If AT&T-TSP identifies improper, incorrect, or fraudulent use of local exchange services, or identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN, then CLEC agrees to cooperate to investigate and take corrective action. If CLEC is sending CPN to AT&T-TSP, but AT&T-TSP is not receiving proper CPN information, then CLEC will work cooperatively with AT&T-TSP to correct the problem. If AT&T-TSP does not receive CPN from CLEC, then AT&T-TSP cannot forward any CPN to the Third Party Terminating Carrier, and CLEC will indemnify, defend and hold harmless AT&T-TSP from any and all Losses arising from CLEC's failure to include CPN with Transit Traffic that AT&T-TSP delivers to a Third Party Terminating Carrier on behalf of CLEC.
- 8.4.4 CLEC, when acting as an originating carrier of Transit Traffic, has the sole responsibility for providing appropriate information to identify Transit Traffic to Third Party Terminating Carriers.

#### 8.5 CLEC Terminated Traffic

- 8.5.1 CLEC shall not charge AT&T-TSP when AT&T-TSP provides Transit Traffic Service as the Transit Service Provider for calls terminated to CLEC.
- 8.5.2 Where AT&T-TSP is providing Transit Traffic Service to CLEC, AT&T-TSP will pass the CPN received from the Third Party Originating Carrier to CLEC. If AT&T-TSP does not receive CPN from the Third Party Originating Carrier, then AT&T-TSP cannot forward CPN to CLEC; therefore, CLEC will indemnify, defend and hold harmless AT&T-TSP from any and all Losses arising from or related to the lack of CPN in this situation. If AT&T-TSP or CLEC identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN from a Third Party Originating Carrier, CLEC agrees to cooperate with AT&T-TSP and the Third Party Originating Carrier to investigate and take corrective action. If the Third Party Originating Carrier is sending CPN, but AT&T-TSP or CLEC is not properly receiving the information, then CLEC will work cooperatively with AT&T-TSP and the Third Party Originating Carrier to correct the problem.
- 8.5.3 CLEC agrees to seek terminating compensation for Transit Traffic directly from the Third Party Originating Carrier. AT&T-TSP, as the Transit Service Provider, is not obligated to pay CLEC for such Transit Traffic,

and AT&T-TSP is not to be deemed as the default originator of such Transit Traffic or be considered as the default originator.

## 8.6 Transit Traffic Routing/Trunk Groups

8.6.1 When CLEC has one or more switches in a LATA and it desires to exchange Transit Traffic with Third Parties through AT&T-TSP, CLEC shall trunk to AT&T-TSP Tandems in such LATA pursuant to terms in this Attachment 02. In the event CLEC has no switch in a LATA in which it desires to send Transit Traffic through AT&T-TSP, CLEC shall establish one or more POIs within such LATA and trunk from each POI to AT&T-TSP Tandems in such LATA pursuant to terms in this Attachment 02.

8.6.2 CLEC shall route Transit Traffic to the AT&T-TSP Tandem Office Switch from which the Third Party Terminating Carrier switch subtends.

8.6.3 Transit Traffic not routed to the appropriate AT&T-TSP Tandem by CLEC shall be considered misrouted. Transit Traffic routed by CLEC through any AT&T-TSP End Office Switch shall be considered misrouted. Upon written notification from AT&T-TSP of misrouting of Transit Traffic, CLEC will correct such misrouting within sixty (60) days.

8.6.4 AT&T ARKANSAS, AT&T CALIFORNIA, AT&T INDIANA, AT&T KANSAS, AT&T MISSOURI, AT&T OHIO, AT&T OKLAHOMA, and/or AT&T TEXAS only.

The same facilities and trunking (ordering, provisioning, servicing, etc.) used pursuant to CLEC's Agreement and in this Attachment 02 to route Section 251(b)(5) Traffic will be used by AT&T-TSP to route Transit Traffic.

8.6.5 AT&T KENTUCKY and /or AT&T NORTH CAROLINA only

8.6.5.1 The same facilities and trunking (ordering, provisioning, servicing, etc.) used pursuant to CLEC's Agreement for Transit Trunk Groups and in this Attachment 02 for Third Party Trunk Groups will be utilized for the routing of Transit Traffic.

## 8.7 Direct Trunking Requirements.

8.7.1 When Transit Traffic originated by CLEC requires twenty-four (24) or more trunks, upon sixty (60) days written notice from AT&T-TSP, CLEC shall establish a direct trunk group or alternate transit arrangement between itself and the Third Party Terminating Carrier. Once a Trunk Group has been established, CLEC agrees to cease routing Transit Traffic through the AT&T-TSP Tandem to the Third Party Terminating Carrier (described above), unless AT&T-TSP and CLEC mutually agree otherwise.

## 8.8 Transit Traffic Rate Application

AT&T CALIFORNIA, AT&T INDIANA, and/or, AT&T OHIO only

The applicable Transit Traffic Service rate applies to all Transit Traffic MOUs. For AT&T CALIFORNIA, AT&T INDIANA, and/or AT&T OHIO, Transit Traffic MOUs include Local and IntraLATA toll minutes of use. CLEC agrees to compensate AT&T CALIFORNIA, AT&T INDIANA and/or AT&T OHIO as a transit service provider for the rate elements at the rate set forth in the Pricing Schedule.

AT&T ARKANSAS, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OKLAHOMA, AT&T NORTH CAROLINA, and/or AT&T TEXAS only

The applicable Transit Traffic Service rate applies to all Transit Traffic MOUs. For AT&T ARKANSAS, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OKLAHOMA, AT&T NORTH CAROLINA and/or AT&T TEXAS, Transit Traffic MOUs include Local minutes of use only. CLEC agrees to compensate AT&T ARKANSAS, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OKLAHOMA, AT&T NORTH CAROLINA and/or AT&T TEXAS as a transit service provider for the rate elements at the rate set forth in the Pricing Schedule.

AT&T MISSOURI only

Pursuant to the Missouri Public Service Commission Order in Case No. TO-99-483, the Transit Traffic rate elements shall not apply to MCA Traffic (i.e., no transiting charges shall be assessed for MCA Traffic) for AT&T MISSOURI.

AT&T KENTUCKY and/or AT&T NORTH CAROLINA only

Traffic between CLEC and Wireless Type 1 Third Parties or Wireless Type 2A Third Parties that do not engage in Meet Point Billing with AT&T KENTUCKY and/or AT&T NORTH CAROLINA shall not be treated as Transit Traffic from a routing or billing perspective until such time as such traffic is identifiable as Transit Traffic.

- 8.8.1.1 CLEC shall send all IntraLATA toll traffic to be terminated by an independent telephone company to the End User's IntraLATA toll provider and shall not send such traffic to AT&T KENTUCKY and/or AT&T NORTH CAROLINA as Transit Traffic. IntraLATA toll traffic shall be any traffic that originates outside of the terminating independent telephone company's local calling area.

# ATTACHMENT 03 – STRUCTURE ACCESS

## TABLE OF CONTENTS

Section Number	Page Number
1.0 Introduction .....	3
2.0 Definitions .....	3
3.0 General Provisions .....	5
4.0 Requirements and Specifications.....	8
5.0 Additional CLEC Responsibilities .....	13
6.0 Facilities and Licenses .....	13
7.0 Issuance of Licenses .....	18
8.0 Construction of CLEC’s Facilities .....	18
9.0 Use and Routine Maintenance of CLEC’s Facilities.....	20
10.0 Modification and Replacement of CLEC’s Facilities .....	21
11.0 Rearrangement of Facilities at the Request of Another.....	21
12.0 Emergency Repairs and Pole Replacements.....	22
13.0 Inspection by AT&T-21STATE of CLEC’s Facilities .....	24
14.0 Unauthorized Attachment or Utilization of AT&T-21STATE’s Facilities .....	25
15.0 Removal of CLEC’s Facilities.....	26
16.0 Rates, Fees, Charges and Billing.....	27
17.0 Indemnification.....	27
18.0 Radio Frequency Requirements for Any Wireless Attachments.....	28

## 1.0 Introduction

- 1.1 This Attachment 03 - Structure Access ("Appendix") sets forth the rates, terms, conditions, and procedures by which AT&T-21STATE shall provide non-discriminatory access to AT&T-21STATE-owned Poles, Ducts, Conduit, and ROW. Separate tariffs or agreements shall govern CLEC's access, if any, to the following facilities which, if allowed, would require special security, technical, and construction arrangements outside the scope of this Appendix:
- 1.1.1 AT&T-21STATE's central office vaults and Ducts and Conduits which serve no purpose other than to provide a means of entry to and exit from AT&T-21STATE's central offices;
  - 1.1.2 controlled environment vaults (CEVs), huts, cabinets, and other similar outside plant structures and Ducts and Conduits which serve no purpose other than to provide a means of entry to and exit from such vaults, huts, cabinets, and structures;
  - 1.1.3 Ducts and Conduits located within buildings owned or leased by AT&T-21STATE; and
  - 1.1.4 Ducts, Conduits, equipment rooms, and similar spaces located in space leased by AT&T-21STATE from third party property owners for purposes other than to house cables and other equipment in active service as part of AT&T-21STATE's network distribution operations.

## 2.0 Definitions

- 2.1 "Application" means the process of requesting a License to place Facilities in or on AT&T-21STATE-owned Conduit, Ducts, or Poles.
- 2.2 "Assigned", when used with respect to AT&T-21STATE-owned Conduits, Ducts or Poles, means any space in such Conduit or Duct or on such Pole that is occupied, or scheduled to be utilized pursuant to an Application deemed complete, by an entity authorized by AT&T-21STATE to use such space.
- 2.3 "Attaching Party" means any Party with an existing or prospective physical facility Attachment on or in any AT&T-21STATE structure.
- 2.4 "Attachment" as used herein means the physical connection of cable, wire, or equipment to AT&T-21STATE's Poles, Ducts, or Conduit.
- 2.5 "Authorized Contractor" refers to any contractor included on a list of contractors provided by AT&T-21STATE and which, subject to CLEC's direction, control and the requirements and policies in each state, performs Facilities modification, Make-Ready Surveys or Make-Ready Work which would ordinarily be performed by AT&T-21STATE or persons acting on AT&T-21STATE's behalf. AT&T-21STATE shall make available and keep an up-to-date list of contractors it authorizes to perform Make-Ready Surveys and Make-Ready Work in the communications space on its Poles in cases where AT&T-21STATE has failed to meet deadlines specified in Section 6.
- 2.5.1 A person or entity approved as an Authorized Contractor is only an Authorized Contractor with respect to those tasks for which such person or entity has been approved by AT&T-21STATE and is an Authorized Contractor only in those AT&T-21STATE construction districts specified by AT&T-21STATE.
  - 2.5.2 Designation of an Authorized Contractor for a specific category of tasks shall not be deemed to be the designation of such person or entity as an Authorized Contractor for other purposes, nor shall approval of an Authorized Contractor by a single AT&T-21STATE construction district constitute approval of such Authorized Contractor for the area served by a different AT&T-21STATE construction district; provided, however, that if a specific construction job extends beyond the boundaries of a single construction district, an Authorized Contractor shall, for the purposes of that job, be deemed to have been approved by all AT&T-21STATE construction districts in which the work is to be performed.
- 2.6 "Available" when used with respect to Conduit or Duct space or Poles, means any usable space in such Conduit or Duct or on such Pole not assigned to a specific entity, including AT&T-21STATE, at the applicable time.
- 2.7 "Conduit(s)" means a structure containing one or more Ducts, usually placed underground or on bridges, in which cables or wires may be installed. As used in this Appendix, the term "Conduit" refers only to conduit structures (including Ducts, Manholes and Handholes) and space within those structures and does not include (a) cables and

other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, and other AT&T-21STATE structures (such as huts and cabinets) which branch off from or are connected to AT&T-21STATE's Conduit.

- 2.8 "Conduit System" means any combination of Ducts, Conduits, Manholes, and Handholes joined to form an integrated whole. In this Appendix, the term refers to Conduit Systems owned or controlled by AT&T-21STATE.
- 2.9 "Cost(s)" means the amounts AT&T-21STATE bills CLEC for specific work performed, and shall be (a) the actual charges made by subcontractors to AT&T-21STATE for work and/or, (b) if the work was performed by AT&T-21STATE employees, it shall be actual costs for all services provided by AT&T-21STATE, including, but not limited to labor, engineering, and any associated administrative or professional services, as applicable, calculated on an individual case basis, along with any directly attributable material expenditures.
- 2.10 "Duct(s)" means a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other Facilities. As used in this Appendix, the term Duct includes innerducts created by subdividing a Duct into smaller channels, but does not include cables and other telecommunications equipment located within such Ducts.
- 2.11 "Facilities" refer to any property or equipment, including but not limited to cables, used in the provision of Telecommunications Services.
- 2.12 "Handholes" means an enclosure, usually below ground level, used for the purpose of installing, operating, and maintaining Facilities in a Conduit. A Handhole is too small to permit personnel to physically enter. As used in this Appendix, the term "Handhole" refers only to Handholes, which are part of AT&T-21STATE's Conduit System, and does not refer to handholes which provide access to buried cables not housed within AT&T-21STATE Ducts or Conduits. As used in this Appendix, the term "Handhole" refers only to Handhole structures owned or controlled by AT&T-21STATE and does not include cables and other telecommunications equipment located within handhole structures.
- 2.13 "License(s)" means any License issued pursuant to this Appendix by AT&T-21STATE.
- 2.14 "Maintenance Duct(s)" generally refers to a full-sized Duct (typically three inches in diameter or larger), and may include an innerduct, for use, on a short-term basis, for maintenance, repair, or emergency restoration activities. The term "Maintenance Duct" does not include Ducts and Conduits extending from an AT&T-21STATE Manhole to customer premises. When only one usable full-sized Duct remains in a Conduit section, that Duct shall be deemed to be the Maintenance Duct. AT&T-21STATE may elect to reserve an innerduct, in addition to the full-sized duct, for restoration purposes, dependent on the specific circumstances in a Conduit run. Such reservations shall be communicated, as necessary, when responding to applications for access.
- 2.15 "Make-Ready Survey" means all work and activities performed or to be performed to determine whether there is adequate capacity on a Pole or in a Conduit or Conduit System (including Manholes and Handholes) to accommodate CLEC's Facilities and to determine what Make-Ready Work, if any, is required to prepare the Pole, Conduit or Conduit System to accommodate CLEC's Facilities.
- 2.16 "Make-Ready Work" means all work performed or to be performed to prepare AT&T-21STATE's Conduit System, Poles or related Facilities for the requested Attachment of CLEC's Facilities. Make-Ready Work includes, but is not limited to, clearing obstructions (e.g., by rodding Ducts to ensure clear passage), and the rearrangement, transfer, replacement, and removal of existing Facilities on a Pole or in a Conduit System where such work is required solely to accommodate CLEC's Facilities and not to meet AT&T-21STATE's business needs or convenience. Make-Ready Work may require "dig ups" of existing Facilities and may include the repair, enlargement or modification of AT&T-21STATE's Structure or the performance of other work required to make AT&T-21STATE's Structure usable for the initial placement of CLEC's Facilities.
- 2.17 "Manhole" means an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron or concrete Manhole cover, which personnel may enter and use for the purpose of installing, operating, and maintaining Facilities in a Conduit. As used in this Appendix, the term "Manhole" does not include cables and other telecommunications equipment located within manhole structures.
- 2.18 "Overlashing" refers to the practice of placing an additional communications cable by lashing such cable with spinning wire over an existing cable and strand on Poles.

- 2.19 "Pole" means utility poles but only includes those utility poles owned or controlled by AT&T-21STATE, and does not include cables and other telecommunications equipment attached to pole structures or utility poles with respect to which AT&T-21STATE has no legal authority to permit Attachments by other persons or entities.
- 2.20 "Pole Attachment Act" and "Pole Attachment Act of 1978" means those provisions of the Act, as amended, now codified as 47 U.S.C. § 224.
- 2.21 "Right(s) of Way (ROW)" means the right to use the land or other property of another party to place Poles, Conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property). For purposes of this Appendix, "ROW" refers to property owned or controlled by AT&T-21STATE and used by AT&T-21STATE for its telecommunications distribution Facilities. ROW does not include:
- 2.21.1 cables and other telecommunications equipment buried or located on such ROW; or
  - 2.21.2 public ROW (which are owned by and subject to the control of governmental entities); or
  - 2.21.3 any space which is owned and controlled by a third party property owner and occupied by AT&T-21STATE with permission from such owner rather than as a matter of legal right.
- 2.22 "Routine Inspection" refers to inspections that are planned and scheduled by AT&T-21STATE, for the purpose of inspecting the Facilities of CLEC and others, including AT&T-21STATE, on AT&T-21STATE Structure.
- 2.23 "Sheath" or "Sheathing" means an outer covering containing communications wires, fibers, or other communications media.
- 2.24 "Spot Inspection" refers to spontaneous inspections done by AT&T-21STATE, which may be initiated, at AT&T-21STATE's discretion, for the purpose of ensuring safety and compliance with AT&T-21STATE standards on specific Structure.
- 2.25 "Structure" refers collectively to Poles, Ducts and Conduits.

### **3.0 General Provisions**

- 3.1 Undertaking of AT&T-21STATE:
- 3.1.1 AT&T-21STATE shall provide CLEC with equal and nondiscriminatory access to Structure on terms and conditions consistent with obligations under the Pole Attachment Act or, in the case of reverse pre-emption by a state, the applicable state laws and regulations. Further, AT&T-21STATE shall not withhold or delay assignment of such space to CLEC unless such space has been Assigned.
- 3.2 Attachments Authorized by this Appendix:
- 3.2.1 AT&T-21STATE shall issue one or more Licenses to CLEC authorizing CLEC to attach Facilities to AT&T-21STATE's owned or controlled Poles and to place Facilities within AT&T-21STATE's owned or controlled Conduits, Ducts or ROW under the terms and conditions set forth in this Appendix.
  - 3.2.2 Unless otherwise provided herein, authority to attach Facilities to AT&T-21STATE's owned or controlled Poles, to place Facilities within AT&T-21STATE's owned or controlled Conduits, Ducts or ROW shall be granted only in individual Licenses granted under this Appendix and the placement or use of such Facilities shall be determined in accordance with such Licenses and procedures established in this Appendix.
  - 3.2.3 CLEC agrees that its Attachment of Facilities to AT&T-21STATE's owned or controlled Poles, owned or controlled Conduits, Ducts or ROW shall take place pursuant to the licensing procedures set forth herein, and AT&T-21STATE agrees that it shall not unreasonably withhold or delay issuance of such Licenses.
  - 3.2.4 CLEC may not sublease or otherwise authorize any third party to use any part of AT&T-21STATE Structure licensed to CLEC under this Appendix, except that CLEC may lease its own Facilities to third parties. Notwithstanding the above, CLEC may permit third parties to overlash to existing CLEC Attachments on AT&T-21STATE's Pole(s), without approval from, but with proper advance notification to, AT&T-21STATE. However, prior to the actual Overlapping by a third party, such third party must execute its own distinct Pole Attachment agreement with AT&T-21STATE.

3.2.5 CLEC warrants that any Overlapping the CLEC conducts or permits (via a third party or contractor) shall meet the following requirements: (1) the Overlapping complies with the standards referenced in Section 4.0 below of this Appendix; (2) CLEC has computed the pole loading with the additional overlapped Facility, and the Pole will not be overloaded with the addition of the overlapped Facility; and (3) CLEC has determined that no Make-Ready is necessary to accommodate the overlapped Facility, or will ensure that any Make-Ready necessary will be conducted before the Overlapping occurs. CLEC agrees to indemnify AT&T-21STATE should any of the warranties be breached.

### 3.3 Licenses:

3.3.1 Subject to the terms and conditions set forth in this Appendix, AT&T-21STATE shall issue to CLEC one or more Licenses authorizing CLEC to place or attach Facilities in or to specified Structure owned or controlled by AT&T-21STATE on a "first-come, first-served" basis. In the event that existing Structure capacity is insufficient to satisfy CLEC's Application, AT&T-21STATE shall include reasonable alternatives in the Make-Ready Estimate provided as described in Section 6.8 below. AT&T-21STATE shall have the right to designate the location and manner in which CLEC's Facilities will enter and exit AT&T-21STATE's Conduit System and the specific location and manner of installation for any associated equipment which is permitted by AT&T-21STATE to occupy the Structure.

### 3.4 Access and Use of ROW:

3.4.1 To the extent AT&T-21STATE has the authority, AT&T-21STATE grants CLEC a right to use any ROW for AT&T-21STATE Poles, Ducts, or Conduits to which CLEC may attach its Facilities for the purposes of constructing, operating and maintaining such CLEC's Facilities on AT&T-21STATE's Poles, Ducts or Conduits. Notwithstanding the foregoing, CLEC shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, ROW, license, permit, permission, certification or franchise to construct, operate and/or maintain its Facilities on private and public property at the location of the AT&T-21STATE Pole, Duct or Conduit to which CLEC seeks to attach its Facilities. CLEC shall furnish proof of any such easement, ROW, license, permit, permission, certification, or franchise within thirty (30) calendar days of request by AT&T-21STATE. AT&T-21STATE does not warrant the validity or apportionability of any rights it may hold to place Facilities on private property.

3.4.2 Neither Party shall restrict or interfere with the other Party's access to or right to occupy property, owned by third parties, which is not subject to the other Party's control, including property as to which either Party has access subject to non-exclusive ROW. Each Party shall make its own, independent legal assessment of its right to enter upon or use the property of third party property owners and shall bear all expenses, including legal expenses, involved in making such determinations.

3.4.2.1 At locations where AT&T-21STATE has access to third party property pursuant to non-exclusive ROW, AT&T-21STATE shall not interfere with CLEC's negotiations with third party property owners for similar access; nor with CLEC's access to such property pursuant to easements or other ROW obtained by CLEC from the property owner. At locations where AT&T-21STATE has obtained exclusive ROW from third party property owners or otherwise controls the ROW, AT&T-21STATE shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to CLEC on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits AT&T-21STATE to provide such access, and provided further that if AT&T-21STATE has available space that it shares with CLEC in AT&T-21STATE non-aerial ROW or easements (*e.g.*, for cabinets placed on or underground), which have not been accounted for in rates determined in accordance with the Pole Attachment Act (*e.g.*, aerial, linear ROW for pole lines are so accounted for), AT&T-21STATE shall include in a one-time billing CLEC's pro rata portion of the charges, if any, paid by AT&T-21STATE to obtain such non-aerial ROW or easements, plus any other documented legal, administrative, and engineering costs incurred by AT&T-21STATE in obtaining such ROW or easements and processing CLEC's requests for such access.

3.4.2.2 Except to the extent necessary to meet the requirements of the Act, neither this Appendix nor any License granted hereunder shall constitute a conveyance or assignment of any of either Party's

rights to use any public or private ROW, and nothing contained in this Appendix or in any License granted hereunder shall be construed as conferring on one Party any right to interfere with the other Party's access to any such public or private ROW.

3.5 No Effect on AT&T-21STATE's Right to Convey Property:

3.5.1 Nothing contained in this Appendix or in any License issued hereunder shall in any way affect the right of AT&T-21STATE to convey to any other person or entity any interest in real or personal property, including any Poles, Conduit or Ducts to or in which CLEC has attached or placed Facilities pursuant to Licenses issued under this Appendix provided however that AT&T-21STATE shall give CLEC reasonable advance written Notice of such intent to convey.

3.5.2 Nothing herein contained shall be construed as a grant of any exclusive authorization, right or privilege to CLEC. AT&T-21STATE shall have the right to grant, renew and extend rights and privileges to others not Parties to this Agreement, by contract or otherwise, to use any Pole or Conduit System covered by this Appendix and CLEC's rights hereunder.

3.6 No Effect on AT&T-21STATE's Rights to Manage its Own Facilities:

3.6.1 This Appendix shall not be construed as limiting or interfering with AT&T-21STATE's rights set forth below, except to the extent expressly provided by the provisions of this Appendix or Licenses issued hereunder or by the Act or other applicable laws, rules or regulations:

3.6.1.1 To locate, relocate, move, replace, modify, maintain, and operate AT&T-21STATE's own Facilities within AT&T-21STATE's Conduits, Ducts or ROW or any of AT&T-21STATE's Facilities attached to AT&T-21STATE's Poles at any time and in any reasonable manner which AT&T-21STATE deems appropriate to serve its end users, avail itself of new business opportunities, or otherwise meet its business needs; or

3.6.1.2 enter into new agreements or arrangements with other persons or entities permitting them to attach or place their Facilities to or in AT&T-21STATE's Poles, Conduits or Ducts; provided, however, that such relocations, moves, replacements, modifications, maintenance and operations or new Attachments or arrangements shall not substantially interfere with CLEC's Attachment, or ROW provided by Licenses issued pursuant to this Appendix.

3.7 No Effect on CLEC's Rights to Manage its Own Facilities:

3.7.1 This Appendix shall not be construed as limiting or interfering with CLEC's rights set forth below, except to the extent expressly provided by the provisions of this Appendix or Licenses issued hereunder or by the Act or other applicable laws, rules or regulations:

3.7.1.1 To locate, relocate, move, replace, modify, maintain, and operate its own Facilities within AT&T-21STATE's Conduits, Ducts or ROW or its Facilities attached to AT&T-21STATE's Poles at any time and in any reasonable manner which CLEC deems appropriate to serve its end users, avail itself of new business opportunities, or otherwise meet its business needs; or

3.7.1.2 To enter into new agreements or arrangements with other persons or entities permitting CLEC to attach or place its Facilities to or in such other persons' or entities' Poles, Conduits or Ducts, or ROW; provided, however, that such relocations, moves, replacements, modifications, maintenance and operations or new Attachments or arrangements shall not conflict with CLEC's obligations under Licenses issued pursuant to this Appendix.

3.8 No Right to Interfere with Facilities of Others:

3.8.1 The provisions of this Appendix or any License issued hereunder shall not be construed as authorizing either Party to rearrange or interfere in any way with any of the other Party's Facilities, with the Facilities of other persons or entities, or with the use of or access to such Facilities by such other Party or such other persons or entities, except to the extent expressly provided by the provisions of this Appendix or any License issued hereunder or by the Act or other applicable laws, rules or regulations.

- 3.8.2 CLEC acknowledges that the Facilities of persons or entities other than AT&T-21STATE and CLEC may be attached to or occupy AT&T-21STATE's Poles, Conduits, Ducts and ROW.
- 3.8.3 AT&T-21STATE shall not attach, or give permission to any third parties to attach Facilities to existing CLEC Facilities without CLEC's prior written consent. If AT&T-21STATE becomes aware of any such unauthorized Attachment to CLEC Facilities, AT&T-21STATE shall use its best efforts to rectify the situation as soon as practicable.
- 3.8.4 With respect to the Structure occupied by CLEC or the subject of an Application for Attachment by CLEC, AT&T-21STATE will give to CLEC sixty (60) calendar days written Notice for Conduit extensions or reinforcements, Pole line extensions, Pole replacements, or of AT&T-21STATE's intention not to maintain or use any existing Pole(s) or Conduit.
- 3.8.4.1 Where AT&T-21STATE elects to abandon or remove AT&T-21STATE Facilities, the Pole(s) or Conduit will be offered to existing occupants on a first-in, first-right to maintain basis. The first existing occupant electing to exercise this option will be required to execute the appropriate agreement with AT&T-21STATE to purchase and transfer ownership from AT&T-21STATE to that existing occupant, subject to then-existing Licenses pertaining to such Pole(s) or Conduit. If none of the existing occupants elects to maintain such Pole(s) or Conduit, all occupants will be required to remove their existing Facilities within ninety (90) calendar days of written Notice from AT&T-21STATE.
- 3.8.4.2 If an emergency or provisions of an applicable joint use agreement require AT&T-21STATE to construct, reconstruct, expand or replace Poles, Conduits or Ducts owned or controlled by AT&T-21STATE and either occupied by CLEC or the subject of an Application for Attachment by CLEC, AT&T-21STATE will notify CLEC as soon as reasonably practicable of such proposed construction, reconstruction, expansion or replacement to enable CLEC, if it so desires, to request that a Pole, Conduit or Duct of greater height or capacity be utilized to accommodate an anticipated Facility need of CLEC.
- 3.8.5 Upon request and at CLEC's expense, AT&T-21STATE shall remove any retired cable from Conduit Systems to allow for the efficient use of Conduit space within a reasonable period of time. AT&T-21STATE retains salvage rights on any cable removed. In order to safeguard its Structure and Facilities, AT&T-21STATE reserves the right to remove retired cables and is under no obligation to allow CLEC the right to remove such cables. Based on sound engineering judgment, there may be situations where it would neither be feasible nor practical to remove retired cables.

### 3.9 Assignment of Space:

- 3.9.1 Assignment of space on Poles, in Conduits or Ducts and within ROW will be made pursuant to Licenses granted by AT&T-21STATE and in compliance with all applicable engineering and safety standards, as identified in Section 4 below. When an increase in capacity or strength of a Pole or Conduit is practical and necessary to fulfill CLEC's request, AT&T-21STATE will propose such a modification as Make-Ready, and CLEC will be responsible for the actual Costs associated with the modification in exchange for approval of the applicable License.

## 4.0 Requirements and Specifications

- 4.1 Industry-recognized standards are incorporated below by reference. CLEC agrees that its Facilities shall be placed, constructed, maintained, repaired, and removed in accordance with current (as of the date when such work is performed) editions of the following publications, regulations, specifications, and standards:
- 4.1.1 the Blue Book Manual of Construction Procedures, Special Report SR-1421, published by Telcordia Technologies, f/k/a Bell Communications Research, Inc. ("BellCore"), and sometimes referred to as the "Blue Book";
- 4.1.2 the National Electrical Code (NEC), published by the National Fire Protection Association;
- 4.1.3 the current version of the National Electrical Safety Code (NESC), published by the Institute of Electrical and

Electronic Engineers, Inc.;

4.1.4 the California Public Utility Commission's General Orders 95 and 128 for Attachments to AT&T-21STATE Poles, Ducts, and Conduits that exist in the State of California; and

4.1.5 the AT&T Structure Access Guidelines.

4.2 Changes in Industry-Recognized Standards:

4.2.1 CLEC agrees to rearrange its Facilities in accordance with changes in the standards published in the publications specified in Section 4.1 above of this Appendix if required by law to do so or upon the mutual agreement of the Parties.

4.3 Additional Electrical Design Specifications:

4.3.1 CLEC agrees that, in addition to specifications and requirements referred to in Section 4.1 above, CLEC's Facilities placed in AT&T-21STATE's Conduit System shall meet all of the following electrical design specifications:

4.3.1.1 No Facility shall be placed in AT&T-21STATE's Conduit System in violation of FCC regulations.

4.3.1.2 CLEC's Facilities carrying more than 50 volts AC rms (root mean square) to ground or 135 volts DC to ground shall be enclosed in an effectively grounded Sheath or shield.

4.3.1.3 No coaxial cable of CLEC shall occupy a Conduit System containing AT&T-21STATE's cable unless such cable meets the voltage limitations of Article 820 of the National Electrical Code.

4.3.1.4 CLEC's coaxial cable may carry continuous DC voltages up to 1800 volts to ground where the conductor current will not exceed one-half (1/2) ampere and where such cable has two (2) separate grounded metal Sheaths or shields and a suitable insulating jacket over the outer Sheath or shield. The power supply shall be so designed and maintained that the total current carried over the outer Sheath shall not exceed 200 micro-amperes under normal conditions. Conditions which would increase the current over this level shall be cleared promptly.

4.3.1.5 Neither Party shall circumvent the other Party's corrosion mitigation measures. Each Party's new Facilities shall be compatible with the other Party's Facilities so as not to damage any Facilities of the other Party by corrosion or other chemical reaction.

4.4 Additional Physical Design Specifications:

4.4.1 CLEC's Facilities placed in AT&T-21STATE's Conduit System must meet all of the following physical design specifications:

4.4.1.1 Cables bound or wrapped with cloth or having any kind of fibrous coverings or impregnated with an adhesive material shall not be placed in AT&T-21STATE's Conduit or Ducts.

4.4.1.2 The integrity of AT&T-21STATE's Conduit System and overall safety of AT&T-21STATE's personnel and other personnel working in AT&T-21STATE's Conduit System requires that "dielectric cable" be placed when CLEC's cable Facility utilizes an alternative Duct or route that is shared in the same trench by any current-carrying Facility of a power utility.

4.4.1.3 New construction splices in CLEC's fiber optic and twisted pair cables shall be located in Manholes, pull boxes or Handholes.

4.5 Additional Specifications Applicable to Connections:

4.5.1 The following specifications apply to connections of CLEC's Conduit to AT&T-21STATE's Conduit System:

4.5.1.1 CLEC will be permitted to connect its Conduit or Duct only at an AT&T-21STATE Manhole. No Attachment will be made by entering or breaking into Conduit between Manholes. All necessary work to install CLEC Facilities will be performed by CLEC or its contractor at CLEC's expense. In no event shall CLEC or its contractor "core bore" or make any other modification to AT&T-21STATE Manhole(s) without the prior written approval of AT&T-21STATE.

4.5.1.2 If CLEC constructs or utilizes a Duct connected to AT&T-21STATE's Manhole, the Duct and all connections between that Duct and AT&T-21STATE's Manhole shall be sealed, to the extent practicable, to prevent the entry of gases or liquids into AT&T-21STATE's Conduit System. If CLEC's Duct enters a building, it shall also be sealed where it enters the building and at all other locations necessary to prevent the entry of gases and liquids from the building into AT&T-21STATE's Conduit System.

4.6 Requirements Relating to Personnel, Equipment, Material, and Construction Procedures Generally:

- 4.6.1 Duct clearing, rodding or modifications required to grant CLEC access to AT&T-21STATE's Conduit Systems may be performed by AT&T-21STATE at CLEC's expense at charges which represent AT&T-21STATE's actual Costs. Alternatively (at CLEC's option) such work may be performed by an Authorized Contractor. The Parties acknowledge that CLEC, its contractors, and other persons acting on CLEC's behalf will perform work for CLEC (e.g., splicing CLEC's Facilities) within AT&T-21STATE's Conduit System. CLEC represents and warrants that neither CLEC nor any person acting on CLEC's behalf shall permit any person to climb or work on any of AT&T-21STATE's Poles or to enter AT&T-21STATE's Manholes or work within AT&T-21STATE's Conduit System unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to Pole or the Conduit Systems and to perform the work safely.
- 4.6.2 Rodding or clearing of Ducts in AT&T-21STATE's Conduit System shall be done only when specific authorization for such work has been obtained in advance from AT&T-21STATE. The Parties agree that such rodding or clearing shall be performed according to existing industry standards and practices. CLEC may contract with AT&T-21STATE for performance of such work or, at CLEC's option, with an Authorized Contractor.
- 4.6.3 Personnel performing work on AT&T-21STATE's or CLEC's behalf in AT&T-21STATE's Conduit System shall not climb on, step on, or otherwise disturb the other Party's or any third party's cables, air pipes, equipment, or other Facilities located in any Manhole or other part of AT&T-21STATE's Conduit System.
- 4.6.4 All of CLEC's Facilities shall be firmly secured and supported in accordance with industry standards as referred to in Section 4.1 above.
- 4.6.5 Identification of Facilities in Conduit/Manholes and on Poles:
- 4.6.5.1 CLEC's Facilities shall be plainly identified inside each Manhole and/or on each Pole with CLEC's name firmly affixed via permanent tags that meet standards set by AT&T-21STATE for its own Facilities.
- 4.6.6 Manhole pumping and purging required in order to allow CLEC's work operations to proceed shall be performed in compliance with industry standards and all regulations and standards established by the United States Environmental Protection Agency or by any applicable state or local environmental regulators.
- 4.6.7 Any leak detection liquid or device used by CLEC or personnel performing work on CLEC's Facilities within AT&T-21STATE's Conduit System shall be of a type approved by AT&T-21STATE or compliant with industry-recognized standards as referenced in Section 4.1 above.
- 4.6.8 When CLEC, or personnel performing work on CLEC's behalf, are working within or in the vicinity of any part of AT&T-21STATE's Poles or Conduit System which is located within, under, over, or adjacent to streets, highways, alleys or other traveled ROW, CLEC and all personnel performing work on CLEC's behalf shall follow procedures which CLEC deems appropriate for the protection of persons and property. CLEC shall be responsible, at all times, for determining and implementing the specific steps required to protect persons and property at the site. CLEC will provide all traffic control and warning devices required to protect pedestrian and vehicular traffic, workers and property from danger. AT&T-21STATE shall have no responsibility for the safety of personnel performing work on CLEC's behalf, for the safety of bystanders, or for ensuring that all operations conform to current Occupational Safety and Health Administration (OSHA) regulations and all other governmental rules, ordinances or statutes. AT&T-21STATE reserves the right to suspend CLEC's activities on, in or in the vicinity of AT&T-21STATE's Poles or Conduit System if, in AT&T-

21STATE's reasonable judgment, any hazardous condition arises due to the activity (including both acts and omissions) of CLEC or any personnel performing work on CLEC's behalf, which suspension shall cease when the condition has been rectified.

- 4.6.9 Smoking or the use of any open flame is prohibited in AT&T-21STATE's Manholes, in any other portion of AT&T-21STATE's Conduit System, or within ten (10) feet of any open Manhole entrance; provided that this provision will not prohibit the use of spark producing tools, including, but not limited to, electric drills and fusion splicers.
- 4.6.10 Artificial lighting, when required, will be provided by CLEC. Only explosion-proof lighting fixtures shall be used.
- 4.6.11 CLEC will abide by any laws, regulations or ordinances regarding the use of spark-producing tools, equipment or devices in AT&T-21STATE's Manholes, in any other portions of AT&T-21STATE's Conduit System, or within ten (10) feet of any open Manhole opening. This includes, but is not limited to, such tools as electric drills and hammers, meggers, breakdown sets, induction sets, and the like.

#### 4.7 Opening of Manholes:

- 4.7.1 The following requirements apply to the opening of AT&T-21STATE's Manholes and the authority of AT&T-21STATE personnel present when work on CLEC's behalf is being performed within or in the vicinity of AT&T-21STATE's Conduit System.
  - 4.7.1.1 AT&T-21STATE's Manholes shall be opened only as permitted by AT&T-21STATE's authorized employees or agents following notification by CLEC, which permission shall not be unreasonably denied or delayed.
  - 4.7.1.2 CLEC shall notify AT&T-21STATE at least five (5) Business Days in advance of any routine work operation requiring entry into any of AT&T-21STATE's Manholes.
  - 4.7.1.3 CLEC shall be responsible for obtaining any necessary authorization from appropriate authorities to open Manholes for Conduit work operations therein.
  - 4.7.1.4 AT&T-21STATE may monitor, at CLEC's expense, the activities of CLEC or CLEC's authorized contractor or agent, as may involve AT&T-21STATE's Manholes or Conduit System and the placement of CLEC's Facilities in AT&T-21STATE's Manholes.
  - 4.7.1.5 AT&T-21STATE's authorized employee or agent shall not direct or control the conduct of CLEC's work at the work site. The presence of AT&T-21STATE's authorized employee or agent at the work site shall not relieve CLEC, or personnel performing work on CLEC's behalf, of their responsibility to conduct all work operations within AT&T-21STATE's Conduit System in a safe and workmanlike manner.
  - 4.7.1.6 Although AT&T-21STATE's authorized employee or agent shall not direct or control the conduct of CLEC's work at the work site, AT&T-21STATE's employee or agent shall have the authority to suspend CLEC's work operations within AT&T-21STATE's Conduit System if, in the reasonable discretion of such AT&T-21STATE employee or agent, it appears that any hazardous conditions arise or any unsafe practices are being followed by CLEC or personnel performing work on CLEC's behalf.

#### 4.8 OSHA Compliance-Notice to AT&T-21STATE of Unsafe Conditions:

- 4.8.1 CLEC agrees that:
  - 4.8.1.1 Its Facilities shall be constructed, placed, maintained, repaired, and removed in accordance with OSHA's rules and regulations promulgated thereunder.
  - 4.8.1.2 All persons acting on CLEC's behalf, including but not limited to CLEC's employees, agents, contractors, and subcontractors shall, when working on or within AT&T-21STATE's Poles or Conduit System, comply with OSHA and all rules and regulations thereunder.

- 4.8.1.3 CLEC shall establish appropriate procedures and controls to assure compliance with all requirements of this Section.
- 4.8.1.4 CLEC (and any Person Acting on CLEC's Behalf) may report unsafe conditions on, in or in the vicinity of AT&T-21STATE's Poles or Conduit System to AT&T-21STATE.
- 4.9 CLEC acknowledges that some of AT&T-21STATE's Conduit was fabricated from asbestos-containing materials. Such Conduit is generally marked with a designation of "C Fiber Cement Conduit", "Transite", or "Johns-Manville". Until proven otherwise, CLEC will presume that all Conduits not fabricated of plastic, tile, or wood are asbestos-containing and will handle pursuant to all applicable regulations relating to worker safety and protection of the environment.
- 4.10 Compliance with Environmental Laws and Regulations: AT&T-21STATE makes no representations to CLEC or personnel performing work on CLEC's behalf that AT&T-21STATE's Conduit System or any specific portions thereof will be free from environmental contaminants at any particular time. CLEC agrees to establish appropriate procedures and controls to assure compliance with all applicable environmental laws and regulations including, but not limited to:
- 4.10.1 CLEC's Facilities shall be constructed, placed, maintained, repaired, and removed in accordance with all applicable federal, state, and local environmental statutes, ordinances, rules, regulations, and other laws, including but not limited to the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et. seq.), the Toxic Substance Control Act (15 U.S.C. §§ 2601-2629), the Clean Water Act (33 U.S.C. §§ 1251 et. seq.), and the Safe Drinking Water Act (42 U.S.C. §§ 300f 300j).
- 4.10.2 All persons acting on CLEC's behalf, including but not limited to CLEC's employees, agents, contractors, and subcontractors, shall, when working on, within or in the vicinity of AT&T-21STATE's Poles or Conduit System, comply with all applicable federal, state, and local environmental laws, including but not limited to all environmental statutes, ordinances, rules, and regulations.
- 4.10.3 Neither CLEC nor personnel performing work on CLEC's behalf shall discharge water or any other substance from any AT&T-21STATE Manhole or other Conduit Facility onto public or private property, including any storm water drainage system, without first testing such water or substance for contaminants in accordance with industry standards and practices and determining that such discharge would not violate any environmental law, create any environmental risk or hazard, or damage the property of any person. No such waste material shall be deposited on AT&T-21STATE premises for storage or disposal.
- 4.11 Compliance with Other Governmental Requirements:
- 4.11.1 CLEC agrees that its Facilities attached to AT&T-21STATE's Structure shall be constructed, placed, maintained, and removed in accordance with the ordinances, rules, and regulations of any governing body having jurisdiction of the subject matter. CLEC shall comply with all statutes, ordinances, rules, regulations and other laws requiring the marking and lighting of aerial wires, cables and other structures to ensure that such wires, cables and structures are not a hazard to aeronautical navigation. CLEC shall establish appropriate procedures and controls to assure such compliance by all persons acting on CLEC's behalf, including but not limited to, CLEC's employees, agents, contractors, and subcontractors.
- 4.12 Differences in Standards or Specifications:
- 4.12.1 To the extent that there may be differences in any applicable standards or specifications referred to in Section 4.1 above, the most stringent standard or specification shall apply.
- 4.13 CLEC Solely Responsible for the Condition of Its Facilities:
- 4.13.1 CLEC shall be responsible at all times for the condition of its Facilities and its compliance with the requirements, specifications, rules, regulations, ordinances, and laws specified above. AT&T-21STATE may, however, conduct such inspections and audits of its Poles and Conduit System as AT&T-21STATE determines reasonable or necessary. Such inspection and audits shall be conducted as outlined in Section 13 of this Appendix.
- 4.14 Observed safety hazards or imminent Facility failure conditions of another party shall be reported to the affected

party where such party can be readily identified.

## 5.0 Additional CLEC Responsibilities

### 5.1 Third Party Property Owners

5.1.1 Licenses granted under this Appendix authorize CLEC to place Facilities in, or attach Facilities to, Poles, Conduits and Ducts owned or controlled by AT&T-21STATE, but do not affect the rights of landowners to control terms and conditions of access to their property.

5.1.1.1 CLEC agrees that neither CLEC, nor any persons acting on CLEC's behalf, including but not limited to CLEC's employees, agents, contractors, and subcontractors, shall engage in any conduct which damages public or private property in the vicinity of AT&T-21STATE's Poles or Conduit System, interferes in any way with the use or enjoyment of public or private property, except as expressly permitted by the owner of such property, or creates a hazard or nuisance on such property (including, but not limited to, a hazard or nuisance resulting from any abandonment or failure to remove CLEC's Facilities or any construction debris from the property, failure to erect warning signs or barricades as may be necessary to give notice to others of unsafe conditions on the premises while work performed on CLEC's behalf is in progress, or failure to restore the property to a safe condition after such work has been completed).

### 5.2 Lawful Purposes:

5.2.1 All Facilities placed by CLEC in AT&T-21STATE's Conduit and Ducts or on AT&T-21STATE's Poles must serve a lawful purpose and the uses made of CLEC's Facilities must comply with all applicable federal, state, and local laws and with all federal, state, and local regulatory rules, regulations, and requirements. In this regard, CLEC shall not utilize any Facilities occupying or attached to AT&T-21STATE's Conduits, Ducts or Poles for the purpose of providing any services which it is not authorized by law to provide or for the purpose of enabling any other person or entity to provide any such services.

## 6.0 Facilities and Licenses

### 6.1 Licenses Required:

6.1.1 Before placing any Facilities in AT&T-21STATE's Conduits or Ducts or attaching any Facilities to AT&T-21STATE's Poles, CLEC must first apply for and receive a written License from AT&T-21STATE.

### 6.2 Provision of Records and Information to CLEC:

6.2.1 AT&T-21STATE will, upon request and at the expense of the CLEC, provide CLEC access, in AT&T-21STATE engineering offices for viewing only, to copies of redacted maps, records and additional information relating to the location, capacity and utilization of AT&T-21STATE's Structure. Upon request, AT&T-21STATE will meet with the CLEC to clarify matters relating to maps, records or additional information. The Costs, which are to be paid by CLEC, associated with viewing copies of AT&T-21STATE records are on an individual case basis. The total Costs are associated with map preparation, viewing and assistance and will be on a time, including all applicable overheads, and material basis. Upon request, AT&T-21STATE may provide to CLEC an estimate of charges associated with viewing the records. Prior to viewing the records, CLEC shall pay the estimated charges. If such records review is not in conjunction with a specific Application, subsequent to CLEC viewing records, AT&T-21STATE shall true up the estimate, as compared to actual Costs, and issue either a refund or an additional invoice to CLEC.

6.2.2 Maps, records and information are and remain the proprietary property of AT&T-21STATE, are provided for the CLEC's review solely for enabling the CLEC to obtain access to AT&T-21STATE's Structure, and may not be resold, reproduced or disseminated by the CLEC.

6.2.3 AT&T-21STATE may provide for viewing only, if available, information currently on AT&T-21STATE's maps and/or records regarding:

6.2.3.1 the location of Structure and street addresses for Manholes and Poles as shown on AT&T-21STATE's records;

- 6.2.3.2 the footage between Manholes or lateral Ducts' lengths, as shown on AT&T-21STATE's records;
- 6.2.3.3 the footage between Poles, if shown on AT&T-21STATE's records;
- 6.2.3.4 the total capacity of the Structure; and/or
- 6.2.3.5 the existing utilization of the Structure.
- 6.2.4 No Warranty of Record Information:
  - 6.2.4.1 CLEC acknowledges that records and information provided by AT&T-21STATE pursuant to this Section 6.2 above may not reflect actual field conditions and that physical inspection is necessary to verify presence and condition of outside plant Facilities and ROW. In providing such records and information for review, AT&T-21STATE assumes no liability to CLEC or any third party for errors/omissions contained therein.
- 6.3 Structure Access Request Form ("Application"): To apply for a License under this Appendix, CLEC shall submit to AT&T-21STATE the appropriate AT&T-21STATE Application and either a route map specifically indicating CLEC desired route or engineered drawings. CLEC shall provide sufficient information to locate the proposed Structure and identify/describe the physical characteristics (size, dimensions, and weight) of its Facilities to be attached to AT&T-21STATE's Poles or placed in AT&T-21STATE's Conduit System, so that AT&T-21STATE can perform the Make-Ready Survey. CLEC shall promptly withdraw or amend its request if, at any time prior to the forty-fifth (45<sup>th</sup>) day, it has determined that it no longer seeks access to specific AT&T-21STATE Structure, provided that CLEC shall still be responsible for any Costs attributable to the request.
- 6.4 Cooperation in the Application Process: The orderly processing of Applications submitted by CLEC and other parties seeking access to AT&T-21STATE's Structure requires good faith cooperation and coordination between AT&T-21STATE's personnel and personnel acting on behalf of CLEC and other parties seeking access. The Parties therefore agree to the following procedures which shall remain in effect during the term of this Appendix unless earlier modified by mutual agreement of the Parties.
  - 6.4.1 Before submitting a formal written Application for access to AT&T-21STATE's Structure, CLEC shall make a good faith determination that it actually plans to attach Facilities to or place Facilities within the Poles, Ducts, Conduits, or ROW specified in the Application. Applications shall not be submitted for the purpose of holding or reserving space which CLEC does not plan to use or for the purpose of precluding AT&T-21STATE or any other provider of telecommunications services from using such Structure.
  - 6.4.2 No more than twenty (20) Manholes shall be the subject of any single License Application.
  - 6.4.3 Each Application shall designate an employee as CLEC's single point of contact for any and all purposes of that Application under this Section, including, but not limited to, processing Licenses and providing records and information. CLEC may at any time designate a new point of contact by giving written notice of such change while the Application is open.
  - 6.4.4 All Applications, including those submitted by third parties, will be processed on a first-come, first-served basis.
  - 6.4.5 When CLEC has multiple Applications on file with AT&T-21STATE, CLEC may designate, if desired, its priority of completion of Surveys and Make-Ready Work with respect to all such Applications.
- 6.5 Make-Ready Survey ("Survey"). A Survey must be completed by AT&T-21STATE within forty-five (45) calendar days of receipt of a complete Application from the CLEC, subject to the requirements and policies in each state. In the case of large requests, as defined in Section 6.10.2, AT&T-21STATE shall respond within sixty (60) calendar days of receipt of a complete Application. An inaccurate or incomplete Application will stop the Survey clock until the information is corrected or completed by CLEC and resubmitted to AT&T-21STATE.
  - 6.5.1 AT&T-21STATE will provide CLEC an estimate of the Costs to perform the Survey upon receipt of an Application. After receipt of a complete Application and CLEC's payment of the estimated Survey Costs, AT&T-21STATE will schedule the Survey. If CLEC gives its prior written consent in writing, the determination of Duct availability may include the rodding of Ducts at CLEC's expense.

- 6.5.2 The primary purposes of the Survey will be to enable AT&T-21STATE to:
- 6.5.2.1 Determine whether and where Attachment is feasible based on capacity, safety, reliability, and generally applicable engineering purposes;
  - 6.5.2.2 confirm or determine the modifications, capacity expansion (*i.e.*, taller or stronger Pole), and Make-Ready Work, if any, necessary to accommodate CLEC's Attachment of Facilities to AT&T-21STATE Structure;
  - 6.5.2.3 plan and engineer the Facilities modification, capacity expansion (*i.e.*, taller or stronger Pole), and Make-Ready Work, if any, required to prepare AT&T-21STATE's Structure and associated Facilities for CLEC's proposed Attachments;
  - 6.5.2.4 if applicable, identify the owner of the Pole; and
  - 6.5.2.5 respond to CLEC within the required timeframe with the preceding information.
- 6.6 Assignment of Conduit, Duct and Pole Space: AT&T-21STATE will select, or approve the CLEC's selection of, the space CLEC will occupy on AT&T-21STATE's Poles or in AT&T's Conduit Systems. Maintenance Ducts shall not be considered Available for CLEC's use except as specifically provided elsewhere in this Appendix. Where required by law or franchise agreement, Ducts and attachment space on Poles reserved for municipal use shall not be considered Available for the CLEC's use. All other Ducts, innerducts, space on Poles or space in ROW, which are not Assigned or occupied, shall be deemed Available for AT&T-21STATE, CLEC, and other parties entitled to access under applicable law. AT&T-21STATE shall assign such space as follows, following completion of the Survey:
- 6.6.1 After CLEC's Application for Attachment has been approved by AT&T-21STATE, the Pole, Duct, or Conduit space selected and/or approved by AT&T-21STATE in such Application will be assigned to CLEC for a pre-occupancy period not to exceed twelve (12) months, with the following exception:
    - 6.6.1.1 State of California. The Pole, Duct, or Conduit space selected and/or approved by AT&T-21STATE in such Application will be assigned to CLEC for a pre-occupancy period not to exceed nine (9) months as detailed by the California Public Utility Commission.
  - 6.6.2 AT&T-21STATE may assign space to itself by making appropriate entries in the same records used to log assignments to CLEC and third parties. If AT&T-21STATE assigns Pole, Duct, or Conduit space to itself, such assignment will automatically lapse twelve (12) months (nine (9) months in California) after the date the assignment has been entered into the appropriate AT&T-21STATE record, if AT&T-21STATE has not occupied such assigned space within such twelve (12) or nine (9) month period.
  - 6.6.3 Notwithstanding anything to the contrary, prior to the expiration of the twelve (12) or nine (9) month period, CLEC may submit a request for an extension of time based on a thorough explanation of delays outside the CLEC's control. AT&T-21STATE shall carefully consider the circumstances of any specific request and will not unreasonably withhold or deny an extension. This extension process shall also apply to assignments of space associated with AT&T-21STATE's own Facility deployments.
- 6.7 No Make-Ready Work Required:
- 6.7.1 If AT&T-21STATE determines that no Make-Ready Work is required to accommodate CLEC's proposed Attachment(s), AT&T-21STATE shall approve such Application after the determination has been made that no Make-Ready Work is required. In addition, AT&T-21STATE shall true up the billing, by comparing estimated to actual Costs, associated with an Application and issue either an invoice for the additional Costs or refund for the overpayment. Within fourteen (14) calendar days of receipt of payment, AT&T-21STATE shall issue the License.
- 6.8 Make-Ready Work Required ("Estimate"):
- 6.8.1 If Make-Ready Work is determined to be necessary during the Survey phase, AT&T-21STATE shall provide to CLEC an Estimate of charges for such Make-Ready Work, as it directly relates to AT&T-21STATE-owned Facilities (*i.e.* Pole replacements and subsequent transfer of AT&T-21STATE cable or AT&T-21STATE cable rearrangements), within fourteen (14) calendar days of providing the response required by Section

- 6.5, or in the case where the CLEC selected an Authorized Contractor for the Survey, within fourteen (14) calendar days of receipt by AT&T-21STATE of such Survey result. Furthermore, an invoice for the actual Survey Costs shall be submitted to CLEC for payment.
- 6.8.2 In addition, AT&T-21STATE shall provide a description of Make-Ready Work required of other parties to accommodate CLEC's proposed Attachment(s). CLEC shall be responsible for negotiating with the other parties the cost for such Make-Ready Work and subsequent payment by CLEC, as identified in Section 6.9.4 below.
- 6.8.3 AT&T-21STATE may withdraw an outstanding Estimate of charges to perform Make-Ready Work beginning fourteen (14) calendar days after the Estimate is presented.
- 6.8.4 CLEC may accept a valid Estimate and make payment any time after receipt of an Estimate but before the Estimate is withdrawn. CLEC's acceptance of Estimate shall also constitute CLEC's agreement to pay any additional Cost-based charges as described in Section 6.9.2 for completed Make-Ready Work.
- 6.9 Make-Ready Work. Upon receipt of payment specified in Section 6.8.4, AT&T-21STATE shall notify, immediately and in writing, CLEC and all known parties that may be affected by the Make-Ready required for CLEC's Attachment(s).
- 6.9.1 The notice shall:
- 6.9.1.1 Specify the location and type of Make-Ready to be performed;
- 6.9.1.2 Except for Conduit and Ducts, set a date for completion of Make-Ready no later than sixty (60) calendar days after notification is sent (or one hundred five (105) calendar days in the case of larger orders as specified in Section 6.10), which may later be extended by fifteen (15) calendar days if Make-Ready required by other parties is not complete and AT&T-21STATE elects to exercise its right of control;
- 6.9.1.3 State that any entity with an existing Attachment may modify the Attachment consistent with the specified Make-Ready before the date set for completion;
- 6.9.1.4 Except for Conduit and Ducts, state that AT&T-21STATE may assert its right to fifteen (15) additional calendar days to complete Make-Ready should another party fail to complete such within the prescribed timeframe;
- 6.9.1.5 State that if Make-Ready is not completed by the completion date set by AT&T-21STATE, CLEC may utilize an Authorized Contractor to complete the specified Make-Ready;
- 6.9.1.6 For Conduit and Ducts, set a date for completion of Make-Ready based upon the amount and complexity of work required; and
- 6.9.1.7 State the name, telephone number, and e-mail address of a person to contact for more information about the Make-Ready procedure.
- 6.9.2 Make-Ready Work performed by AT&T-21STATE shall be completed in accordance with the timelines in this Section, as applicable. Upon completion of such Make-Ready Work, the actual Make-Ready Costs shall be trued up through comparison to estimated Make-Ready Costs. The result will include either an additional bill, payable by CLEC, for the amount that the actual Make-Ready Costs exceeded the estimated Make-Ready Costs or a refund, to CLEC, of the amount that the estimated Make-Ready Costs exceeded the actual Make-Ready Costs.
- 6.9.3 Make-Ready Work performed by CLEC, or by an Authorized Contractor selected by CLEC, shall be performed in accordance with AT&T-21STATE's specifications and in accordance with the same standards and practices followed by AT&T-21STATE or AT&T-21STATE's contractors. Neither CLEC nor Authorized Contractors selected by CLEC shall conduct such work in any manner which degrades the integrity of AT&T-21STATE's Structures or interferes with any existing use of AT&T-21STATE's Facilities or the Facilities of any other party. Following completion of the Make-Ready Work by CLEC or the Authorized Contractor selected by CLEC, CLEC shall notify AT&T-21STATE of such completion.

- 6.9.4 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. While AT&T-21STATE shall be responsible for notifying other parties pursuant to this section, CLEC shall make arrangements with other parties regarding reimbursement for any expenses incurred by other parties in transferring or rearranging their respective Facilities to accommodate the Attachment or placement of CLEC's Facilities to or in AT&T-21STATE's Structure, as well as scheduling the rearrangement of those parties' Facilities.
- 6.10 Timelines Applicable to Pole Attachment Requests. The following timelines shall apply:
- 6.10.1 AT&T-21STATE shall apply the timeline described in Sections 6.5, 6.8, and 6.9 for Applications for Pole Attachment up to the lesser of 300 Poles or 0.5 percent of AT&T-21STATE's Poles in a state.
- 6.10.2 AT&T-21STATE may add fifteen (15) calendar days to the Survey period described in Section 6.5 and forty-five (45) calendar days to the Make-Ready period described in Section 6.9 when Applications exceed the limits described in Section 6.10.1 but are smaller than the lesser of 3,000 Poles or five (5) percent of AT&T-21STATE's Poles in a state.
- 6.10.3 AT&T-21STATE shall negotiate in good faith the timing when the Applications for Pole Attachment exceed the lesser of 3000 Poles or five (5) percent of AT&T-21STATE's Poles in a state.
- 6.10.4 AT&T-21STATE may aggregate the number of Poles on multiple Applications from CLEC as a single Application for the purposes of determining the appropriate timeline for the active Applications within a rolling thirty (30) day window.
- 6.10.5 In the state of California only: Make-Ready Work performed by AT&T must be completed within thirty (30) business days of receipt of advanced payment from the Attaching Party, provided that such a timeframe is not inconsistent with applicable legal, safety and reliability requirements. For all requests with more than 500 poles or 5 miles of conduit, the timeline for information requests, as well as Surveys and Make-Ready Work completed by AT&T, shall be negotiated by the Parties in order to establish a mutually satisfactory timeframe.
- 6.11 Deviation by AT&T-21STATE. AT&T-21STATE may deviate from the time limits specified in this Section 6 as described below.
- 6.11.1 AT&T-21STATE shall not be required to offer an Estimate before the Parties have executed an agreement specifying the rates, terms, and conditions of Attachment.
- 6.11.2 During performance of Make-Ready Work, for good and sufficient cause that renders it infeasible to complete such work within the prescribed timeframe, AT&T-21STATE may deviate. If so, AT&T-21STATE shall immediately notify, in writing, CLEC and other affected entities with existing Attachments on the affected Poles, and shall include the reason for and date and duration of the deviation. AT&T-21STATE shall deviate from the time limits specified in this Section 6 for a period no longer than necessary and shall resume Make-Ready performance without discrimination when it returns to routine operations.
- 6.12 Deviation by CLEC. Allowable deviations by CLEC with respect to this Section 6:
- 6.12.1 If AT&T-21STATE fails to respond as specified in Section 6.5, CLEC may, as specified in the same section, hire an Authorized Contractor to complete the Survey.
- 6.12.2 When Make-Ready is not complete by the date specified by Section 6.9.1.2, With exceptions outlined in Section 16.12.2.1 below CLEC may hire an Authorized Contractor to complete such Make-Ready, except as stated below:
- 6.12.2.1 Any Make-Ready Work involving the rearrangement or transfer of AT&T-21STATE Facilities in AT&T-21STATE wire center areas where AT&T-21STATE employs members of the International Brotherhood of Electrical Workers System Council T-9 ("IBEW T-9") or Communication Workers of America District 3 ("CWA-3") shall be excluded from the Authorized Contractor Make-Ready provision with respect to any Attachments on Poles owned by AT&T-21STATE. IBEW T-9 workers are employed by AT&T-21STATE in portions of Illinois and northern Indiana. CWA-3 workers are employed by AT&T-9STATE in all AT&T-9STATE wire centers.

6.12.3 When Make-Ready is not complete by the date specified by Section 6.9.1.2 and is excluded from the Authorized Contractor process based upon Section 6.12.2, AT&T-21STATE and CLEC will work together to reach an equitable solution for both Parties.

6.12.4 If CLEC hires an Authorized Contractor for purposes of completing Make-Ready Work or Surveys, it shall choose from among AT&T-21STATE's list of Authorized Contractors. In those instances, CLEC shall provide AT&T-21STATE with a reasonable opportunity for an AT&T-21STATE representative to accompany and consult with the Authorized Contractor and CLEC.

#### 6.13 Replacement of Facilities:

6.13.1 If CLEC desires to place additional cables in Conduits or Ducts already occupied, or to replace existing Facilities with new Facilities substantially different from those described in Licenses in effect, CLEC must apply for and acquire a new License specifically describing the physical size, weight and jacket material of the cable to be placed in AT&T-21STATE's Conduits and Ducts or the physical size, weight, and jacket type of cables and the size and weight of apparatus enclosures and other Facilities to be attached to AT&T-21STATE Poles.

### 7.0 Issuance of Licenses

#### 7.1 Obligation to Issue Licenses:

7.1.1 AT&T-21STATE shall issue a License to CLEC pursuant to this Section. AT&T-21STATE and CLEC acknowledge that each Application for a License shall be evaluated on an individual basis. Nothing contained in this section shall be construed as abridging any independent Attachment rights which CLEC may have under the provisions of any applicable federal or state laws or regulations governing access to AT&T-21STATE's Poles, Conduits and Ducts, to the extent the same are not inconsistent with the Act. CLEC acknowledges the following regarding multiple Applications:

7.1.2 That multiple parties including AT&T-21STATE may seek to make Attachments to AT&T-21STATE's Structure at or about the same time.

7.1.3 That the Make-Ready Work required to prepare AT&T-21STATE's Facilities to accommodate multiple applicants may differ from the Make-Ready Work required to accommodate a single applicant.

7.1.4 That issues relating to the proper apportionment of Costs arise in multi-applicant situations that do not arise in single applicant situations.

7.1.5 That cooperation and negotiations between all applicants and AT&T-21STATE may be necessary to resolve disputes involving multiple Applications for permission to place Facilities in/on the same Pole, Conduit, Duct, or ROW.

#### 7.2 License:

7.2.1 When the requirements of either Section 6.7 or 6.9, as applicable, have been satisfied, AT&T-21STATE will execute and return a signed authorization to CLEC, as appropriate, authorizing CLEC to attach or place the specified Facilities on AT&T-21STATE's Poles or in AT&T-21STATE's Conduit or Ducts.

7.2.2 Each License issued under this Appendix shall authorize CLEC to attach to AT&T-21STATE's Poles or place or maintain in AT&T-21STATE's Conduit or Ducts only those Facilities specifically described in the License, and no others.

7.2.3 Except as expressly stated to the contrary in individual Licenses issued hereunder, each License issued pursuant to this Appendix shall incorporate all terms and conditions of this Appendix, whether or not such terms or conditions are expressly incorporated by reference on the face of the License itself.

### 8.0 Construction of CLEC's Facilities

#### 8.1 Construction Schedule:

8.1.1 Promptly after the issuance of a License permitting CLEC to attach Facilities to AT&T-21STATE's Poles or place Facilities in AT&T-21STATE's Conduit or Ducts, CLEC shall provide AT&T-21STATE with a

construction schedule and shall thereafter keep AT&T-21STATE informed of significant anticipated changes in the construction schedule.

8.1.2 Construction schedules required by this Section shall include, at a minimum, the following information:

8.1.2.1 The name, title, business address, and business telephone number of the manager responsible for construction of the Facilities;

8.1.2.2 The names of each contractor and subcontractor who will be involved in the construction activities;

8.1.2.3 The estimated dates when construction will begin and end; and

8.1.2.4 The approximate dates when CLEC or persons acting on CLEC's behalf will be performing construction work in connection with the placement of CLEC's Facilities in AT&T-21STATE's Conduit or Ducts.

8.2 Additional Pre-construction Procedures for Facilities Placed in Conduit System:

8.2.1 In addition to the requirements referenced and stated in Section 4.0 above, the following procedures shall apply before CLEC places Facilities in AT&T-21STATE's Conduit System:

8.2.1.1 AT&T-21STATE shall designate the particular Duct or Ducts or innerducts (if Available) to be occupied by CLEC's Facilities, the location and manner in which CLEC's Facilities will enter and exit AT&T-21STATE's Conduit System, and the specific location and manner of installation of any associated equipment which is permitted by AT&T-21STATE to occupy the Conduit System. CLEC may not occupy a Duct other than the specified Duct without the express written consent of AT&T-21STATE. AT&T-21STATE shall provide to CLEC space in Manholes for racking and storage of up to fifty (50) feet of cable, provided space is available.

8.3 Responsibility for Constructing or Placing Facilities:

8.3.1 AT&T-21STATE shall have no obligation to construct any Facilities for CLEC or to attach CLEC's Facilities to, or place CLEC's Facilities in, AT&T-21STATE's Poles or Conduit System, except as may be necessary to facilitate the interconnection of unbundled network elements or except to the extent expressly provided in this Section, any License issued hereunder, or by the Telecommunications Act or any other applicable law.

8.4 CLEC Responsible for Constructing, Attaching and Placing Facilities:

8.4.1 Except where otherwise mutually agreed by CLEC and AT&T-21STATE, CLEC shall be responsible for constructing its own Facilities and attaching those Facilities to, or placing them in, AT&T-21STATE's Poles, Conduit or Ducts at CLEC's sole Cost and expense. CLEC shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the construction and placement of CLEC's Facilities and for directing the activities of all persons acting on CLEC's behalf while they are physically present on AT&T-21STATE's Pole, in any part of AT&T-21STATE's Conduit System or in the vicinity of AT&T-21STATE's Poles or Conduit System.

8.5 Compliance with Applicable Standards, Health and Safety Requirements, and Other Legal Requirements:

8.5.1 CLEC shall construct its Facilities in accordance with the provisions of this section and all Licenses issued hereunder.

8.5.2 CLEC shall construct, attach and place its Facilities in compliance with all Requirements and Specifications set forth above in this Appendix.

8.5.3 CLEC shall satisfy all Legal Requirements set forth in this Appendix.

8.5.4 CLEC shall not permit any person acting on CLEC's behalf to perform any work on AT&T-21STATE's Poles nor within AT&T-21STATE's Conduit System without first verifying, to the extent practicable, on each date when such work is to be performed, that the condition of the Pole or Conduit System is suitable for the work to be performed. If CLEC or any person working on CLEC's behalf determines that the condition of the Pole or Conduit System is not suitable for the work to be performed, CLEC shall notify AT&T-21STATE of the

condition of the Pole or Conduit System in question and shall not proceed with construction activities until CLEC is satisfied that the work can be safely performed.

8.6 Construction Notification:

8.6.1 If requested to do so, CLEC shall provide AT&T-21STATE with information to reasonably assure AT&T-21STATE that construction has been performed in accordance with all applicable standards and requirements.

8.7 Points for Attachment:

8.7.1 AT&T-21STATE shall specify the point of attachment at each Pole to be occupied by CLEC's Facilities, and such CLEC's Facilities shall be attached above AT&T-21STATE's Facilities. When the Facilities of more than one applicant are involved, AT&T-21STATE will attempt, to the extent practicable, to designate the same relative position on each Pole for each applicant's Facilities.

8.8 CLEC power supply units shall be located in accordance with the specifications and standards referenced in Section 4.0 above.

8.9 AT&T-21STATE will evaluate and approve in its sole discretion, on an individual case basis, the location of certain pole-mounted equipment, such as cabinets, amplifiers and wireless equipment including, but not limited to, antennas. The approval and location of such Attachments are dependent upon factors including, but not limited to, climbing space requirements and the types of existing Attachments.

8.10 CLEC shall hold AT&T-21STATE harmless and indemnify AT&T-21STATE for damages to itself or third parties in accordance with the General Terms and Conditions of this Agreement, which result from the operation or maintenance of CLEC's Attachments, including, but not limited to, power supplies, antennas, cabinets and wireless equipment.

8.11 Completion of CLEC Construction:

8.11.1 For each CLEC Attachment within AT&T-21STATE Structure, CLEC will provide to AT&T-21STATE (within twenty (20) calendar days of CLEC construction-complete date) a complete set of actual placement drawings for posting to AT&T-21STATE records.

**9.0 Use and Routine Maintenance of CLEC's Facilities**

9.1 Use of CLEC's Facilities:

9.1.1 Each License granted under this Section authorizes CLEC to have access to CLEC's Facilities on or in AT&T-21STATE's Poles, Conduits and Ducts as needed for the purpose of serving CLEC's End Users.

9.2 Routine Maintenance of CLEC's Facilities:

9.2.1 Each License granted under this section authorizes CLEC to engage in routine maintenance of CLEC's Facilities located on or in AT&T-21STATE's Poles, Conduits, Ducts and ROW pursuant to such License. CLEC shall give reasonable written notice to the affected public authority or private landowner as appropriate before commencing any construction, installation, or maintenance of its Attachments or making any material alterations thereto. CLEC shall give reasonable notification to AT&T-21STATE before performing any work, whether or not of a routine nature, in AT&T-21STATE's Conduit System.

9.3 CLEC Responsible for Maintenance of CLEC's Facilities:

9.3.1 CLEC shall maintain its Facilities in accordance with the provisions of this Section (including but not limited to all requirements set forth in this Appendix) and all Licenses issued hereunder. CLEC shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the maintenance of CLEC's Facilities and for directing the activities of all persons acting on CLEC's behalf while they are physically present on AT&T-21STATE's Poles, within AT&T-21STATE's Conduit System or in the immediate vicinity of such Poles or Conduit System.

9.4 AT&T-21STATE Is Not Responsible for Maintaining CLEC's Facilities:

9.4.1 AT&T-21STATE shall have no obligation to maintain any Facilities which CLEC has attached or connected to, or placed in, AT&T-21STATE's Poles, Conduits, Ducts or any portion of AT&T-21STATE's Conduit System, except to the extent expressly provided by the provisions of this Section or any License issued hereunder, or by the Act or other applicable laws, rules or regulations.

9.5 Information Concerning the Maintenance of CLEC's Facilities:

9.5.1 Promptly after the issuance of a License permitting CLEC to attach Facilities to, or place Facilities in AT&T-21STATE's Poles, Conduits or Ducts, CLEC shall provide AT&T-21STATE with the name, title, business address, and business telephone number of the manager responsible for routine maintenance of CLEC's Facilities, and shall thereafter notify AT&T-21STATE of changes to such information. The manager responsible for routine maintenance of CLEC's Facilities shall, on AT&T-21STATE's request, identify any contractor, subcontractor, or other person performing maintenance activities on CLEC's behalf at a specified site and shall, on AT&T-21STATE's request, provide such additional documentation relating to the maintenance of CLEC's Facilities as reasonably necessary to demonstrate that CLEC and all persons acting on CLEC's behalf are complying with the requirements of this Appendix and Licenses issued hereunder.

9.6 Identification of Personnel Authorized to Have Access to CLEC's Facilities:

9.6.1 All personnel authorized to have access to CLEC's Facilities shall, while working on AT&T-21STATE's Poles, in its Conduit System or Ducts or in the vicinity of such Poles, Ducts or Conduit Systems, carry with them suitable identification and shall, upon the request of any AT&T-21STATE employee, produce such identification.

**10.0 Modification and Replacement of CLEC's Facilities**

10.1 Notification of Planned Modification or Replacement of Facilities:

10.1.1 CLEC shall, when practicable, notify AT&T-21STATE in writing at least sixty (60) calendar days before adding to, relocating, replacing or otherwise modifying its Facilities attached to an AT&T-21STATE Pole or located in any AT&T-21STATE Conduit or Duct. Notification shall contain sufficient information to enable AT&T-21STATE to determine whether the proposed addition, relocation, replacement, or modification is permitted under CLEC's present License or requires a new or amended License.

10.2 New or Amended License Required:

10.2.1 A new or amended License will be required if the proposed addition, relocation, replacement, or modification:

10.2.1.1 Requires that CLEC use additional space on AT&T-21STATE's Poles or in its Conduits or Ducts (including, but not limited to, any additional Ducts, innerducts, or substantial space in any Handhole or Manhole) on either a temporary or permanent basis; or

10.2.1.2 Results in the size or location of CLEC's Facilities on AT&T-21STATE's Poles or in its Conduit or Ducts being appreciably different from those described and authorized in CLEC's present License (e.g., different Duct or size increase causing a need to re-calculate storm loadings, guying, or Pole class).

**11.0 Rearrangement of Facilities at the Request of Another**

11.1 Rearrangement of CLEC's Facilities at AT&T-21STATE's Request:

11.1.1 CLEC acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained therein or connected thereto and that such changes may be necessitated by AT&T-21STATE's business needs. CLEC agrees that in such cases CLEC will, upon AT&T-21STATE's request, and at AT&T-21STATE's expense, but at no Cost to CLEC, participate with AT&T-21STATE in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement.

11.1.2 CLEC acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained

- therein or connected thereto and that such changes may be necessitated by a third party's request for access to AT&T-21STATE's Structure. CLEC agrees that in such instances CLEC will, upon AT&T-21STATE's request, and at such third party's expense, but at no Cost to CLEC, participate with AT&T-21STATE and third party in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement.
- 11.1.3 CLEC acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained therein or connected thereto as a result of an order by a municipality or other governmental authority. CLEC shall, upon AT&T-21STATE's request, participate with AT&T-21STATE (and other CLECs) in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement and pay its proportionate share of any costs of such relocation, reconstruction, or modification that are not reimbursed by such municipality or governmental authority.
- 11.1.4 CLEC shall make all rearrangements or transfers of its Facilities within such period of time as is jointly deemed reasonable by the Parties based on the amount of rearrangements necessary, a desire to minimize chances for service interruption or Facility-based service denial to a CLEC End User and any requirements of the Act or federal or state laws or regulations with regard to any such rearrangement or transfer.
- 11.1.5 If CLEC fails to make the required rearrangements or transfers within the time prescribed or within such extended periods of time as may be granted by AT&T-21STATE in writing, AT&T-21STATE may perform such rearrangements or transfers with written notification to CLEC, and CLEC shall reimburse AT&T-21STATE for actual Costs and expenses incurred by AT&T-21STATE in connection with the rearrangement or transfers of CLEC's Facilities; provided, however, that nothing contained in this Appendix or any License issued hereunder shall be construed as requiring CLEC to bear any expenses which, under the Act or other applicable federal or state laws or regulations, are to be allocated to persons or entities other than CLEC; and provided further, however, that CLEC shall have no responsibility for rearrangement costs and expenses relating to rearrangements performed for the purpose of meeting AT&T-21STATE's business needs.

## 12.0 Emergency Repairs and Pole Replacements

### 12.1 Responsibility for Emergency Repairs; Access to Maintenance Duct:

- 12.1.1 In general, each Party shall be responsible for making emergency repairs to its own Facilities and for formulating appropriate plans and practices enabling such Party to make such repairs.
- 12.1.2 Nothing contained in this Appendix shall be construed as requiring either Party to perform any repair or service restoration work of any kind with respect to the other Party's Facilities or the Facilities of Attaching Parties.
- 12.1.3 Maintenance Ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any entity with Facilities in the Conduit section in which the Maintenance Duct is located; provided, however, that an entity using the Maintenance Duct for emergency repair activities will notify AT&T-21STATE within twelve (12) hours of the current Business Day (or first Business Day following a non-business day) that such entity is entering the AT&T-21STATE Conduit system and using the Maintenance Duct for emergency restoral purposes. The notice will include a description of the emergency and non-emergency services involved and an estimate of the completion time. Maintenance Ducts will be used to restore the highest priority services, first. Existing spare Ducts may be used for restoration purposes providing the spare Ducts are restored after restoration work is complete. Any spare Ducts not returned will be included to be assigned to the user of the Duct and a License issued.
- 12.1.4 CLEC shall either vacate the Maintenance Duct within thirty (30) calendar days or, with AT&T-21STATE's consent, rearrange its Facilities to ensure that at least one full-sized replacement Maintenance Duct (or, if the designated Maintenance Duct was an innerduct, a suitable replacement innerduct) is available for use by all occupants in the Conduit section within thirty (30) calendar days after CLEC occupies the Maintenance Ducts. If CLEC fails to vacate the Maintenance Duct as described above, AT&T-21STATE

may install a Maintenance Conduit at CLEC's expense.

## 12.2 Designation of Emergency Repair Coordinators and Other Information:

12.2.1 For each AT&T-21STATE construction district, CLEC shall provide AT&T-21STATE with the emergency contact number of CLEC's designated point of contact for coordinating the handling of emergency repairs of CLEC's Facilities and shall thereafter notify AT&T-21STATE of changes to such information.

## 12.3 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations:

12.3.1 When notice and coordination are practicable, AT&T-21STATE, CLEC, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the principles described in Sections 12.3.2 through 12.3.4.

12.3.2 Emergency service restoration work requirements shall take precedence over other work operations.

12.3.3 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security, hospital lines) shall be given the highest priority and temporary occupancy of the Maintenance Duct (and, if necessary, other unoccupied Ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.

12.3.4 AT&T-21STATE shall determine the order of precedence of work operations and assignment of Duct space in the Maintenance Duct (and other unoccupied Ducts) only if the affected parties present are unable to reach consensus provided, however, that these decisions shall be made by AT&T-21STATE on a nondiscriminatory basis in accordance with the principles set forth in this section.

## 12.4 Emergency Pole Replacements

12.4.1 When emergency Pole replacements are required, AT&T-21STATE shall promptly make a good faith effort to contact CLEC to notify CLEC of the emergency and to determine whether CLEC will respond to the emergency in a timely manner.

12.4.2 If notified by AT&T-21STATE that an emergency exists which will require the replacement of a Pole, CLEC shall transfer its Facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an AT&T-21STATE replacement Pole, the transfer shall be in accordance with AT&T-21STATE's placement instructions.

12.4.3 If CLEC is unable to respond to the emergency situation immediately, CLEC shall so advise AT&T-21STATE and thereby authorize AT&T-21STATE (or any Attaching Party sharing the Pole with AT&T-21STATE) to perform such emergency-necessitated transfers (and associated Facilities rearrangements) on CLEC's behalf at the CLEC's expense.

## 12.5 Expenses Associated with Emergency Repairs:

12.5.1 Each Party shall bear all reasonable expenses arising out of or in connection with emergency repairs of its own Facilities and transfers or rearrangements of such Facilities associated with emergency Pole replacements made in accordance with the provisions of this section.

12.5.2 Each Party shall be solely responsible for paying all persons and entities that provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such Party's Facilities.

12.5.3 CLEC shall reimburse AT&T-21STATE for the Costs incurred by AT&T-21STATE for work performed by AT&T-21STATE on CLEC's behalf in accordance with the provisions of this section.

### **13.0 Inspection by AT&T-21STATE of CLEC's Facilities**

- 13.1 AT&T-21STATE may monitor, at CLEC's expense, the entrance and exit of CLEC's Facilities into/from AT&T-21STATE's Manholes and the placement of CLEC's Facilities in AT&T-21STATE's Manholes.
- 13.2 Post-Construction Inspections:
- 13.2.1 AT&T-21STATE will, at CLEC's expense, conduct a post-construction inspection of CLEC's attachment of Facilities to AT&T-21STATE's Structure for the purpose of determining the conformance of the Attachments to the License. AT&T-21STATE will endeavor to notify CLEC of proposed date and time prior to the post-construction inspection. The CLEC may accompany AT&T-21STATE on the post-construction inspection. Findings of nonconformance shall be communicated to CLEC by AT&T-21STATE as soon as practical.
- 13.3 Routine or Spot Inspections:
- 13.3.1 AT&T-21STATE shall have the right, but not the obligation, to make Routine or Spot inspections of all Facilities attached to AT&T-21STATE's Structure to help ensure compliance with the terms and conditions of the respective agreements.
- 13.3.2 AT&T-21STATE will give CLEC advance written notification of Routine Inspections involving CLEC Facilities, and CLEC shall have the right to have a representative attend such inspections at CLEC's sole expense. However, Spot Inspections by their very nature are performed without such advance notice.
- 13.3.3 If CLEC's Facilities are in compliance with this Appendix, there will be no charges incurred by CLEC for the Routine or Spot Inspection. If CLEC's Facilities are not in compliance with this Appendix, AT&T-21STATE may charge CLEC for the inspection. The amount paid by CLEC shall be the amount applicable to the particular item of Structure with the noncompliant Attachment.
- 13.4 If, pursuant to a post-construction, Routine or Spot Inspection, AT&T-21STATE determines that CLEC's Facilities or any part thereof have not been placed or maintained or are not being used in accordance with the requirements of this Agreement, AT&T-21STATE may send notice to CLEC specifying the alleged noncompliance. CLEC agrees to acknowledge receipt of the notice as soon as practicable. If CLEC does not dispute AT&T-21STATE's assertion that such Facilities are not in compliance, CLEC agrees to provide AT&T-21STATE with a schedule for bringing such Facilities into compliance, to bring the Facilities into compliance within a reasonable time, and to notify AT&T-21STATE when the Facilities have been brought into compliance.
- 13.5 CLEC shall bring its noncompliant Facilities into compliance within thirty (30) calendar days after being notified of such noncompliance. If any Make-Ready or modification work to AT&T-21STATE's Structure is required to bring CLEC's Facilities into compliance, CLEC shall provide notice to AT&T-21STATE and the Make-Ready Work or modification will be treated in the same fashion as Make-Ready Work or modifications for a new request for attachment. If the violation creates a hazardous condition, Facilities must be brought into compliance upon notification.
- 13.6 Disputes over Alleged Noncompliance:
- 13.6.1 If CLEC disputes AT&T-21STATE's assertion that CLEC's Facilities are not in compliance, CLEC shall notify AT&T-21STATE in writing of the basis for CLEC's objection to the assertion that its Facilities are noncompliant.
- 13.7 Neither the act of inspection by AT&T-21STATE of CLEC's Facilities nor any failure to inspect such Facilities shall operate to impose on AT&T-21STATE any liability of any kind whatsoever or to relieve CLEC of any responsibility, obligations or liability under this Section or otherwise existing.
- 13.8 Failure to Bring Facilities into Compliance:
- 13.8.1 If CLEC has not brought the Facilities into compliance within a reasonable time or provided AT&T-21STATE with proof sufficient to persuade AT&T-21STATE that AT&T-21STATE erred in asserting that the Facilities were not in compliance, AT&T-21STATE may, at its option and CLEC's expense, take such non-service affecting steps as may be required to bring CLEC's Facilities into compliance, including but not limited to correcting any conditions which do not meet the specifications of this Appendix.

### 13.9 Correction of Conditions by AT&T-21STATE:

- 13.9.1 If AT&T-21STATE elects to bring CLEC's Facilities into compliance, the provisions of this Section shall apply.
- 13.9.2 AT&T-21STATE will, whenever practicable, notify CLEC in writing before performing such work. The written notice shall describe the nature of the work to be performed and AT&T-21STATE's schedule for performing the work.
- 13.9.3 If CLEC's Facilities have become detached or partially detached from supporting racks or wall supports located within an AT&T-21STATE Manhole, AT&T-21STATE may, at CLEC's expense, reattach them but shall not be obligated to do so. If AT&T-21STATE does not reattach CLEC's Facilities, AT&T-21STATE shall endeavor to arrange with CLEC for the reattachment of any Facilities affected.
- 13.9.4 AT&T-21STATE shall, as soon as practicable after performing the work, advise CLEC in writing of the work performed or action taken. Upon receiving such notice, CLEC shall inspect the Facilities and take such steps as CLEC may deem necessary to ensure that the Facilities meet CLEC's performance requirements.
- 13.9.5 CLEC to Bear Expenses:
- 13.9.5.1 CLEC shall bear all expenses arising out of or in connection with any work performed to bring CLEC's Facilities into compliance with this Section; provided, however that nothing contained in this Section or any License issued hereunder shall be construed as requiring CLEC to bear any expenses which, under applicable federal or state laws or regulations, must be borne by persons or entities other than CLEC.
- 13.9.6 AT&T-21STATE shall have the right, upon thirty (30) calendar days' notice to CLEC, to determine the total number and exact location of CLEC's Attachments on AT&T-21STATE Poles and/or Conduit through a physical Survey conducted by AT&T-21STATE or its agents. CLEC shall have the right to participate in the Survey. The costs incurred by AT&T-21STATE to conduct the physical inventory shall be shared proportionately with AT&T-21STATE by CLEC. If the Attachments of third parties are included in the inventory, all parties, including CLEC, shall share proportionately in the costs with AT&T-21STATE.

### 14.0 Unauthorized Attachment or Utilization of AT&T-21STATE's Facilities

#### 14.1 Notice to CLEC:

- 14.1.1 If any of CLEC's Facilities for which no License is presently in effect are found attached to AT&T-21STATE's Poles or within any part of AT&T-21STATE's Conduit System, AT&T-21STATE, without prejudice to other rights or remedies available to AT&T-21STATE under this Appendix, and without prejudice to any rights or remedies which may exist independent of this Appendix, shall send a written notice to CLEC advising CLEC that no License is presently in effect with respect to the Facilities. Within thirty (30) calendar days after receiving a notice, CLEC shall acknowledge receipt of the notice by submitting to AT&T-21STATE, in writing, an Application for a new or amended License with respect to such Facilities.

#### 14.2 Approval of Request and Retroactive Charges:

- 14.2.1 If AT&T-21STATE approves CLEC's Application for a new or amended License, CLEC shall be liable to AT&T-21STATE for all fees and charges associated with the unauthorized Attachment(s). The issuance of a new or amended License as provided by this Section shall not operate retroactively or constitute a waiver by AT&T-21STATE of any of its rights or privileges under this Appendix or otherwise.
- 14.2.2 Attachment fees and charges shall continue to accrue until the unauthorized Facilities are removed from AT&T-21STATE's Poles, Conduit System or ROW or until a new or amended License is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if CLEC and its predecessors had continuously complied with all applicable AT&T-21STATE licensing requirements. Such fees and charges shall be due and payable thirty (30) calendar days after the date of the bill or invoice stating such fees and charges. In addition, CLEC shall be liable for an unauthorized Attachment fee as specified in Section 16 of this Appendix. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, CLEC shall rearrange or remove its unauthorized Facilities at AT&T-21STATE's

request to comply with applicable placement standards, shall remove its Facilities from any space occupied by or assigned to AT&T-21STATE or another party, and shall pay AT&T-21STATE for all Costs incurred by AT&T-21STATE in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of CLEC's unauthorized Facilities.

14.3 Removal of Unauthorized Attachments:

14.3.1 If CLEC does not obtain a new or amended License with respect to unauthorized Facilities within the specified period of time, AT&T-21STATE shall by written notice advise CLEC to remove its unauthorized Facilities not less than sixty (60) calendar days from the date of notice and CLEC shall remove the Facilities within the time specified in the notice. If the Facilities have not been removed within the time specified in the notice, AT&T-21STATE may, at AT&T-21STATE's option, remove CLEC's Facilities at CLEC's expense.

14.4 No Ratification of Unpermitted Attachments or Unauthorized Use of AT&T-21STATE's Facilities:

14.4.1 No act or failure to act by AT&T-21STATE with regard to any unauthorized Attachment or unauthorized use of AT&T-21STATE's Structure shall be deemed to constitute a ratification by AT&T-21STATE of the unauthorized Attachment or use, nor shall the payment by CLEC of fees and charges for unauthorized Attachments exonerate CLEC from liability for any trespass or other illegal or wrongful conduct in connection with the unauthorized placement or use of such Facilities.

**15.0 Removal of CLEC's Facilities**

15.1 When CLEC no longer intends to occupy space on an AT&T-21STATE Pole or in an AT&T-21STATE Duct or Conduit, CLEC will provide written notification to AT&T-21STATE that it wishes to terminate the License with respect to such space and will remove its Facilities from the space described in the notice. Upon removal of CLEC's Facilities, the License shall terminate and the space shall be available for reassignment.

15.1.1 CLEC shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its Facilities from AT&T-21STATE's Structure, including compliance with industry standard requirements.

15.1.2 Except as otherwise agreed upon in writing by the Parties, CLEC must, after removing its Facilities, plug all previously occupied Ducts at the entrances to AT&T-21STATE's Manholes.

15.1.3 CLEC shall be solely responsible for the removal of its own Facilities from AT&T-21STATE's Structure.

15.2 At AT&T-21STATE's request, CLEC shall remove from AT&T-21STATE's Structure any of CLEC's Facilities which are no longer in active use. Upon request, CLEC will provide proof satisfactory to AT&T-21STATE that CLEC's Facility is in active service. CLEC shall not abandon any of its Facilities by leaving such Facilities on or in AT&T-21STATE's Structure.

15.3 Removal Following Termination of License:

15.3.1 CLEC shall remove its Facilities from AT&T-21STATE's Poles, Ducts, Conduits, or ROW within thirty (30) calendar days after termination of the License.

15.4 Removal Following Replacement of Facilities:

15.4.1 CLEC shall remove Facilities no longer in service from AT&T-21STATE's Structures within thirty (30) calendar days after the date CLEC replaces existing Facilities on a Pole or in a Conduit with substitute Facilities on the same Pole or in the same Conduit.

15.5 Removal to Avoid Forfeiture:

15.5.1 If the presence of CLEC's Facilities on or in AT&T-21STATE's Structure would cause a forfeiture of the rights of AT&T-21STATE to occupy the property where such Structure is located, AT&T-21STATE will promptly notify CLEC in writing and CLEC shall not, without due cause and justification, refuse to remove its Facilities within such time as may be required to prevent such forfeiture. AT&T-21STATE will give CLEC not less than thirty (30) calendar days from the date of notice to remove CLEC's Facilities unless prior removal is required to prevent the forfeiture of AT&T-21STATE's rights. At CLEC's request, the Parties will engage in good faith negotiations with each other, with other parties, and with third party property owners

and cooperatively take such other steps as may be necessary to avoid the removal of CLEC's Facilities.

- 15.6 Removal of Facilities by AT&T-21STATE; Notice of Intent to Remove:
- 15.6.1 If CLEC fails to remove its Facilities from AT&T-21STATE's Structure in accordance with the provisions of Sections 15.1-15.5 of this Appendix, AT&T-21STATE may remove such Facilities and store them at CLEC's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to CLEC for any injury, loss, or damage resulting from such actions. AT&T-21STATE shall give CLEC not less than thirty (30) calendar days' prior written notice of its intent to remove CLEC's Facilities pursuant to this Section.
- 15.7 Removal of Facilities by AT&T-21STATE:
- 15.7.1 If AT&T-21STATE removes any of CLEC's Facilities pursuant to this Section, CLEC shall reimburse AT&T-21STATE for AT&T-21STATE's Costs in connection with the removal, storage, delivery, or other disposition of the removed Facilities.
- 16.0 Rates, Fees, Charges and Billing**
- 16.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders:
- 16.1.1 All rates, charges and fees outlined in this Appendix will be set forth in the Pricing Schedule, as modified from time to time pursuant to Section 16.3 and made available on AT&T's CLEC Online web site.
- 16.2 CLEC agrees that in the event CLEC fails to pay an amount due and payable within the period of time set forth for payment interest shall accrue on the unpaid balance thereof at the rate of 1 ½% per month for each month from the expiration of such period until payment is received by AT&T-21STATE or the maximum interest rate permitted by law, whichever is the lesser amount.
- 16.3 Changes to Rates, Charges and Fees:
- 16.3.1 At its option and subject to applicable federal and state laws, rules, regulations and orders, AT&T-21STATE shall have the right to change the rates, charges and fees outlined in this Appendix. AT&T-21STATE will provide the CLEC sixty (60) calendar days written Notice, advising the CLEC of the specific changes being made and the effective date of the change.
- 16.4 For all states that have not established their own unauthorized Attachment fees, the following shall apply:
- 16.4.1 Upon AT&T-21STATE's discovery of unauthorized Attachments in a joint audit or CLEC's self-report of unauthorized Attachments and written notice of said unauthorized Attachments (including location), CLEC shall pay AT&T-21STATE the back-rent, including interest, that would have been due for these Attachments, plus an additional amount of five (5) times the annual rent per Attachment for each unauthorized Attachment.
- 16.4.2 If CLEC declines to participate in an inspection, by providing the locations of its existing Attachments, and AT&T-21STATE discovers an unauthorized Attachment by CLEC, AT&T-21STATE will also be entitled to invoice CLEC a sanction of one hundred dollars (\$100) for each such unauthorized Attachment that is discovered.
- 16.4.3 Amounts for unauthorized Attachments will be invoiced by AT&T-21STATE and CLEC shall pay the invoice in full within thirty (30) days of the invoice date.
- 16.4.4 CLEC can avoid the one hundred dollar (\$100) sanction by submitting a plan of correction within sixty (60) calendar days of receiving written notice or invoice from AT&T-21STATE and correcting any safety violations within one hundred eighty (180) calendar days.
- 16.5 In the state of California, each individual unauthorized Attachment shall be assessed a five hundred dollar (\$500) penalty in addition to all other costs which are part of Attaching Party's responsibility.

**17.0 Indemnification**

- 17.1 In addition to the Indemnification clauses in the General Terms & Conditions to this Agreement, the following shall

apply to this Appendix:

- 17.1.1 AT&T-21STATE shall exercise precaution to avoid damaging the Facilities of CLEC and shall make an immediate report to CLEC of the occurrence of any such damage caused by its employees, agents or contractors. AT&T-21STATE agrees to reimburse CLEC for all reasonable Costs incurred by CLEC for the physical repair of such Facilities damaged by the negligence of AT&T-21STATE, its employees, agents, contractors, subcontractors or invitees. However, AT&T-21STATE shall not be liable to CLEC for any interruption of CLEC's service or for interference with the operation of CLEC's Facilities, or for any special, indirect, or consequential damages arising in any manner, including AT&T-21STATE's negligence, out of the use of Pole(s) or Conduit Systems or AT&T-21STATE's actions or omissions in regard thereto and CLEC shall indemnify and save harmless AT&T-21STATE from and against any and all claims, demands, causes of action, costs and reasonable attorneys' fees with respect to such special, indirect or consequential damages.
- 17.1.2 CLEC shall exercise precaution to avoid damaging the Facilities of AT&T-21STATE and of others attached to Pole(s) or occupying a Conduit System and shall make an immediate report to the Owner of the occurrence of any such damage caused by CLEC's employees, agents or contractors. CLEC agrees to reimburse AT&T-21STATE for all reasonable Costs incurred by AT&T-21STATE for the physical repair of such Facilities damaged by the negligence of CLEC.
- 17.1.3 CLEC shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees and agents, and other parties attached to AT&T-21STATE's Structure from and against any and all claims, demands, causes of action, damages and Costs, including reasonable attorneys' fees through appeals incurred by AT&T-21STATE, and other parties attached to AT&T-21STATE's Structure, as a result of acts by the CLEC, its employees, agents or contractors, including but not limited to the Costs of relocating Pole(s) or Conduit Systems resulting from a loss of ROW or property owner consents and/or the Costs of defending those rights and/or consents.
- 17.1.4 The CLEC shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees and agents, and other parties attached to AT&T-21STATE's Structure from and against any and all claims, demands, causes of actions and Costs, including reasonable attorneys' fees, through appeals for damages to property and injury or death to persons, including but not limited to payments under any Worker's Compensation Law or under any plan for employee's disability and death benefits, caused by, arising from, incident to, connected with or growing out of the erection, rearrangement, maintenance, presence, use or removal of CLEC's Facilities, or by their proximity to the Facilities of all parties attached to a Pole or placed in a Conduit System, or by any act or omission of the CLEC's employees, agents or contractors in the vicinity of AT&T-21STATE's Pole(s) or Conduit System.
- 17.1.5 The CLEC shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees, and agents, and other parties attached to AT&T-21STATE's Structure from any and all claims, demands, causes of action and Costs, including attorneys' fees through appeals, which arise directly or indirectly from the construction and operation of CLEC's Facilities, including but not limited to taxes, special charges by others, claims and demands for damages or loss from infringement of copyrights, for libel and slander, for unauthorized use of television or radio broadcast programs and other program material, and from and against all claims, demands and Costs, including attorneys' fees through appeals for infringement of patents with respect to the construction, maintenance, use and operation of CLEC's Facilities in combination with Pole(s), Conduit Systems or otherwise.
- 17.1.6 CLEC shall promptly advise AT&T-21STATE of all claims relating to damage of property or injury to or death of persons, arising or alleged to have arisen in any manner, directly or indirectly, by the erection, maintenance, repair, replacement, presence, use or removal of the CLEC's Facilities. CLEC shall promptly notify AT&T-21STATE in writing of any suits or causes of action which may involve AT&T-21STATE and, upon the request of AT&T-21STATE copies of all relevant accident reports and statements made to CLEC's insurer by CLEC or others shall be furnished promptly to AT&T-21STATE.

## 18.0 Radio Frequency Requirements for Any Wireless Attachments

- 18.1 CLEC is solely responsible for the radio frequency ("RF") emissions emitted by its equipment and will comply with all Federal Communications Commission (FCC) regulations regarding RF exposure limitations. To the extent required by FCC rules and any applicable state rules, CLEC shall install appropriate signage to notify workers and the public of the potential for exposure to RF emissions.
- 18.2 CLEC is under a duty and obligation in connection with the operation of its own Facilities, now existing or in the future, to protect against RF interference to the RF signals of any other party legally utilizing AT&T Structure, as applicable, as may emanate or arise. CLEC shall endeavor to correct any interference to the RF signals of any other party legally utilizing AT&T Structure, created by its RF emissions. In the event AT&T-21STATE's operations interfere with CLEC's RF signals, AT&T-21STATE and CLEC shall cooperate to stop such interference.
- 18.3 CLEC shall install a power cut-off switch on every AT&T-21STATE Pole to which it has attached Facilities that can emit RF energy. AT&T-21STATE's authorized field personnel will contact the CLEC's designated point of contact not less than 24 hours in advance to inform the CLEC of the need for a temporary power shut-down. In the event of an unplanned power outage or other unplanned cut-off of power, or an emergency, the power-down will be with such advance notice as may be practicable. In all instances, once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform CLEC as soon as possible that power has been restored.
- 18.4 Emergency After Hours Contact Information. CLEC shall provide emergency after hours contact information to AT&T-21STATE. CLEC shall be required to include signage which indicates CLEC's emergency contact information and NESC-required information.
- 18.5 Installation and Upkeep of Sign(s). CLEC is responsible for the installation and upkeep of its sign(s) on each Pole. The signage will be placed so that it is clearly visible to workers who climb the Pole or ascend by mechanical means. The sign(s) will contain the information approved for such signs by the FCC or applicable state agency, or in the absence of such standards, the information commonly used in the industry for such sign(s).

# **ATTACHMENT 04 - LOCAL NUMBER PORTABILITY AND NUMBERING**

## TABLE OF CONTENTS

<u>Section</u>	<u>Page Number</u>
1.0 Introduction .....	3
2.0 Definitions .....	3
3.0 General Provisions .....	4
4.0 Product Specific Service Delivery Provisions .....	5
5.0 Other .....	7

## 1.0 Introduction

- 1.1 Nothing in this Attachment shall be construed to limit or otherwise adversely impact in any manner either Party's right to employ or to request and be assigned any North American Numbering Plan (NANP) number resources from the numbering administrator including, but not limited to, central office (NXX) codes pursuant to the Central Office Code (NXX) Assignment Guidelines (most current version specified on Telcordia's website) or thousand-blocks (NXX-X) pursuant to the Thousands-Blocking Pooling Administration Guidelines (most current version specified on Telcordia's website), or to establish, by tariff or otherwise, Exchanges and Rate Centers corresponding to such NXX codes. Each Party is responsible for administering the NXX codes it is assigned.
- 1.2 Prior to providing local service in an AT&T-21STATE local Exchange Area, CLEC shall obtain a separate numbering resource (NXX or NXX-X) for each AT&T-21STATE Rate Center to ensure compliance with the industry-approved Central Office Code (NXX) Assignment Guidelines (most current version) or other industry approved numbering guidelines and the FCC's Second Report & Order in CC Docket 95-116, released August 18, 1997 (Local Number Portability). This will enable the Parties to identify the jurisdictional nature of traffic for Intercompany compensation until such time as both Parties have implemented billing and routing capabilities to determine traffic jurisdiction on a basis other than an NXX or an NXX-X.
- 1.3 Parties shall assign telephone numbers only to those End Users that are physically in the Rate Center to which the NXX is assigned, subject to exceptions as noted in the numbering resource guidelines.
- 1.4 Each Party is responsible to program and update its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose fees or charges on the other Party for such required programming and updating activities.
- 1.5 Each Party is responsible to input required data into the Routing Data Base Systems (RDBS) and into the Telcordia Business Integrated Routing and Rating Database System (BIRRDs) or other appropriate system(s) necessary to update the Local Exchange Routing Guide (LERG), unless negotiated otherwise.
- 1.6 Neither Party is responsible for notifying the other Party's End Users of any changes in dialing arrangements, including those due to NPA relief.
- 1.7 NXX Migration:
  - 1.7.1 Where either Party has activated an entire NXX for a single End User, or activated more than half of an NXX for a single End User with the remaining numbers in that NXX either reserved for future use or otherwise unused, and such End User chooses to receive service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party provided that the requested rate center is the same rate center that physically serves the End User in a non-Foreign Exchange arrangement. Such transfer will require development of a transition process to minimize impact on the Network and on the End User(s)' service and will be subject to appropriate industry lead times (currently forty-five (45) calendar days) for movements of NXXs from one switch to another. The Parties shall not charge each other as a means for the other to recover costs associated with NXX Migration.

## 2.0 Definitions

- 2.1 "Foreign Exchange" or "FX", as used in this Attachment, refers to number assignments and moves outside the Rate Centers with which a telephone number is ordinarily associated, and is different from the term "FX" in Attachment 02 - Network Interconnection, which refers to number assignment and moves outside of a mandatory local calling area.
- 2.2 "Service Management System" or "SMS", as used in the Attachment, is a database or computer system not part of the public switched network that, (1) interconnects to a Service Control Point (SCP), and sends to that SCP the information and call processing instructions needed for a network switch to process and complete a telephone call; and (2) provides telecommunications carriers with the capability of entering and storing data regarding the processing and completing of a telephone call.

- 2.3 "Service Provider Number Portability (SPNP) Data Base Query" means the End User terminating calls from the "N-1" Network to numbers in the Telephone Company's network with NXX codes that have been designated as number portable and the NXX has at least one number ported. AT&T-21STATE may be responsible for making a query to a database containing information necessary to route calls to number portable NXX codes.
- 2.4 "Intermediate Numbers" means the numbers provided for use by resellers, numbers in dealer numbering pools, numbers preprogrammed into End User premises equipment offered for retail sale, and numbers assigned to messaging service providers.
- 2.5 "Safety Valve Request" means a mechanism for carriers to request numbering resources apart from the general waiver process.

### 3.0 General Provisions

#### 3.1 Requirements for LNP:

- 3.1.1 The Parties shall provide to each other, on a reciprocal basis, number portability in accordance with requirements of the Act and FCC Rules and Orders.
- 3.1.2 The Parties shall follow industry guidelines, including but not limited to North American Numbering Council (NANC) Inter Service Provider Operations Flows, located on the Number Portability Administration Center's (NPAC) website, regarding LNP for all aspects of number portability, including the time frames for providing porting services to one another.
- 3.1.3 Either Party shall be permitted to block default-routed calls to protect the public switched telephone network from overload, congestion, or failure propagation.
- 3.1.4 When a ported telephone number becomes vacant (e.g., the telephone number is no longer in service with the original End User), the ported telephone number will be released back to the carrier owning the switch (after aging if any) in which the telephone number's NXX-X is native.
- 3.1.5 Each Party shall be responsible for the End User's other Telecommunications related services and features, (e.g., Directory Listings, E911, Line Information Database (LIDB), Operator Services), once that Party has ported the End User's telephone number to the Party's switch.
- 3.1.6 When purchasing the SPNP Database Query, CLEC will access AT&T-21STATE facilities via an SS7 link.
- 3.1.7 Where triggers are not set, the Parties shall coordinate the porting of the number between service providers so as to minimize service interruptions to the End User.

#### 3.2 Limitations of Service for LNP:

- 3.2.1 Telephone numbers can be ported only within the Toll Message Rate Centers (TMRCs) as approved by the Commissions. "Porting within Rate Centers" refers to a limitation of changing service providers while the physical location of the End User remains within the wireline footprint of the Rate Center. If the End User changes his, her or its physical location from one Rate Center to another, the End User may not retain his, her or its telephone number (which is associated with the End User's previous Rate Center) as a basic network (non-FX) offering. An End User may retain his, her or its telephone number when moving from one Rate Center to another by the use of a tariff FX or Remote Call Forwarding offering from the new service provider.
- 3.2.2 Telephone numbers of the following types shall not be ported:
- 3.2.2.1 AT&T-21STATE Official Communications Services (OCS) NXXs;
- 3.2.2.2 555, 950, 956, 976 and 900 numbers;
- 3.2.2.3 N11 numbers (e.g., 411 and 911);

3.2.2.4 Toll-free service numbers (e.g., 800, 888, 877 and 866); and

3.2.2.5 Disconnected or unassigned numbers.

3.2.3 Telephone numbers with NXXs dedicated to choke/High Volume Call-In (HVCI) networks are not portable via LRN. Choke numbers will be ported as described in Section 4.4.7.2 below of this Attachment.

### 3.3 Numbering:

3.3.1 If fulfilling CLEC's request for intermediate numbers results in AT&T-21STATE having to submit a request for additional telephone numbers to a national numbering administrator (either NANPA CO Code Administration, NeuStar Pooling Administration or their successors), AT&T-21STATE will submit the required numbering request to the national numbering administrator to satisfy CLEC's request for intermediate numbers. AT&T-21STATE will also pursue all appropriate steps (including submitting a Safety Valve Request (petition) to the Commission if the numbering request is denied by the national administrator) to satisfy CLEC's request for intermediate numbers. In these cases, AT&T-21STATE is not obligated to fulfill the request by CLEC for intermediate numbers unless, and until, AT&T-21STATE's request for additional numbering resources is granted.

3.3.2 CLEC agrees to supply supporting information for any numbering request and/or Safety Valve Request that AT&T-21STATE files pursuant to Section 3.3.1 above.

3.3.3 Each Party is responsible for providing to the other, valid test numbers; one number terminating to a voice announcement identifying the Company and one number terminating to a milliwatt tone providing answer supervision and allowing simultaneous connection from multiple test lines. Both numbers should remain in service indefinitely for regressive testing purposes.

### 3.4 Local Number Portability (LNP) and Numbering:

#### 3.4.1 Porting of Resale Numbers:

3.4.1.1 As the network provider, AT&T-21STATE will port telephone numbers, both in and out, on behalf of CLEC at the request of an End User. CLEC will provide to AT&T-21STATE such information as required to issue Local Service Requests (LSR) to port numbers in.

### 3.5 Non-discriminatory Access to Telephone Numbers:

3.5.1 Where AT&T-21STATE provides Resale services, AT&T-21STATE will provide telephone numbers as defined by applicable FCC rules and regulations on a first come first served basis. CLEC acknowledges that such access to telephone numbers shall be in accordance with the appropriate FCC rules, regulations and industry guidelines.

## 4.0 Product Specific Service Delivery Provisions

### 4.1 Service Description for LNP:

4.1.1 The LRN software of the switch in which the assigned numbering resource (e.g., NXX or NXX-X) is native determines if the called party is in a portable NXX. When a calling Party places a telephone call, if the called party is in a portable NXX, a query will be launched to the LNP database to determine whether or not the called number has been ported.

4.1.2 When the called number has been ported, an LRN will be returned to the switch that launched the query. Following the query, the LRN of the called number will appear in the Called Party Number (CdPN) field of the SS7 message and the called number will appear in the Generic Address Parameter (GAP) field.

4.1.3 When the query does not return an LRN, the call will be completed based upon the dialed digits.

4.1.4 When the LNP database is queried, the Forward Call Identifier (FCI) field's entry will be changed from 0 to 1 by the switch triggering the query, regardless of whether the called number has been ported or not.

4.1.5 Where technically feasible, the Parties shall populate the Jurisdiction Information Parameter (JIP) field with the first six (6) digits (NPA NXX format) of the appropriate LRN of the originating switch.

#### 4.2 "N-1" Query Methodology for LNP:

4.2.1 The Parties shall follow the "N-1" query methodology in performing queries of the LNP database, as provided below. As provided by Industry standards, the "N-1" carrier is the carrier in the call routing sequence immediately prior to the terminating carrier's End Office, or the terminating carrier's End Office tandem. The "N-1" carrier shall perform the LNP database query. If the "N-1" carrier fails to perform the LNP database query, the terminating carrier shall perform a query of the LNP database, and shall be permitted to charge the "N-1" carrier for the query. Refer to the LNP Working Group Best Practice for additional information, located in the Local Number Portability Administration section of the NPAC website.

4.2.2 For interLATA or intraLATA toll calls carried by another carrier, the originating carrier will pass the call to the appropriate toll carrier, which will perform a query of the LNP database and efficiently route the call to the appropriate terminating local carrier, either directly or through an access tandem office. Where one carrier is the originating local service provider (LSP) and the other carrier is the designated toll carrier, the designated toll carrier is the "N-1" carrier. The originating LSP will not query toll calls delivered to the toll carrier or charge the toll carrier for such queries.

4.2.3 For local calls to ported numbers, the originating carrier is the "N-1" carrier. The originating carrier will query the LNP database and route the call to the appropriate terminating carrier.

4.2.4 For local calls to any NXX from which at least one number has been ported, the Party that owns the originating switch shall query an LNP database as soon as the call reaches the first LNP-capable switch in the call path. The Party that owns the originating switch shall query on a local call to an NXX in which at least one number has been ported via LNP prior to any attempts to route the call to any other switch. Prior to the first number in an NXX being ported via LNP, AT&T-21STATE may query all calls directed to that NXX, provided that AT&T-21STATE's queries shall not adversely affect the quality of service to CLEC's End Users as compared to the service AT&T-21STATE provides its own End Users, and that queries to NXXs where the first number has not been ported are not charged to the "N-1" Carrier.

4.2.5 A Party shall be charged for an LNP query by the other Party only if the Party to be charged is the N-1 carrier and was obligated to perform the LRN query but failed to do so, pursuant to conditions set forth in CFR 47, Section 52.33. The only exception will be if the FCC rules (Docket No. 95-116) that the terminating carrier may charge the "N-1" carrier for queries initiated before the first number is ported in an NXX.

4.2.6 Rates, terms and conditions for LNP queries performed by AT&T-21STATE are set forth in the applicable FCC Tariff.

#### 4.3 Ordering for LNP:

4.3.1 Porting of numbers from NXXs marked as portable in the LERG will be initiated via LSRs based on Ordering and Billing Forum (OBF) guidelines and in accordance with the provisions of Attachment 07 - Operations Support System (OSS).

4.3.2 For the purposes of this Attachment, the Parties may use a project management approach for the implementation of LSRs for large quantities of ported numbers or for complex porting processes. With regard to such managed projects, the Parties may negotiate implementation details such as, but not limited to: Due Date, Cutover Intervals and Times, Coordination of Technical Resources, and Completion Notice.

#### 4.4 Provisioning for LNP:

4.4.1 The Parties will remove a ported number from the End Office from which the number is being ported as close to the requested time as reasonably practicable, except under the conditions listed in Section 4.4.3 below and Section 4.4.4 below, respectively. The Parties recognize that it is in the best interest of the End User for this removal to be completed in the most expedient manner possible.

- 4.4.2 Unconditional Ten-Digit Trigger. If the Unconditional Ten-Digit Trigger is set, calls originating from the old switch will query the database and route to the new switch without the number being disconnected. The ported number must be removed at the same time that the Unconditional Ten-Digit Trigger is removed.
- 4.4.2.1 The Parties agree to provide Unconditional Ten-Digit Trigger wherever technically feasible.
- 4.4.3 Project Orders. For project requests, the Parties will negotiate time frames for the disconnection of the numbers in the old switch.
- 4.4.4 Coordinated Orders. Orders worked on a coordinated basis will be coordinated by the Parties until the numbers are disconnected in the old switch.
- 4.4.5 The Parties shall cooperate in the process of porting numbers from one carrier to another so as to limit service outage for the affected End User. The Parties will use their best efforts to update their respective Local Service Management Systems (LSMS) from the NPAC SMS data within fifteen (15) minutes after receipt of a download from the NPAC SMS (the current NANC goal for such updating).
- 4.4.6 At the time a telephone number is ported via LNP, the Party from which the number is being ported shall insure that the LIDB entry for that number is de-provisioned.
- 4.4.7 Mass Calling:
- 4.4.7.1 The HVCI Network is designed to ease the network congestion that occurs when large numbers of incoming telephone calls are solicited by an End User, such as a radio station or a ticket agency.
- 4.4.7.1.1 HVCI is also known as:
- 4.4.7.1.1.1 Choke Network
- 4.4.7.1.1.2 Mass Calling
- 4.4.7.1.1.3 Public Response Choke Network
- 4.4.7.2 Using a non-LRN process, AT&T-21STATE will offer the ability to port telephone numbers with mass calling NXX codes via the use of pseudo codes or route index numbers.
- 4.4.8 Operator Services, LIDB and Directory Assistance:
- 4.4.8.1 The Provisions of this Agreement pertaining to Operator Services, LIDB and Directory Assistance shall also apply when LNP is in place.
- 4.4.9 Porting of Direct Inward Dialing (DID) Block Numbers:
- 4.4.9.1 DID block numbers shall be portable in the same manner as other local telephone numbers, subject to the modifications and/or limitations provided herein.
- 4.4.9.2 The Parties shall offer LNP to End Users for any portion of an existing DID block without being required to port the entire block of DID numbers.
- 4.4.9.3 The Parties shall permit End Users which port a portion of DID numbers to retain DID service on the remaining portion of the DID numbers, provided such is consistent with applicable tariffs.
- 5.0 Other
- 5.1 Pricing for LNP:
- 5.1.1 With the exception of lawful query charges, the Parties shall not charge each other for the porting of telephone numbers as a means for the other to recover the costs associated with LNP.

# ATTACHMENT 05 – 911-E911

## TABLE OF CONTENTS

<u>Section</u>	<u>Page Number</u>
1.0 Introduction .....	3
2.0 Definitions.....	3
3.0 AT&T Responsibilities .....	4
4.0 CLEC Responsibilities .....	4
5.0 Responsibilities of the Parties .....	6
6.0 Methods and Practices .....	7
7.0 Contingency.....	7
8.0 Basis of Compensation.....	7

## 1.0 Introduction

- 1.1 This Attachment sets forth terms and conditions by which AT&T-21STATE will provide CLEC with access to AT&T-21STATE's 911 and E911 Databases and provide Interconnection and Call Routing for purposes of 911 call completion to a Public Safety Answering Point (PSAP) as required by Section 251 of the Act.
- 1.2 The Parties acknowledge and agree that AT&T-21STATE can only provide E911 Service in a territory where an AT&T-21STATE is the E911 network provider, and that only said service configuration will be provided once it is purchased by the E911 Customer and/or PSAP. Access to AT&T-21STATE's E911 Selective Routers and E911 Database Management System will be by mutual agreement between the Parties.
- 1.3 For CLEC's own switches, AT&T-21STATE shall provide access to its E911 Selective Routers as described herein only where the PSAP and/or E911 Customer served by the E911 Selective Routers has approved CLEC to carry E911 Emergency Services calls, which approval is subject to being revoked, conditioned, or modified by the PSAP and/or E911 Customer at any time.

## 2.0 Definitions

- 2.1 "911 System" means the set of network, database and customer premise equipment (CPE) components required to provide 911 service.
- 2.2 "911 Trunk" or "E911 Trunk" means a trunk capable of transmitting Automatic Number Identification (ANI) associated with a call to 911 from CLEC's End Office to the E911 system.
- 2.3 "Automatic Location Identification (ALI)" means the automatic display at the PSAP of the caller's telephone number, the address/location of the telephone and, in some cases, supplementary emergency services information.
- 2.4 "Automatic Number Identification (ANI)" means the telephone number associated with the access line from which a call to 911 originates.
- 2.5 "Company Identifier" or "Company ID" means a three (3) to five (5) character identifier chosen by the Local Exchange Carrier that distinguishes the entity providing dial tone to the End User. The Company Identifier is maintained by NENA in a nationally accessible database.
- 2.6 "Database Management System (DBMS)" means a system of manual procedures and computer programs used to create, store and update the data required to provide Selective Routing (SR) and/or ALI for 911 systems.
- 2.7 "E911 Customer" means a municipality or other state or local government unit, or an authorized agent of one (1) or more municipalities or other state or local government units to whom authority has been lawfully delegated to respond to public emergency telephone calls, at a minimum, for emergency police and fire services through the use of one (1) telephone number, 911.
- 2.8 "E911 Universal Emergency Number Service (E911)" (also referred to as "Expanded 911 Service" or "Enhanced 911 Service") or "E911 Service" means a telephone Exchange communications service whereby a public safety answering point (PSAP) answers telephone calls placed by dialing the number 911. E911 includes the service provided by the lines and equipment associated with the service arrangement for the answering, transferring, and dispatching of public emergency telephone calls dialed to 911. E911 provides completion of a call to 911 via dedicated trunking facilities and includes ANI, ALI, and/or SR.
- 2.9 "Emergency Services" means police, fire, ambulance, rescue, and medical services.
- 2.10 "Emergency Service Number (ESN)" means a three (3) to five (5) digit number representing a unique combination of Emergency Services agencies designated to serve a specific range of addresses within a particular geographical area. The ESN facilitates SR and selective transfer, if required, to the appropriate PSAP and the dispatching of the proper Emergency Services agency (ies).
- 2.11 "National Emergency Number Association (NENA)" is a not-for-profit corporation established in 1982 to further the goal of "One Nation-One Number". NENA is a networking source and promotes research, planning, and training.

NENA strives to educate, set standards and provide certification programs, legislative representation and technical assistance for implementing and managing 911 systems.

- 2.12 "Public Safety Answering Point (PSAP)" means an answering location for 911 calls originating in a given area. The E911 Customer may designate a PSAP as primary or secondary, which refers to the order in which calls are directed for answering. Primary PSAPs answer calls; secondary PSAPs receive calls on a transfer basis. PSAPs are public safety agencies such as police, fire, emergency medical, etc., or a common bureau serving a group of such entities.
- 2.13 "Selective Routing" (SR) means the routing and "E911 Selective Router" (E911 SR) means the equipment used to route a call to 911 to the proper PSAP based upon the number and location of the caller. SR is controlled by an ESN, which is derived from the location of the access line from which the 911 call was placed.

### **3.0 AT&T Responsibilities**

- 3.1 AT&T-21STATE shall provide and maintain such equipment at the E911 SR and the DBMS as is necessary to provide CLEC with nondiscriminatory access to E911 Emergency Service as described in this Attachment.

#### **3.2 Call Routing:**

- 3.2.1 AT&T-21STATE will route 911 calls from the AT&T-21STATE SR to the designated primary PSAP or to designated alternate locations, according to routing criteria specified by the PSAP.
- 3.2.2 AT&T-21STATE will forward the ANI to the calling party number it receives from CLEC and the associated 911 ALI to the PSAP for display. If no ANI is forwarded by CLEC, AT&T-21STATE will forward an Emergency Service Central Office (ESCO) identification code for display at the PSAP. If ANI is forwarded by the CLEC, but no ALI record is found in the E911 DBMS, AT&T-21STATE will report this "No Record Found" condition to the CLEC in accordance with NENA standards.

#### **3.3 Facilities and Trunking:**

- 3.3.1 AT&T-21STATE shall provide and maintain sufficient dedicated E911 Trunks from AT&T-21STATE's E911 SR to the PSAP of the E911 Customer, according to provisions of the appropriate state Commission-approved tariff and documented specifications of the E911 Customer.
- 3.3.2 AT&T-21STATE will provide facilities to interconnect the CLEC to the AT&T-21STATE's E911SR, as specified in Attachment 02 -Network Interconnection of this Agreement or per the requirements set forth via the applicable state tariff. Additionally, CLEC has the option to secure interconnection facilities from another provider or provide such interconnection using their own facilities. If diverse facilities are requested by CLEC, AT&T-21STATE will provide such diversity where technically feasible, at standard applicable tariff rates.

#### **3.4 Database:**

- 3.4.1 Where AT&T-21STATE manages the E911 Database, AT&T-21STATE shall provide CLEC access to the E911 Database to store CLEC's End User "911 Records" (i.e., the name, address, and associated telephone number(s) for each of CLEC's End Users). CLEC or its representative(s) is responsible for electronically providing End User 911 Records and updating this information.
- 3.4.2 Where AT&T-21STATE manages the E911 Database, AT&T-21STATE shall coordinate access to the AT&T-21STATE DBMS for the initial loading and updating of CLEC End User 911 Records.
- 3.4.3 Where AT&T-21STATE manages the E911 Database, AT&T-21STATE's E911 Database shall accept electronically transmitted files that are based upon NENA standards. Manual (i.e., facsimile) entry shall be utilized only in the event that the DBMS is not functioning properly.

### **4.0 CLEC Responsibilities**

- 4.1 Call Routing (for CLEC's own switches):

- 4.1.1 CLEC will transport the appropriate 911 calls from each Point of Interconnection (POI) to the appropriate AT&T-21STATE E911 SR location.
- 4.1.2 CLEC will forward the ANI information of the party calling 911 to the AT&T-21STATE E911 SR.
- 4.2 Facilities and Trunking (for CLEC's own switches):
  - 4.2.1 CLEC shall be financially responsible for the transport facilities to each AT&T-21STATE E911 SR that serves the Exchange Areas in which CLEC is authorized to and will provide Telephone Exchange Service.
  - 4.2.2 CLEC acknowledges that its End Users in a single local calling scope may be served by different E911 SRs and CLEC shall be financially responsible for the transport facilities to route 911 calls from its End Users to the proper E911 SR.
  - 4.2.3 CLEC shall order a minimum of two (2) one-way outgoing E911 Trunk(s) dedicated for originating 911 Emergency Service calls for each default PSAP or default ESN to interconnect to each appropriate AT&T-21STATE E911 SR, where applicable. Where Signaling System 7 (SS7) connectivity is available and required by the applicable E911 Customer, the Parties agree to implement Common Channel Signaling (CCS) trunking rather than Multi-Frequency (MF) trunking.
  - 4.2.4 CLEC is responsible for ordering a separate E911 Trunk group from AT&T-21STATE for each county, default PSAP or other geographic area that the CLEC serves if the E911 Customer for such county or geographic area has a specified varying default routing condition. Where PSAPs do not have the technical capability to receive 10-digit ANI, E911 traffic must be transmitted over a separate trunk group specific to the underlying technology. CLEC will have administrative control for the purpose of issuing ASRs on this trunk group. Where the parties utilize SS7 signaling and the E911 network has the technology available, only one (1) E911 Trunk group shall be established to handle multiple NPAs within the local Exchange Area or LATA. If the E911 network does not have the appropriate technology available, a SS7 trunk group shall be established per NPA in the local Exchange Area or LATA. In addition, 911 traffic originating in one (1) NPA must be transmitted over a separate 911 Trunk group from 911 traffic originating in any other NPA 911.
  - 4.2.5 CLEC shall maintain facility transport capacity sufficient to route 911 traffic over trunks dedicated to 911 Interconnection between the CLEC switch and the AT&T-21STATE E911 SR.
  - 4.2.6 CLEC shall order sufficient trunking to route CLEC's originating 911 calls to the designated AT&T-21STATE E911 SR.
  - 4.2.7 Diverse (i.e., separate) 911 facilities are highly recommended and may be required by the Commission or E911 Customer. If required by the E911 Customer, diverse 911 Trunks shall be ordered in the same fashion as the primary 911 Trunks. CLEC is responsible for initiating trunking and facility orders for diverse routes for 911 Interconnection.
  - 4.2.8 CLEC is responsible for determining the proper quantity of trunks and transport facilities from its switch (es) to interconnect with the AT&T-21STATE E911 SR.
  - 4.2.9 CLEC shall engineer its 911 Trunks to attain a minimum P.01 grade of service as measured using the time consistent average busy season busy hour twenty (20) day averaged loads applied to industry standard Neal-Wilkinson Trunk Group Capacity algorithms (using Medium day-to-day Variation and 1.0 Peakedness factor), or such other minimum grade of service as required by Applicable Law.
  - 4.2.10 CLEC shall monitor its 911 Trunks for the purpose of determining originating network traffic volumes. If CLEC's traffic study indicates that additional 911 Trunks are needed to meet the current level of 911 call volumes, CLEC shall provision additional 911 Trunks for Interconnection with AT&T-21STATE.
  - 4.2.11 CLEC is responsible for the isolation, coordination and restoration of all 911 facility and trunking maintenance problems from CLEC's demarcation (for example, collocation) to the AT&T-21STATE E911 SR(s). CLEC is responsible for advising AT&T-21STATE of the 911 Trunk identification and the fact that the trunks are dedicated for 911 traffic when notifying AT&T-21STATE of a failure or outage. The Parties agree

to work cooperatively and expeditiously to resolve any 911 outage. AT&T-21STATE will refer network trouble to CLEC if no defect is found in AT&T-21STATE's 911 network. The Parties agree that 911 network problem resolution will be managed expeditiously at all times.

4.2.12 CLEC will not turn up live traffic until successful testing of E911 Trunks is completed by both Parties.

4.2.13 Where required, CLEC will comply with Commission directives regarding 911 facility and/or 911 Trunking requirements.

#### 4.3 Database:

4.3.1 Once the 911 Interconnection between CLEC and all appropriate AT&T-21STATE E911 SR(s) has been established and tested, CLEC or its representatives shall be responsible for providing CLEC's End User 911 Records to AT&T-21STATE for inclusion in AT&T-21STATE's DBMS on a timely basis.

4.3.2 CLEC or its agent shall provide initial and ongoing updates of CLEC's End User 911 Records that are Master Street Address Guide (MSAG) valid in electronic format based upon established NENA standards.

4.3.3 CLEC shall adopt use of a Company/NENA ID on all CLEC End User 911 Records in accordance with NENA standards. The Company ID is used to identify the carrier of record in facility configurations.

4.3.4 CLEC is responsible for providing AT&T-21STATE updates to the E911 database; in addition, CLEC is responsible for correcting any errors that may occur during the entry of their data to the AT&T-21STATE 911 DBMS.

### 5.0 Responsibilities of the Parties

5.1 For CLEC's own switch(es), both Parties shall jointly coordinate the provisioning of transport capacity sufficient to route originating E911 calls from CLEC's POI to the designated AT&T-21STATE E911 SR(s).

5.1.1 AT&T-21STATE and CLEC will cooperate to promptly test all trunks and facilities between CLEC's network and the AT&T-21STATE E911 SR(s).

#### 5.2 911 Surcharge Remittance to PSAP:

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

5.2.1.1 AT&T-21STATE is not responsible for collecting and remitting applicable 911 surcharges or fees directly to municipalities or government entities where such surcharges or fees are assessed by said municipality or government entity, and

5.2.1.2 AT&T-21STATE is not responsible for providing the 911 Customer detailed monthly listings of the actual number of access lines, or breakdowns between the types of access lines (e.g., residential, business, payphone, Centrex, PBX, and exempt lines).

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

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

5.2.2.1 AT&T-12STATE shall include Reseller information when providing the 911 Customer with detailed monthly listings of the actual number of access lines, or breakdowns between the types of access lines (e.g., residential, business, payphone, Centrex, PBX, and exempt lines).

5.2.2.2 AT&T SOUTHEAST REGION 9-STATE will provide the 911 Customer a monthly settlement letter which provides the total number of access lines broken down into residence and business line totals only. If state statutes require a break out of Reseller information, the

AT&T SOUTHEAST REGION 9-STATE shall include this information upon request by the 911 Customer.

## **6.0 Methods and Practices**

6.1 With respect to all matters covered by this Attachment, each Party will comply with all of the following to the extent that they apply to access to 911 and E911 Databases: (i) all FCC and applicable Commission rules and regulations, (ii) any requirements imposed by any Governmental Authority other than a Commission, (iii) the terms and conditions of AT&T-21STATE's Commission-ordered tariff(s) and (iv) the principles expressed in the recommended standards published by NENA.

## **7.0 Contingency**

7.1 The terms and conditions of this Attachment represent a negotiated plan for providing access to 911 and E911 Databases, and providing interconnection and call routing for purposes of 911 call completion to a PSAP as required by Section 251 of the Act.

7.2 The Parties agree that the 911 System as provided herein is for the use of the E911 Customer, and recognize the authority of the E911 Customer to establish service specifications and grant final approval (or denial) of service configurations offered by AT&T-21STATE and CLEC.

7.2.1 In AT&T TEXAS only:

7.2.1.1 These specifications shall be documented in Exhibit I, CLEC Serving Area Description and E911 Interconnection Details. CLEC shall complete its portion of Exhibit I and submit it to AT&T TEXAS not later than forty-five (45) Business Days prior to the passing of live traffic. AT&T TEXAS shall complete its portion of Exhibit I and return Exhibit I to CLEC not later than thirty (30) Business Days prior to the passing of live traffic.

7.2.1.2 CLEC must obtain documentation of the approval of the completed Exhibit I from the appropriate E911 Customer(s) that have jurisdiction in the area(s) in which CLEC's End Users are located. CLEC shall provide documentation of all requisite approval(s) to AT&T TEXAS prior to use of CLEC's E911 connection for actual emergency calls.

7.2.1.3 Each Party will designate a representative who has the authority to complete additional Exhibit(s) I to this Attachment when necessary to accommodate expansion of the geographic area of CLEC into the jurisdiction of additional PSAP(s) or to increase the number of 911 Trunks. CLEC must obtain approval of each additional Exhibit I, as set forth in Section 7.2 above, and shall furnish documentation of all requisite approval(s) of each additional Exhibit I in accordance with Section 7.2 above.

## **8.0 Basis of Compensation**

8.1 Rates for access to 911 and E911 Databases, Interconnection and call routing of E911 call completion to a PSAP as required by Section 251 of the Act are set forth in the Pricing Schedule or applicable AT&T-21STATE Commission-approved access tariff.

# **ATTACHMENT 07 – OPERATIONS SUPPORT SYSTEMS**

## TABLE OF CONTENTS

<u>Section Number</u>	<u>Page Number</u>
1.0 Introduction .....	3
2.0 Definitions.....	3
3.0 General Provisions.....	3
4.0 Pre-Ordering .....	5
5.0 Ordering .....	6
6.0 Provisioning.....	6
7.0 Maintenance/Repair .....	7
8.0 Billing .....	8
9.0 Data Connection Security Requirements .....	9
10.0 Miscellaneous .....	12
11.0 Service Bureau Provider Arrangements for Shared Access to OSS .....	13

## 1.0 Introduction

- 1.1 This Attachment sets forth terms and conditions for nondiscriminatory access to Operations Support Systems (OSS) "functions" to CLEC for pre-ordering, ordering, provisioning, maintenance/repair, and billing provided by AT&T-21STATE. CLEC represents and covenants that it will only use OSS furnished pursuant to this Agreement for activities related to 251(c)(3) UNEs (as provided in Attachment 13 - 251(c)(3) UNEs, resold services, or other services covered by this Interconnection Agreement ICA Service(s)).
- 1.2 Should AT&T-21STATE no longer be obligated to provide a 251(c)(3) UNE or other ICA Service under the terms of this Agreement, AT&T-21STATE shall no longer be obligated to offer access and use of OSS for that ICA Service.

## 2.0 Definitions

- 2.1 "Service Bureau Provider (SBP)" means a company which has been engaged by a CLEC to act on its behalf for purposes of accessing AT&T-21STATE OSS application-to-application interfaces via a dedicated connection over which multiple CLEC's local service transactions are transported.

## 3.0 General Provisions

- 3.1 AT&T-21STATE's OSS are comprised of systems and processes that are in some cases region-specific (hereinafter referred to as "Regional OSS"). Regional OSS is available only in the regions where such systems and processes are currently operational.
- 3.2 AT&T-21STATE will provide electronic access to OSS via web-based GUIs and application-to-application interfaces. These GUIs and interfaces will allow CLEC to perform pre-order, order, provisioning, maintenance and repair functions. AT&T-21STATE will follow industry guidelines and the Change Management Process (CMP) in the development of these interfaces.
- 3.3 AT&T-21STATE will provide all relevant documentation (manuals, user guides, specifications, etc.) regarding business rules and other formatting information, as well as practices and procedures, necessary to handle OSS related requests. All relevant documentation will be readily accessible at AT&T's CLEC Online website. Documentation may be amended by AT&T-21STATE in its sole discretion from time to time. All Parties agree to abide by the procedures contained in the then-current documentation.
- 3.4 AT&T-21STATE's OSS are designed to accommodate requests for both current and projected demands of CLEC and other CLECs in the aggregate.
- 3.5 CLEC shall advise AT&T-21STATE no less than seven (7) Business Days in advance of any anticipated ordering volumes above CLEC's normal average daily volumes.
- 3.6 It is the sole responsibility of CLEC to obtain the technical capability to access and utilize AT&T-21STATE's OSS interfaces. All hardware and software requirements for the applicable AT&T-21STATE Regional OSS are specified on AT&T's CLEC Online website.
- 3.7 CLEC must access the AT&T-21STATE OSS interfaces as indicated in the connectivity specifications and methods set forth on AT&T's CLEC Online website.
- 3.8 Prior to initial use of AT&T-21STATE's Regional OSS, CLEC shall attend and participate in implementation meetings to discuss CLEC access plans in detail and schedule testing.
- 3.9 The technical support function of electronic OSS interfaces can be accessed via the AT&T CLEC Online website. CLEC will also provide a single point of contact for technical issues related to CLEC's use of AT&T-21STATE's electronic interfaces.
- 3.10 CLEC agrees that there may be Resale service and 251(c)(3) UNEs available on a regional basis and that such regional offering may only be ordered where they are made available in accordance with Resale or 251(c)(3)UNE Attachments. Moreover, CLEC shall not be permitted to order ICA Services unless CLEC has a right, under this Agreement, to order such service.

- 3.11 AT&T-21STATE shall provide nondiscriminatory access to OSS processes. When OSS processes are not available electronically, AT&T-21STATE shall make manual processes available.
- 3.12 The Parties agree that a collaborative CMP will be used to manage changes to existing interfaces, introduction of new interfaces and retirement of interfaces. The CMP will cover changes to AT&T-21STATE's electronic interfaces, AT&T-21STATE's CLEC testing environment, associated manual process improvements, and relevant documentation. The process will define a procedure for resolution of CMP disputes.
- 3.13 Due to enhancements and on-going development of access to AT&T-21STATE CLEC OSS functions, certain interfaces may be modified, may be temporarily unavailable, or may be phased out after execution of this Agreement. AT&T-21STATE shall provide proper notice of interface phase-out in accordance with CMP.
- 3.14 The Parties agree to provide one another with toll-free contact numbers for the purpose of addressing ordering, provisioning and maintenance of services issues.
- 3.15 Proper Use of OSS Interfaces
- 3.15.1 CLEC shall use AT&T-21STATE electronic interfaces, as described herein, exclusively for the purposes specifically provided herein. In addition, CLEC agrees that such use will comply with AT&T-21STATE's Data Connection Security Requirements as identified in Section 9.0 below of this Attachment. Failure to comply with the requirements of this Attachment, including such security guidelines, may result in forfeiture of electronic access to OSS functionality. In addition, CLEC shall be responsible for and indemnifies AT&T-21STATE against any cost, expense or liability relating to any unauthorized entry or access into, or use or manipulation of AT&T-21STATE's OSS from CLEC systems, workstations or terminals or by CLEC employees, agents, or any Third Party gaining access through information and/or facilities obtained from or utilized by CLEC and shall pay AT&T-21STATE for any and all damages caused by such unauthorized entry.
- 3.15.2 CLEC's access to pre-order functions will only be used to view Customer Proprietary Network Information (CPNI) of another carrier's End User where CLEC has obtained an authorization from the End User for release of CPNI.
- 3.15.2.1 CLEC must maintain records of individual End Users' authorizations for change in local Exchange Service and release of CPNI which adhere to all requirements of state and federal law, as applicable.
- 3.15.2.2 CLEC is solely responsible for determining whether proper authorization has been obtained and holds AT&T-21STATE harmless from any loss on account of CLEC's failure to obtain proper CPNI consent from an End User. The Parties agree not to view, copy, or otherwise obtain access to the customer record information about any other carriers' End Users without proper permission. CLEC will obtain access to End User customer record information only in strict compliance with applicable laws, rules, or regulations of the state in which the service is provided.
- 3.15.3 AT&T-21STATE shall be free to connect an End User to any CLEC based upon that CLEC's request and that CLEC's assurance that proper End User authorization has been obtained. CLEC shall make any such authorization it has obtained available to AT&T-21STATE upon request and at no charge.
- 3.15.4 By using electronic interfaces to access OSS functions, CLEC agrees to perform accurate and correct ordering of ICA Services. CLEC is also responsible for all actions of its employees using any of AT&T-21STATE's OSS. As such, CLEC agrees to accept and pay all reasonable costs or expenses, including labor costs, incurred by AT&T-21STATE caused by any and all inaccurate ordering or usage of the OSS, if such costs are not already recovered through other charges assessed by AT&T-21STATE to CLEC. In addition, CLEC agrees to indemnify and hold AT&T-21STATE harmless against any claim made by an End User of CLEC or Third Parties against AT&T-21STATE caused by or related to CLEC's use of any AT&T-21STATE OSS.

- 3.15.5 In the event AT&T-21STATE has good cause to believe that CLEC has used AT&T-21STATE OSS in a way that conflicts with this Agreement or Applicable Law, AT&T-21STATE shall give CLEC written Notice describing the alleged misuse ("Notice of Misuse"). CLEC shall immediately refrain from the alleged misuse until such time that CLEC responds in writing to the Notice of Misuse, which CLEC shall provide to AT&T-21STATE within twenty (20) calendar days after receipt of the Notice of Misuse. In the event CLEC agrees with the allegation of misuse, CLEC shall refrain from the alleged misuse during the term of this Agreement.
- 3.15.6 In the event CLEC does not respond to the Notice of Misuse or does not agree that the CLEC's use of AT&T-21STATE OSS is inconsistent with this Agreement or Applicable Law, then the Parties agree to the following steps:
- 3.15.6.1 If such misuse involves improper access of pre-order applications or involves a violation of the security guidelines contained herein, or negatively affects another OSS user's ability to use OSS, CLEC shall continue to refrain from using the particular OSS functionality in the manner alleged by AT&T-21STATE to be improper, until CLEC has implemented a mutually agreeable remedy to the alleged misuse.
- 3.15.6.2 To remedy the misuse for the balance of the Agreement, the Parties will work together as necessary to mutually determine a permanent resolution for the balance of the term of the Agreement.
- 3.16 In order to determine whether CLEC has engaged in the alleged misuse described in the Notice of Misuse, AT&T-21STATE shall have the right to conduct an audit of CLEC's use of the AT&T-21STATE OSS. Such audit shall be limited to auditing those aspects of CLEC's use of the AT&T-21STATE OSS that relate to the allegation of misuse as set forth in the Notice of Misuse. AT&T-21STATE shall give ten (10) calendar days advance written Notice of its intent to audit CLEC ("Audit Notice") under this Section, and shall identify the type of information needed for the audit. Such Audit Notice may not precede the Notice of Misuse. Within a reasonable time following the Audit Notice, but no less than fourteen (14) calendar days after the date of the Audit Notice (unless otherwise agreed by the Parties), CLEC shall provide AT&T-21STATE with access to the requested information in any reasonably requested format, at an appropriate CLEC location, unless otherwise agreed to by the Parties. The audit shall be at AT&T-21STATE's expense. All information obtained through such an audit shall be deemed proprietary and/or confidential and subject to confidential treatment without necessity for marking such information confidential. AT&T-21STATE agrees that it shall only use employees or outside parties to conduct the audit who do not have marketing, strategic analysis, competitive assessment or similar responsibilities within AT&T-21STATE. If CLEC fails to cooperate in the audit, AT&T-21STATE reserves the right to terminate CLEC's access to electronic processes.

#### **4.0 Pre-Ordering**

- 4.1 AT&T-21STATE Regional OSS are available in order that CLEC can perform the pre-ordering functions for ICA Services, including but not limited to:
- 4.1.1 Service address validation
- 4.1.2 Telephone number selection
- 4.1.3 Service and feature availability
- 4.1.4 Due date information
- 4.1.5 Customer service information
- 4.1.6 Loop makeup information
- 4.2 Complete Regional OSS pre-order functions may be found on AT&T's CLEC Online website.
- 4.3 CLEC shall provide AT&T-21STATE with access to End User record information, including circuit numbers associated with each telephone number where applicable. CLEC shall provide such information within four (4) hours after requested via electronic access where available. If electronic access is not available, CLEC shall provide to AT&T-21STATE paper copies of End User record information, including circuit numbers associated with each

telephone number where applicable. CLEC shall provide such End User service records within twenty-four (24) hours of a valid request, exclusive of Saturdays, Sundays and holidays.

- 4.4 Data validation files provided are described on the AT&T CLEC Online website. These files provide an alternate method of acquiring pre-ordering information that is considered relatively static and are available via the pre-order GUI, AT&T's CLEC Online website, or other distribution methods.

## 5.0 Ordering

- 5.1 AT&T-21STATE will provide ordering functionality. To order any ICA Services CLEC will format a Local Service Request (LSR) to identify the features, services or elements CLEC is requesting AT&T-21STATE to provision in accordance with applicable AT&T-21STATE ordering requirements and other terms and conditions of this Agreement. Ordering requirements are located on AT&T's CLEC Online website.
- 5.2 In ordering and provisioning, Unbundled Dedicated Transport (UDT) and local Interconnection trunks, CLEC and AT&T-21STATE will use industry Access Service Request (ASR) guidelines, based upon AT&T-21STATE ordering requirements. AT&T-21STATE's ASR guidelines are located on AT&T's CLEC Online website.
- 5.3 AT&T-21STATE product/service intervals are located on AT&T's CLEC Online website.
- 5.4 AT&T-21STATE shall return a Firm Order Confirmation (FOC) in accordance with the applicable performance intervals. CLEC shall provide to AT&T-21STATE an FOC per the guidelines located on AT&T's CLEC Online website.
- 5.5 When an AT&T-21STATE provided ICA Service is replaced by CLEC's facility-based service using any AT&T-21STATE provided ICA Services, CLEC shall issue appropriate service requests, to both disconnect the existing service and order ICA Services. These requests will be processed by AT&T-21STATE, and CLEC will be charged the applicable service order charge(s), in addition to the recurring and nonrecurring charges for each individual ICA Service and cross-connect ordered. Similarly, when an End User is served by one CLEC using AT&T-21STATE provided ICA Services is converted to another CLEC's service using any AT&T-21STATE provided ICA Services, the requesting CLEC shall issue appropriate service requests to both disconnect the existing service and connect new service to the requesting CLEC End User. These requests will be processed by AT&T-21STATE and the CLEC will be charged the applicable service order charge(s), in addition to the recurring and nonrecurring charges for each individual ICA Service and cross-connect ordered.
- 5.6 AT&T-21STATE shall bill to CLEC an LSR charge and/or appropriate service order charges based on the manner in which the order is submitted (e.g. manually, semi-mechanized, mechanized) at the rate set forth in the applicable Pricing Schedule, and/or applicable tariffs, price list or service guides to this Agreement for each LSR submitted. An individual LSR will be identified for billing purposes by its Purchase Order Number (PON).
- 5.7 The Commissions, in some states, have ordered per element manual additive nonrecurring charges for ICA Services ordered by means other than one of the interactive interfaces ("Additional Charges"). Additional Charges shall charges will apply in these states as set forth in the applicable Pricing Schedule, and/or applicable tariffs, price list or service guides.

## 6.0 Provisioning

- 6.1 AT&T-21STATE will provide to CLEC nondiscriminatory provisioning of ICA Services. Access to order status and provisioning order status is available via the regional pre-ordering and ordering GUIs, AT&T's CLEC Online website, and application-to-application interfaces.
- 6.2 AT&T-21STATE shall provision services during its regular working hours. To the extent CLEC requests provisioning of service to be performed outside AT&T-21STATE's regular working hours, or the work so requested requires AT&T-21STATE's technicians or project managers to work outside of regular working hours, AT&T-21STATE will assess overtime charges set forth in the Pricing Schedule/AT&T-21STATE's intrastate Access Services Tariff.
- 6.3 In the event AT&T-21STATE must dispatch to the End User's location more than once for provisioning of ICA Services due to incorrect or incomplete information provided by CLEC (e.g., incomplete address, incorrect contact

name/number, etc.), AT&T-21STATE will bill CLEC for each additional dispatch required to provision the circuit due to the incorrect/incomplete information provided. AT&T-21STATE will assess the Maintenance of Service Charge/Trouble Determination Charge/Trouble Location Charge/Time and Material Charges/Additional Labor Charges from the applicable Pricing Schedule, and/or applicable tariffs, price list or service guides.

#### 6.4 Cancellation Charges:

6.4.1 If CLEC cancels an order for ICA Services subsequent to AT&T-21STATE's generation of a service order, any costs incurred by AT&T-21STATE in conjunction with provisioning of services as requested on the cancelled LSR will be recovered in accordance with the cancellation methodology set forth in the Cancellation Charge Percentage Chart found on AT&T's CLEC Online website. In addition, AT&T-21STATE reserves the right to assess cancellation charges if CLEC fails to respond within nine (9) Business Days to a Missed Appointment order notification.

6.4.1.1 Notwithstanding the foregoing, if CLEC places an LSR based upon AT&T-21STATE's loop makeup information, and such information is inaccurate resulting in the inability of AT&T-21STATE to provision the ICA Services requested and another spare compatible facility cannot be found with the transmission characteristics of the ICA Services originally requested, cancellation charges shall not apply. Where CLEC places a single LSR for multiple ICA Services based upon loop makeup information, and information as to some, but not all, of the ICA Services is inaccurate, if AT&T-21STATE cannot provision the ICA Services that were the subject of the inaccurate loop makeup information, CLEC may cancel its request for those ICA Services without incurring cancellation charges. In such instance, should CLEC elect to cancel the entire LSR, cancellation charges as shall apply to those ICA Services that were not the subject of inaccurate loop makeup.

#### 6.5 Expedite Charges:

6.5.1 For Expedite requests by CLEC, charges from the Pricing Schedule will apply for intervals less than the standard interval as outlined on the AT&T CLEC Online website.

#### 6.6 Order Modification Charges:

6.6.1 If CLEC modifies an order after being sent a FOC from AT&T-21STATE, the Order Modification Charge (OMC) or Order Modification Charge Additional Dispatch (OMCAD) will be accessed from the Pricing Schedule as applicable.

### 7.0 Maintenance/Repair

7.1 AT&T-21STATE will provide CLEC with access to electronic interfaces for the purpose of reporting and monitoring trouble.

7.2 The methods and procedures for trouble reporting outlined on the AT&T CLEC Online website shall be used.

7.3 AT&T-21STATE will maintain, repair and/or replace ICA Services in accordance with the FCC requirements and applicable tariffs.

7.4 CLEC shall make available at mutually agreeable times the 251(c)(3) UNEs provided pursuant to this Agreement in order to permit AT&T-21STATE to test and make adjustments appropriate for maintaining the 251(c)(3) UNEs in satisfactory operating condition. No credit will be allowed for any interruptions involved during such testing and adjustments.

7.5 Neither CLEC or its End Users shall rearrange, move, disconnect, remove or attempt to repair any facilities owned by AT&T-21STATE except with the prior written consent of AT&T-21STATE.

7.6 CLEC will be responsible for testing and isolating troubles on ICA Services. CLEC must test and isolate trouble to the AT&T-21STATE network before reporting the trouble to the Maintenance Center. Upon request from AT&T-21STATE at the time of the trouble report, CLEC will be required to provide the results of the CLEC test isolating the trouble to the AT&T-21STATE network.

- 7.7 For all ICA Services repair requests, CLEC shall adhere to AT&T-21STATE's prescreening guidelines prior to referring the trouble to AT&T-21STATE.
- 7.8 CLEC will contact the appropriate AT&T-21STATE repair centers in accordance with procedures established by AT&T-21STATE.
- 7.9 AT&T-21STATE reserves the right to contact CLEC's End Users, if deemed necessary, for provisioning or maintenance purposes.
- 7.10 Repair requests are billed in accordance with the provisions of this Agreement. If CLEC reports a trouble on a AT&T-21STATE ICA Service and no trouble is found in AT&T-21STATE's network, AT&T-21STATE will charge CLEC a Maintenance of Service Charge/Trouble Determination Charge/Trouble Location Charge/Time and Material Charges/Additional Labor Charges for any dispatching and testing (both inside and outside the Central Office) required by AT&T-21STATE in order to confirm the working status. AT&T-21STATE will assess these charges at the rates set forth in the Pricing Schedule and/or applicable tariffs.
- 7.11 In the event AT&T-21STATE must dispatch to an End User's location more than once for repair or maintenance of ICA Services due to incorrect or incomplete information provided by CLEC (e.g., incomplete address, incorrect contact name/number, etc.), AT&T-21STATE will bill CLEC for each additional dispatch required to repair the circuit due to the incorrect/incomplete information provided. AT&T-21STATE will assess the Maintenance of Service Charge/Trouble Determination Charge/Trouble Location Charge/Time and Material Charges/Additional Labor Charges at the rates set forth in the Pricing Schedule.
- 7.12 CLEC shall pay Time and Material charges when AT&T-21STATE dispatches personnel and the trouble is in equipment or communications systems provided an entity by other than AT&T-21STATE or in detariffed CPE provided by AT&T-21STATE, unless covered under a separate maintenance agreement.
- 7.13 CLEC shall pay Maintenance of Service charges when the trouble clearance did not otherwise require dispatch, but dispatch was requested for repair verification or cooperative testing, and the circuit did not exceed maintenance limits.
- 7.14 If CLEC issues a trouble report allowing AT&T-21STATE access to End User's premises and AT&T-21STATE personnel are dispatched but denied access to the premises, then Time and Material charges will apply for the period of time that AT&T-21STATE personnel are dispatched. Subsequently, if AT&T-21STATE personnel are allowed access to the premises, these charges will still apply.
- 7.15 Time and Material charges apply on a first and additional basis for each half-hour or fraction thereof. If more than one technician is dispatched in conjunction with the same trouble report, the total time for all technicians dispatched will be aggregated prior to the distribution of time between the "First Half Hour or Fraction Thereof" and "Each Additional Half Hour or Fraction Thereof" rate categories. Basic Time is work-related efforts of AT&T-21STATE performed during normally scheduled working hours on a normally scheduled workday. Overtime is work-related efforts of AT&T-21STATE performed on a normally scheduled workday, but outside of normally scheduled working hours. Premium Time is work related efforts of AT&T-21STATE performed other than on a normally scheduled workday.
- 7.15.1 If CLEC requests or approves an AT&T-21STATE technician to perform services in excess of or not otherwise contemplated by the nonrecurring charges herein, CLEC will pay Time and Material charges for any additional work to perform such services, including requests for installation or other work outside of normally scheduled working hours.

## 8.0 Billing

- 8.1 AT&T-21STATE will provide to CLEC nondiscriminatory access to associated billing information as necessary to allow CLEC to perform billing functions.
- 8.1.1 The charges for bill data are dependent upon the manner in which such bill data is delivered to CLEC.

- 8.1.1.1 CLEC agrees to pay the applicable rates set forth in the Pricing Schedule, Tariff, or Guidebook, as applicable
- 8.1.1.2 When a CLEC elects to receive its monthly billing statements in more than one bill media format paper media shall be the primary media source and any other media formats shall be secondary media subject to the rates, terms and conditions contained in the Pricing Schedule, Tariff, or Guidebook, as applicable.

## **9.0 Data Connection Security Requirements**

- 9.1 CLEC agrees to comply with AT&T-21STATE data connection security procedures, including but not limited to procedures on joint security requirements, information security, user identification and authentication, network monitoring, and software integrity. These procedures are set forth on the AT&TCLEC Online website.
- 9.2 CLEC agrees that interconnection of CLEC data facilities with AT&T-21STATE data facilities for access to OSS will be in compliance with AT&T-21STATE's "Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures" document current at the time of initial connection to AT&T-21STATE and available on the AT&T CLEC Online website.
- 9.3 Joint Security Requirements:
  - 9.3.1 Both Parties will maintain accurate and auditable records that monitor user authentication and machine integrity and confidentiality (e.g., password assignment and aging, chronological logs configured, system accounting data, etc.).
  - 9.3.2 Both Parties shall maintain accurate and complete records detailing the individual data connections and systems to which they have granted the other Party access or interface privileges. These records will include, but are not limited to, user ID assignment, user request records, system configuration, time limits of user access or system interfaces. These records should be kept until the termination of this Agreement or the termination of the requested access by the identified individual. Either Party may initiate a compliance review of the connection records to verify that only the agreed to connections are in place and that the connection records are accurate.
  - 9.3.3 CLEC shall immediately notify AT&T-21STATE when an employee user ID is no longer valid (e.g. employee termination or movement to another department).
  - 9.3.4 The Parties shall use an industry standard virus detection software program at all times. The Parties shall immediately advise each other by telephone upon actual knowledge that a virus or other malicious code has been transmitted to the other Party.
  - 9.3.5 All physical access to equipment and services required to transmit data will be in secured locations. Verification of authorization will be required for access to all such secured locations. A secured location is where walls and doors are constructed and arranged to serve as barriers and to provide uniform protection for all equipment used in the data connections which are made as a result of the user's access to either the CLEC's or AT&T-21STATE's network. At a minimum, this shall include access doors equipped with card reader control or an equivalent authentication procedure and/or device, and egress doors which generate a real-time alarm when opened and which are equipped with tamper resistant and panic hardware as required to meet building and safety standards.
  - 9.3.6 The Parties shall maintain accurate and complete records on the card access system or lock and key administration to the rooms housing the equipment utilized to make the connection(s) to the other Party's network. These records will include management of card or key issue, activation or distribution and deactivation.
- 9.4 Additional Responsibilities of the Parties:
  - 9.4.1 Modem/DSU Maintenance And Use Policy:

- 9.4.1.1 To the extent the access provided hereunder involves the support and maintenance of CLEC equipment on AT&T-21STATE's premises, such maintenance will be provided under the terms of the "Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures" document cited in Section 9.2 above.
- 9.4.2 Monitoring:
- 9.4.2.1 Each Party will monitor its own network relating to any user's access to the Party's networks, processing systems, and applications. This information may be collected, retained, and analyzed to identify potential security risks without notice. This information may include, but is not limited to, trace files, statistics, network addresses, and the actual data or screens accessed or transferred.
- 9.4.3 Each Party shall notify the other Party's security organization immediately upon initial discovery of actual or suspected unauthorized access to, misuse of, or other "at risk" conditions regarding the identified data facilities or information. Each Party shall provide a specified point of contact. If either Party suspects unauthorized or inappropriate access, the Parties shall work together to isolate and resolve the problem.
- 9.4.4 In the event that one (1) Party identifies inconsistencies or lapses in the other Party's adherence to the security provisions described herein, or a discrepancy is found, documented, and delivered to the non-complying Party, a corrective action plan to address the identified vulnerabilities must be provided by the non-complying Party within thirty (30) calendar days of the date of the identified inconsistency. The corrective action plan must identify what will be done, the Party accountable/responsible, and the proposed compliance date. The non-complying Party must provide periodic status reports (minimally monthly) to the other Party's security organization on the implementation of the corrective action plan in order to track the work to completion.
- 9.4.5 In the event there are technological constraints or situations where either Party's corporate security requirements cannot be met, the Parties will institute mutually agreed upon alternative security controls and safeguards to mitigate risks.
- 9.4.6 All network-related problems will be managed to resolution by the respective organizations, CLEC or AT&T-21STATE, as appropriate to the ownership of a failed component. As necessary, CLEC and AT&T-21STATE will work together to resolve problems where the responsibility of either Party is not easily identified.
- 9.5 Information Security Policies And Guidelines For Access To Computers, Networks and Information By Non-Employee Personnel:
- 9.5.1 Information security policies and guidelines are designed to protect the integrity, confidentiality and availability of computer, networks and information resources. Section 9.6 below through Section 9.12 below inclusive summarizes the general policies and principles for individuals who are not employees of the Party that provides the computer, network or information, but have authorized access to that Party's systems, networks or information. Questions should be referred to CLEC or AT&T-21STATE, respectively, as the providers of the computer, network or information in question.
- 9.5.2 It is each Party's responsibility to notify its employees, contractors and vendors who will have access to the other Party's network, on the proper security responsibilities identified within this Attachment. Adherence to these policies is a requirement for continued access to the other Party's systems, networks or information. Exceptions to the policies must be requested in writing and approved by the other Party's information security organization.
- 9.6 General Policies:
- 9.6.1 Each Party's resources are for approved this Agreement's business purposes only.
- 9.6.2 Each Party may exercise at any time its right to inspect, record, and/or remove all information contained in its systems, and take appropriate action should unauthorized or improper usage be discovered.

- 9.6.3 Individuals will only be given access to resources that they are authorized to receive and which they need to perform their job duties. Users must not attempt to access resources for which they are not authorized.
- 9.6.4 Authorized users shall not develop, copy or use any program or code which circumvents or bypasses system security or privilege mechanism or distorts accountability or audit mechanisms.
- 9.6.5 Actual or suspected unauthorized access events must be reported immediately to each Party's security organization or to an alternate contact identified by that Party. Each Party shall provide its respective security contact information to the other.
- 9.7 User Identification:
  - 9.7.1 Access to each Party's corporate resources will be based on identifying and authenticating individual users in order to maintain clear and personal accountability for each user's actions.
  - 9.7.2 User identification shall be accomplished by the assignment of a unique, permanent user ID, and each user ID shall have an associated identification number for security purposes.
  - 9.7.3 User IDs will be revalidated on a monthly basis.
- 9.8 User Authentication:
  - 9.8.1 Users will usually be authenticated by use of a password. Strong authentication methods (e.g. one-time passwords, digital signatures, etc.) may be required in the future.
  - 9.8.2 Passwords must not be stored in script files.
  - 9.8.3 Passwords must be entered by the user.
  - 9.8.4 Passwords must be at least six (6) to eight (8) characters in length, not blank or a repeat of the user ID; contain at least one (1) letter, and at least one (1) number or special character must be in a position other than the first or last position. This format will ensure that the password is hard to guess. Most systems are capable of being configured to automatically enforce these requirements. Where a system does not mechanically require this format, the users must manually follow the format.
  - 9.8.5 Systems will require users to change their passwords regularly (usually every thirty-one (31) days).
  - 9.8.6 Systems are to be configured to prevent users from reusing the same password for six (6) changes/months.
  - 9.8.7 Personal passwords must not be shared. Any user who has shared his password is responsible for any use made of the password.
- 9.9 Access and Session Control:
  - 9.9.1 Destination restrictions will be enforced at remote access facilities used for access to OSS Interfaces. These connections must be approved by each Party's corporate security organization.
  - 9.9.2 Terminals or other input devices must not be left unattended while they may be used for system access. Upon completion of each work session, terminals or workstations must be properly logged off.
- 9.10 User Authorization:
  - 9.10.1 On the destination system, users are granted access to specific resources (e.g. databases, files, transactions, etc.). These permissions will usually be defined for an individual user (or user group) when a user ID is approved for access to the system.
- 9.11 Software and Data Integrity:
  - 9.11.1 Each Party shall use a comparable degree of care to protect the other Party's software and data from unauthorized access, additions, changes and deletions as it uses to protect its own similar software and data. This may be accomplished by physical security at the work location and by access control software on the workstation.

- 9.11.2 All software or data shall be scanned for viruses before use on a Party's corporate facilities that can be accessed through the direct connection or dial up access to OSS interfaces.
- 9.11.3 Unauthorized use of copyrighted software is prohibited on each Party's corporate systems that can be accessed through the direct connection or dial up access to OSS Interfaces.
- 9.11.4 Proprietary software or information (whether electronic or paper) of a Party shall not be given by the other Party to unauthorized individuals. When it is no longer needed, each Party's proprietary software or information shall be returned by the other Party or disposed of securely. Paper copies shall be shredded. Electronic copies shall be overwritten or degaussed.

## 9.12 Monitoring and Audit:

- 9.12.1 To deter unauthorized access events, a warning or no trespassing message will be displayed at the point of initial entry (i.e., network entry or applications with direct entry points). Each Party should have several approved versions of this message. Users should expect to see a warning message similar to this one:

*"This is a(n) (AT&T or CLEC) system restricted to Company official business and subject to being monitored at any time. Anyone using this system expressly consents to such monitoring and to any evidence of unauthorized access, use, or modification being used for criminal prosecution."*

- 9.12.2 After successful authentication, each session will display the last logon date/time and the number of unsuccessful logon attempts. The user is responsible for reporting discrepancies.

## 10.0 Miscellaneous

- 10.1 To the extent AT&T-21STATE seeks to recover costs associated with OSS system access and connectivity, AT&T-21STATE shall not be foreclosed from seeking recovery of such costs via negotiation, arbitration, or generic proceeding during the term of this Agreement.
- 10.2 Unless otherwise specified herein, charges for the use of AT&T-21STATE's OSS, and other charges applicable to pre-ordering, ordering, provisioning and maintenance and repair, shall be at the applicable rates set forth in the Pricing Schedule.
- 10.3 Single Point of Contact:
  - 10.3.1 CLEC will be the single point of contact with AT&T-21STATE for ordering activity for ICA Services used by CLEC to provide services to its End Users, except that AT&T-21STATE may accept a request directly from another CLEC, or AT&T-21STATE, acting with authorization of the affected End User. Pursuant to a request from another carrier, AT&T-21STATE may disconnect any ICA Service being used by CLEC to provide service to that End User and may reuse such network elements or facilities to enable such other carrier to provide service to the End User. AT&T-21STATE will notify CLEC that such a request has been processed but will not be required to notify CLEC in advance of such processing.
- 10.4 Use of Facilities:
  - 10.4.1 When an End User of CLEC elects to discontinue service and to transfer service to another LEC, including AT&T-21STATE, AT&T-21STATE shall have the right to reuse the facilities provided to CLEC, regardless of whether those facilities are provided as ICA Services, and regardless of whether the End User served with such facilities has paid all charges to CLEC or has been denied service for nonpayment or otherwise. AT&T-21STATE will notify CLEC that such a request has been processed after the disconnect order has been completed.
- 10.5 AT&T-21STATE will provide loss notifications to CLEC. This notification alerts CLEC that a change requested by another Telecommunications provider has/or may result in a change in the Local Service Provider associated with a given telephone number. It will be provided via the ordering GUI and application-to-application interfaces and AT&T's CLEC Online website, as applicable.

## 11.0 Service Bureau Provider Arrangements for Shared Access to OSS

- 11.1 Notwithstanding any language in this Agreement regarding access to OSS to the contrary, CLEC shall be permitted to access AT&T-21STATE OSS via a Service Bureau Provider as follows:
- 11.1.1 CLEC shall be permitted to access AT&T-21STATE application-to-application OSS interfaces, via a Service Bureau Provider where CLEC has entered into an agency relationship with such Service Bureau Provider, and the Service Bureau Provider has executed an Agreement with AT&T-21STATE to allow Service Bureau Provider to establish access to and use of AT&T-21STATE's OSS.
  - 11.1.2 CLEC's use of a Service Bureau Provider shall not relieve CLEC of the obligation to abide by all terms and conditions of this Agreement. CLEC must ensure that its agent properly performs all OSS obligations of CLEC under this Agreement, which CLEC delegates to Service Bureau Provider.
  - 11.1.3 It shall be the obligation of CLEC to provide Notice in accordance with the Notice provisions of the General Terms and Conditions of this Agreement whenever it establishes an agency relationship with a Service Bureau Provider or terminates such a relationship. AT&T-21STATE shall have a reasonable transition time to establish a connection to a Service Bureau Provider once CLEC provides Notice. Additionally, AT&T-21STATE shall have a reasonable transition period to terminate any such connection after Notice from CLEC that it has terminated its agency relationship with a Service Bureau Provider.
- 11.2 AT&T-21STATE shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measurement to the extent that such noncompliance was the result of actions or events beyond AT&T-21STATE's control associated with Third Party systems or equipment including systems, equipment and services provided by a Service Bureau Provider (acting as CLEC's agent for connection to AT&T-21STATE's OSS) which could not be avoided by AT&T-21STATE through the exercise of reasonable diligence or delays or other problems resulting from actions of a Service Bureau Provider, including Service Bureau provided processes, services, systems or connectivity.

# ATTACHMENT 09 – PERFORMANCE MEASUREMENTS

## TABLE OF CONTENTS

<u>Section</u>	<u>Page Number</u>
1.0 General Provisions .....	3
2.0 Region-specific Provisions .....	3

## 1.0 General Provisions

- 1.1 The Performance Measurements Plans referenced herein, notwithstanding any provisions in any other attachment in this Agreement, are not intended to create, modify or otherwise affect Parties' rights and obligations. The existence of any particular performance measure, or the language describing that measure, is not evidence that CLEC is entitled to any particular manner of access, nor is it evidence that AT&T-21STATE is limited to providing any particular manner of access. The Parties' rights and obligations to such access are defined elsewhere, including the relevant laws, FCC and Commission decisions/regulations and within this Agreement.
- 1.2 AT&T-21STATE's implementation of the Performance Measurements Plans addressed by this Attachment (Performance Measurement Plan(s), the Plan(s)) will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating to the same performance. The Parties agree that CLEC may not use the existence of such Plans as evidence that AT&T-21STATE has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. AT&T-21STATE's conduct underlying its performance, and the performance data provided under the Performance Measurements Plans, however, are not made inadmissible by these terms. AT&T-21STATE's performance as measured by these plans may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation.
- 1.3 Nothing herein shall be interpreted to be a waiver of AT&T-21STATE's right to argue and contend in any forum, in the future, that Sections 251 and 252 of the Telecommunications Act of 1996 do not impose any duty or legal obligation to negotiate and/or mediate or arbitrate a self-executing liquidated damages or remedy plan.

## 2.0 Region-Specific Provisions

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

- 2.1.3.5 Wisconsin – Docket No. 6720-TI-198 (Performance Measurements only)
  - 2.1.3.6 Wisconsin – AT&T Midwest Remedy Plan as approved by the Commission in CLEC-specific ICA.
- 2.2 Provisions of this Performance Measurements Attachment will terminate in accordance with Section 6.5 of the AT&T MIDWEST REGION 5-STATE Remedy Plan.
- 2.3 AT&T SOUTHEAST REGION 9-STATE Requirements:
- 2.3.1 Except as otherwise provided herein, the Performance Measurements Plans most recently adopted or ordered by the respective Commission that approved this Agreement under Section 252(e) of the Act are incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plans (and supporting documents) in that proceeding or any successor proceeding shall be automatically incorporated into this Agreement by reference effective with the date of implementation by AT&T SOUTHEAST REGION 9-STATE pursuant to Commission order.
- 2.4 AT&T SOUTHWEST REGION 5-STATE Requirements:
- 2.4.1 The Performance Measurements Plans most recently approved, adopted or ordered by the respective Commission in the state 271 successor Agreement (X2A) proceedings are incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plans (and supporting documents), to which the Parties have agreed, shall be automatically incorporated into this Agreement by reference in the first full month following the effective date of the Commission order.
- 2.5 AT&T CALIFORNIA Requirements:
- 2.5.1 Except as otherwise provided herein, the Performance Measurements Plan ordered/approved by the California Public Commission in Decision No. 99-08-020 (dated August 5, 1999 and subsequent modifying decisions) in Docket No. R. 97-10-016/l. 97-10-017 (filed October 9, 1997) is incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plan (and its supporting documents) in that proceeding or any successor proceeding, to which the Parties have agreed, shall be automatically incorporated into this Agreement by reference in the first full month following the effective date of the Commission's order.
- 2.6 AT&T NEVADA Requirements:
- 2.6.1 Except as otherwise provided herein, the Performance Measurements Plan ordered/approved by the Nevada Public Utilities Commission in Docket 06-01039 (approved August 29, 2006) is incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plan (and its supporting documents) in that proceeding or any successor proceeding, to which the Parties have agreed, shall be automatically incorporated into this Agreement by reference in the first full month following the effective date of the Commission's order.

**ATTACHMENT 10MWSE –  
ABT: NON-INTERCOMPANY SETTLEMENTS  
(NICS)**

## TABLE OF CONTENTS

<u>Section</u>	<u>Page Number</u>
1.0 Introduction .....	3
2.0 Definitions.....	3
3.0 General Provisions.....	3
4.0 Responsibilities of the Parties .....	3
5.0 Limitation of Liability .....	4

## 1.0 Introduction

1.1 This Attachment sets forth the terms and conditions under which AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE will perform the revenue settlement of LEC-carried intrastate/intraLATA or interstate/intraLATA local/toll alternately billed calls between each of the aforementioned regions and the CLEC via the Centralized Message Distribution System (CMDS) Non-Intercompany Settlement (NICS) reports.

## 2.0 Definitions

2.1 "Non-Intercompany Settlement (NICS)" means a revenue settlement process for messages which originate from CLEC and bill to AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE and messages which originate from AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE and bill to CLEC. NICS messages must originate and bill within the same AT&T-Owned ILEC across the fourteen (14) individual states which make up these two regions.

2.2 "Non-Intercompany Settlements System" or "NICS System" means the national system administered by Telcordia that is used in the settlement of revenues for calls that are originated and billed by two (2) different Local Exchange Carriers (LECs) within a single CMDS Direct Participant's territory to another for billing. NICS applies to calls involving another LEC where the Earning Company and the Billing Company are located within both AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE.

## 3.0 General Provisions

3.1 NICS shall apply only to alternately billed messages (calling card, third number billed and collect calls) originated by AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE billed by CLEC (when the CLEC is using its own End Office Switch), or messages originated by CLEC and billed by AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE within the same AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE State (i.e., messages for intrastate/intraLATA traffic only).

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

3.2 AT&T SOUTHEAST REGION 9-STATE will also collect the revenue earned by CLEC within the AT&T SOUTHEAST REGION 9-STATE territory from another LEC also within the AT&T SOUTHEAST REGION 9-STATE where the messages are billed, less a per message billing and collection fee indicated in the Pricing Schedule, on behalf of CLEC. AT&T SOUTHEAST REGION 9-STATE will remit the revenue billed by CLEC within region to the LEC also within region, where the messages originated, less a per message billing and collection fee indicated in the Pricing Schedule. These two amounts will be netted together by AT&T SOUTHEAST REGION 9-STATE and the resulting charge or credit issued to CLEC via a monthly invoice in arrears.

3.3 NICS does not extend to 900 or 976 calls or to other pay per call services.

3.4 The Telcordia Technologies NICS report is the source for revenue to be settled between AT&T MIDWEST REGION 5-STATE, AT&T SOUTHEAST REGION 9-STATE and CLEC. NICS settlement will be incorporated into the CLEC's monthly invoice.

3.5 This Attachment does not cover calls originating and billing within a state outside of AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE.

3.6 NICS does not include any interLATA and/or intraLATA long distance charges assessed by an Interexchange Carrier (IXC).

3.7 The Party billing the End User shall be responsible for all uncollectible amounts.

3.8 Net payment shall be due within thirty (30) calendar days of the date of the invoice.

## 4.0 Responsibilities of the Parties

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

## 5.0 Limitation of Liability

5.1 Except as otherwise provided herein, Limitation of Liability will be governed by the General Terms & Conditions of this Agreement:

- 5.1.1 AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE assume no liability for any LEC's or CLEC's receipt of appropriate revenues due to it from any other entity. CLEC agrees that AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE will not be liable to it for damages (including, but not limited to, lost profits and exemplary damages) which may be owed to it as a result of any inaccurate or insufficient information resulting from any entity's actions, omissions, mistakes, or negligence and upon which AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE may have relied in preparing settlement reports or performing any other act under this Attachment.
- 5.1.2 AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE will not be liable for any losses or damages arising out of errors, interruptions, defects, failures, or malfunction of services provided pursuant to this Attachment, including those arising from associated equipment and data processing systems, except such losses or damages caused by the sole negligence of AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE. Any losses or damage for which AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE is held liable under this Attachment will in no event exceed the amount that CLEC would have billed AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE per CLEC's existing tariff for the services provided hereunder during the period beginning at the time AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE receives notice of the error, interruption, failure or malfunction, to the time service is restored.
- 5.1.3 AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE assumes no responsibility with regard to the correctness of the data supplied by CLEC when this data is accessed and used by a Third Party.

# PRICING SCHEDULE

## 1.0 Pricing Schedule

1.1 This Attachment sets forth the pricing terms and conditions. The rate tables included in this Attachment may be divided into categories. These categories are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

### 1.2 Replacement of Non-Interim Rates

1.2.1 Certain of the current rates, prices and charges set forth in this Agreement may have been established by the Commission ("Commission-established "Current Rate(s)"). All rates included in this Agreement that are not specifically excluded from treatment under this Section 1.2, or that are not marked as interim or as "TBD" (To Be Determined) shall be considered Commission-established Current Rates. If, during the Term of this Agreement the Commission or the FCC modifies a Commission-established Current Rate(s) in an order or docket that is established by the Commission or FCC to be generally applicable (i.e., not an order or docket relating only to a specific complaint or interconnection agreement arbitration) to the Interconnection Services, either Party may provide written notice ("Rate Change Notice") to the other Party, after the effective date of such order, that it wishes for the modified Commission-established Non-Interim Rate(s), ("Modified Rate(s)") to replace and supersede the Commission-established Current Rate(s) already set forth in this Agreement. Following such Rate Change Notice by either Party, and without the need for any written amendment or further Commission action, CLEC's billing tables will be updated to reflect (and CLEC shall pay) the Modified Rate(s), pursuant to timeframes as specifically set forth in Section 1.2.1.1 below and Section 1.2.1.3 below, and the Modified Rate(s) will be deemed effective between the Parties as provided in Section 1.2.1.1 below and Section 1.2.1.3 below. Nonetheless, the Parties shall negotiate a conforming amendment which shall reflect that the Commission-established Current Rate(s) were replaced by the Modified Rate(s), and shall submit such amendment to the Commission for approval. In addition, as soon as is reasonably practicable after such Rate Change Notice, each Party shall issue to the other Party any adjustments that are necessary to reflect that the Modified Rate(s) became effective between the Parties as provided:

1.2.1.1 If the Rate Change Notice is issued by a Party within ninety (90) calendar days after the effective date of any such order, the Modified Rate(s) will be deemed effective between the Parties as of the effective date of the order, and AT&T-21STATE will issue any adjustments that are appropriate (e.g., billing of additional charges, billing credit adjustments) to retroactively true-up the Modified Rate(s) with the Commission-established current Rate(s) for the period after the effective date of the order, in accordance herewith.

1.2.1.2 In the event that neither Party issues a Rate Change Notice to the other Party with respect to an order, the Commission-established Non-Interim Rate(s) set forth in the Agreement shall continue to apply, notwithstanding the issuance of that order.

1.2.1.3 In the event that a Party issues a Rate Change Notice under this Section 1.2 above, but not within ninety (90) calendar days after the effective date of the order, then the Modified Rate(s) will be deemed effective between the Parties as of the date the amendment incorporating such Modified Rate(s) into the Agreement is effective between the Parties (following the date the amendment is approved or is deemed to have been approved by the state commission), and shall apply, on a prospective basis only, upon the amendment effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Commission-established Current Rate(s) with the Modified Rate(s) if the terms and conditions of this Section 1.2 above were not part of an approved and effective agreement between the Parties at the time the order became effective, either Party may still give a Rate Change Notice, and the Modified Rate(s) shall be effective as of the date the Parties' Agreement (containing this Section 1.2.) becomes effective (following the date the Agreement is approved or deemed to have been approved by the Commission) and shall apply, beginning on the Agreement's effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Commission-established current Rate(s) with the Modified Rate(s) for any period prior to the effective date of the Agreement containing this Section 1.2 above.

### 1.3 Replacement of Interim Rates

- 1.3.1 Certain of the rates, prices and charges set forth in this Agreement may be denoted as interim rates ("Current Interim Rates"). Upon the effective date of a Commission Order establishing non-interim rates for any rates, prices, charges, Interconnection Services specifically identified herein as interim, either Party may, within ninety (90) calendar days after the effective date of such Commission order, provide written notice ("Replacement Rate Notice") to the other Party that it wishes to obtain the new Commission-established rate(s) ("Replacement Rates") to replace and supersede the Interim Rate counterpart(s) in this Agreement. Following such Replacement Rate Notice, and without the need for any formal amendment or further Commission action, AT&T-21STATE will update CLEC's billing tables to replace the Current Interim Rates with their Replacement Rate(s) counterpart(s), as specified in the Replacement Rate Notice. Nonetheless, the Parties shall negotiate a conforming amendment to reflect such Replacement Rates and shall submit such amendment to the Commission for approval.
- 1.3.2 If the Replacement Rate Notice is given within ninety (90) calendar days after the effective date of such order, then the Replacement Rate(s) shall apply as of the effective date of the order and AT&T-21STATE will issue any adjustments that are appropriate (e.g., billing of additional charges, billing credit adjustments) to retroactively true-up the Replacement Rates with the Interim Rates for the period after the effective date of this Agreement, in accordance herewith.
- 1.3.3 In the event that neither Party issues a Rate Notice to the other Party with respect to an order, the Interim Rate(s) set forth in the Agreement shall continue to apply, notwithstanding the issuance of that order.
- 1.3.4 In the event that a Party issues a Rate Notice under this Section 1.3 above, but not within ninety (90) calendar days after the effective date of the order, then the Replacement Rate(s) will be deemed effective between the Parties as of the date the amendment incorporating such Replacement Rate(s) into the Agreement is effective between the Parties (following the date the amendment is approved or is deemed to have been approved by the Commission), and shall apply, upon the amendment effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Current Interim Rate(s) with the Replacement Rate(s) for any period prior to the effective date of such amendment.
- 1.3.5 In the event the terms and conditions of this Section 1.3 above were not part of an approved and effective agreement between the Parties at the time the order became effective, either Party may still give a Replacement Rate Notice, and the Replacement Rate(s) shall be effective as of the date the Parties' Agreement (the Agreement containing this Section 1.3 above) becomes effective (following the date the Agreement is approved or deemed to have been approved by the Commission) and shall apply, beginning on the Agreement's effective date, on a prospective basis only. Further, the Party shall be foreclosed from replacing or otherwise superseding the Current Interim Rate(s) with the Replacement Rate(s) for any period prior to the effective date of the Agreement containing this Section 1.3 above.

### 1.4 Notice to Adopting CLECs

- 1.4.1 Notwithstanding anything to the contrary in this Pricing Schedule and Agreement, in the event that any other CLEC should seek to adopt the Agreement pursuant to Section 252(i) of the Act ("Adopting CLEC"), the Adopting CLEC would only be entitled to the current and/or interim rates set forth in this Agreement as of the date that the MFN'd Agreement provisions become effective between AT&T-21STATE and the Adopting CLEC (i.e., following the date the Commission approves or is deemed to have approved the Adopting CLEC's Section 252(i) adoption ("MFN Effective Date")) and on a prospective basis only. Nothing in this Agreement shall entitle an Adopting CLEC to any retroactive application of any rates under this Agreement to any date prior to the MFN Effective Date and any adopting CLEC is foreclosed from making any such claim hereunder.
- 1.4.2 AT&T-21STATE obligation, under this Agreement, per the GT&C is to only provide Interconnection Services for which complete rates, terms and conditions are contained in this Agreement. Accordingly, to the extent CLEC orders a product or service for which there are not complete rates, terms and conditions contained in this Agreement, AT&T-21STATE may reject the order. CLEC must amend this Agreement to allow ordering

of products and services for which complete rates, terms and conditions did not exist as of the Effective Date of the Agreement to the extent such product or service is still available at the time of the request. In the event that CLEC orders, and AT&T-21STATE provisions, a product or service to CLEC for which there are not complete rates, terms and conditions in this Agreement, then CLEC understands and agrees that one of the following will occur:

- 1.4.3 CLEC shall pay for the product or service provisioned to CLEC at the rates set forth in AT&T-21STATE's applicable intrastate tariff(s) for the product or service or, to the extent there are no tariff rates, terms or conditions available for the product or service in the applicable state, then CLEC shall pay for the product or service at AT&T-21STATE's current generic contract rate for the product or service set forth in AT&T-21STATE's applicable state-specific generic Pricing Sheet as published on the AT&T CLEC Online website; or
  - 1.4.4 CLEC will be billed and shall pay for the product or service as provided in Section 1.4.3 above, and AT&T-21STATE may, without further obligation, reject future orders and further provisioning of the product or service until such time as applicable rates, terms and conditions are incorporated into this Agreement as set forth in this Section 1.4.2 above. If CLEC and AT&T-21STATE cannot agree on rates, terms, and conditions either Party may institute the Dispute Resolution provisions as contained in the GT&Cs.
  - 1.4.5 AT&T-21STATE's provisioning of orders for such Interconnection Services is expressly subject to this Section 1.4.2 above, and in no way constitutes a waiver of AT&T-21STATE's right to charge and collect payment for such products and/or services.
  - 1.4.6 Where the rate for an AT&T-21STATE Interconnection Service is identified as a tariffed rate, any changes to the tariff rate shall be automatically incorporated into this Agreement. The issuance of a Commission Order approving such rate change shall be the only Notice required under this Agreement. Provided however, should a tariff or tariff rate, incorporated into this Agreement, be withdrawn or invalidated in any way during the term of this Agreement, the last rate in effect at the time of such withdrawal or invalidation shall continue to apply during the remaining term of this Agreement.
  - 1.4.7 The Resale Discount applicable to purchases of Resold Services in each State is the current Commission-approved rate. Any Commission approved or ordered change in the Resale discount for Resold Services shall be automatically incorporated into this Agreement for the state in which such Commission approves or orders the change. The issuance of the Commission Order approving such change shall be the only Notice required under this Agreement.
- 1.5 Establishment of "TBD" Rates
- 1.5.1 When a rate, price or charge in this Agreement is noted as "To Be Determined" or "TBD" or no rate is shown, the Parties understand and agree that when a rate, price or charge is established by AT&T-21STATE for that Interconnection Service and incorporated into AT&T-21STATE's current state-specific Generic Pricing Sheet as published on the AT&T CLEC Online website, that rate(s) ("Established Rate") shall automatically apply to the Interconnection Service provided under this Agreement back to the Effective Date of this Agreement as to any orders CLEC submitted and AT&T-21STATE provisioned for that Interconnection Service without the need for any additional modification(s) to this Agreement or further Commission action. AT&T-21STATE shall provide Written Notice to CLEC of the application of the rate, price or charge that has been established, and the CLEC's billing tables will be updated to reflect (and CLEC will be charged) the Established Rate, and the Established Rate will be deemed effective between the Parties as of the Effective Date of the Agreement. The Parties shall negotiate a conforming amendment, which shall reflect the Established Rate that applies to such Product or Service pursuant to this Section 1.5 above, and shall submit such Amendment to the State Commission for approval. In addition, as soon as is reasonably practicable after such Established Rate begins to apply, AT&T-21STATE shall bill CLEC to reflect the application of the Established Rate retroactively to the Effective Date of the Agreement between the Parties.

1.5.2 AT&T-21STATE's provisioning of such orders for such Interconnection Services is expressly subject to this Section 1.5 above and in no way constitutes a waiver of AT&T-21STATE's right to charge and collect payment for such Interconnection Services.

## 1.6 Recurring Charges

1.6.1 Unless otherwise identified in the Pricing Sheet, where rates are shown as monthly, a month will be defined as a thirty (30) day calendar month. The minimum term for each monthly rated Interconnection Services will be one (1) month. After the initial month, billing will be on the basis of whole or fractional months used. The minimum term for Interconnection Services, if applicable, will be specified in the rate tables included in this Attachment.

1.6.2 Where rates are distance sensitive, the mileage will be calculated on the airline distance involved between the locations. To determine the rate to be billed AT&T-21STATE will first compute the mileage using the V&H coordinates method, as set forth in the National Exchange Carrier Association, Inc. Tariff FCC No 4. When the calculation results in a fraction of a mile, AT&T-21STATE will round up to the next whole mile before determining the mileage and applying rates.

## 1.7 Non-Recurring Charges:

1.7.1 Where rates consist of usage sensitive charges or per occurrence charges, such rates are classified as "non-recurring charges".

1.7.2 Consistent with FCC Rule 51.307(d), there may be non-recurring charges for each 251(c)(3) UNE.

1.7.3 When CLEC converts an End-User currently receiving non-complex service from AT&T-21STATE, without any facilities rearrangements to AT&T-21STATE's network, the normal service order charges and/or nonrecurring charges associated with said additions and/or changes will apply.

1.7.4 CLEC shall pay the applicable service order processing/administration charge for each service order submitted by CLEC to AT&T-21STATE to process a request for installation, disconnection, rearrangement, change, or record order.

1.7.5 In some cases, Commissions have ordered AT&T-21STATE to separate disconnect costs and installation costs into two separate nonrecurring charges. Accordingly, unless otherwise noted in this Agreement, the Commission-ordered disconnect charges will be applied at the time the disconnect activity is performed by AT&T-21STATE, regardless of whether or not a disconnect order is issued by CLEC.

1.7.6 Time and Material charges, also known as Additional Labor Charges, are defined in the Price Sheet contained herein.

1.7.7 Loop Zone charges are defined in the Price Sheet contained herein.

## 1.8 AT&T CALIFORNIA only:

1.8.1 The Pricing Sheet contained in this Agreement contains both zone and statewide rates for many of the Rate Element Descriptions contained within the Unbundled Exchange Access Loop Product. CLEC must select either zone rates or statewide rates for these rate elements upon the establishment of the BAN(s) for CLEC in California.

1.8.1.1 CLEC will indicate on the WEST - UNE/UNE-P/LWC™/Commercial Agreements BAN REQUEST FORM which type of rates that the CLEC wants to be billed: Zone or Statewide. The form is provided to CLEC in the West Implementation Checklist for Facility-Based/LWC/Resale package.

1.8.1.2 Once CLEC selects either the zone or statewide rate, that rate type will remain for the life of the contract.

PRICING SHEETS

Attachment	State	Product	Rate Element Description	COS (Class of Service)	USOC	Zone	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC) First	Non-Recurring Charge (NRC) Additional	Per Unit
7REGSE	FL	RESALE - OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Electronic Service Order Charge, Per Local Service Request (LSR) - Resale Only		SOME C			3.50	0.00	LSR
7REGSE	FL	RESALE - OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Electronic Service Order Charge, Per Local Service Request (LSR) - Resale Only [DISCONNECT]		SOME C			3.50	0.00	LSR
7REGSE	FL	RESALE - OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Manual Service Order Charge, Per Local Service Request (LSR) - Resale Only		SOMAN			19.99	0.00	LSR
7REGSE	FL	RESALE - OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Manual Service Order Charge, Per Local Service Request (LSR) - Resale Only [DISCONNECT]		SOMAN			19.99	0.00	LSR
7REGSE	FL	OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Electronic Service Order Charge, Per Local Service Request (LSR)		SOME C			3.50	0.00	LSR
7REGSE	FL	OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Electronic Service Order Charge, Per Local Service Request (LSR) [DISCONNECT]		SOME C			3.50	0.00	LSR
7REGSE	FL	OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Electronic Service Order Charge, Per Local Service Request (LSR)		SOMAN			11.90	0.00	LSR
7REGSE	FL	OPERATIONS SUPPORT SYSTEMS (OSS) - "REGIONAL RATES"	OSS - Electronic Service Order Charge, Per Local Service Request (LSR) [DISCONNECT]		SOMAN			1.83	0.00	LSR
7	FL	UNE SERVICE DATE ADVANCEMENT CHARGE	UNE Expedite Charge per Circuit or Line Assignable USOC, per Day	UAL, UEANL, UCL, UEF, UDF, UEQ, UDL, UENTW, UDN, UEA, UHL, ULC, USL, U1T12, U1T48, U1TD1, U1TD3, U1TDX, U1TO3, U1TS1, U1TVX, UC1BC, UC1BL, UC1CC, UC1CL, UC1DC, UC1DL, UC1EC, UC1EL, UC1FC, UC1FL, UC1GC, UC1GL, UC1HC, UC1HL, UDL12, UDL48, UDLO3, UDLSX, UE3, ULDD1, ULDD3, ULDDX, ULDO3, ULDS1, ULDVX, UNC1X, UNC3X, UNCDX, UNCNX, UNCSX, UNCVX, UNLD1, UNLD3, UXTD1, UXTD3, UXTS1, U1TUC, U1TUD, U1TUB, U1TUA, NTCVG, NTCUD, NTCDD1				200.00		day
7	FL	ORDER MODIFICATION CHARGE	Order Modification Charge (OMC)					26.21	0.00	
7	FL	ORDER MODIFICATION CHARGE	Order Modification Charge (OMC) [DISCONNECT]					0.00	0.00	
7	FL	ORDER MODIFICATION CHARGE	Order Modification Additional Dispatch Charge (OMCAD)					150.00	0.00	
7	FL	ORDER MODIFICATION CHARGE	Order Modification Additional Dispatch Charge (OMCAD) [DISCONNECT]					0.00	0.00	
4	FL	LNP QUERY SERVICE	LNP Charge Per query				0.000852			query
4	FL	LNP QUERY SERVICE	LNP Service Establishment Manual					13.83	13.83	
4	FL	LNP QUERY SERVICE	LNP Service Establishment Manual [DISCONNECT]					12.71	12.71	
4	FL	LNP QUERY SERVICE	LNP Service Provisioning with Point Code Establishment					655.50	334.88	
4	FL	LNP QUERY SERVICE	LNP Service Provisioning with Point Code Establishment [DISCONNECT]					297.03	218.40	
5	FL	911 PBX LOCATE	911 PBX Locate Database Capability - Service Establishment per CLEC per End User Account	9PBDC	9PBEU			1,820.00		per CLEC per End User Account
5	FL	911 PBX LOCATE	911 PBX Locate Database Capability - Changes to TN Range or Customer Profile	9PBDC	9PBTN			182.14		

PRICING SHEETS

Attachment	State	Product	Rate Element Description	COS (Class of Service)	USOC	Zone	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC) First	Non-Recurring Charge (NRC) Additional	Per Unit
5	FL	911 PBX LOCATE	911 PBX Locate Database Capability - Per Telephone Number (Monthly)	9PBDC	9PBMM		0.07			telephone number
5	FL	911 PBX LOCATE	911 PBX Locate Database Capability - Change Company (Service Provider) ID	9PBDC	9PBPC			534.66		
5	FL	911 PBX LOCATE	911 PBX Locate Database Capability - PBX Locate Service Support per CLEC (Monthly)	9PBDC	9PBMR		178.80			CLEC
5	FL	911 PBX LOCATE	911 PBX Locate Database Capability - Service Order Charge	9PBDC	9PBSC			11.90		
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Rate for all ISP-Bound and Section 251(b)(5) Traffic as per FCC-01-131, per MOU (Effective through 6/30/17)				0.0007			MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Rate for all ISP-Bound and Section 251(b)(5) Traffic as per FCC-01-131, per MOU (Effective 7/01/17)				0.00bk			MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Multiple Tandem Switching, per MOU (applies to initial tandem only)				0.0006019			MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Multiple Tandem Switching, per MOU (applies to initial tandem only)				0.0006019			MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Installation Trunk Side Service - per DS0	OHD	TPP6X			21.73	8.19	DS0
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Installation Trunk Side Service - per DS0	OHD	TPP9X			21.73	8.19	DS0
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Dedicated End Office Trunk Port Service-per DS0	OHD	TDEOP		0.00			DS0/MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Dedicated End Office Trunk Port Service-per DS1	OH1, OH1MS	TDE1P		0.00			DS1/MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Dedicated Tandem Trunk Port Service-per DS0	OHD	TDWOP		0.00			DS0/MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Dedicated Tandem Trunk Port Service-per DS1	OH1, OH1MS	TDW1P		0.00			DS1/MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Per Mile, Per MOU (Effective through 6/30/18)				0.0000035			MILE/MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Per Mile, Per MOU (Effective 7/1/2018)				0.00bk			MILE/MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Facilities Termination Per MOU (Effective through 6/30/18)				0.0004372			MOU
2MR-AT	FL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Facilities Termination Per MOU (Effective 7/1/2018)				0.00bk			MOU
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - 2-Wire Voice Grade - Per Mile per month	OHM	1L5NF		0.0091			Per Mile per month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport- 2- Wire Voice Grade - Facility Termination per month	OHM	1L5NF		25.32	47.35	31.78	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport- 2- Wire Voice Grade - Facility Termination per month [DISCONNECT]	OHM	1L5NF			18.31	7.03	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - 56 kbps - per mile per month	OHM	1L5NK		0.0091			Per Mile per month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - 56 kbps - Facility Termination per month	OHM	1L5NK		18.44	47.35	31.78	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - 56 kbps - Facility Termination per month [DISCONNECT]	OHM	1L5NK			18.31	7.03	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Channel - DS1 - Per Mile per month	OH1, OH1MS	1L5NL		0.1856			month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - DS1 - Facility Termination per month	OH1, OH1MS	1L5NL		88.44	105.54	98.47	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - DS1 - Facility Termination per month [DISCONNECT]	OH1, OH1MS	1L5NL			21.47	19.05	month

PRICING SHEETS

Attachment	State	Product	Rate Element Description	COS (Class of Service)	USOC	Zone	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC) First	Non-Recurring Charge (NRC) Additional	Per Unit
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - DS3 - Per Mile per month	OH3, OH3MS	1L5NM		3.87			Per Mile per month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - DS3 - Facility Termination per month	OH3, OH3MS	1L5NM		1,071.00	335.46	219.28	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Interoffice Channel - Dedicated Transport - DS3 - Facility Termination per month [DISCONNECT]	OH3, OH3MS	1L5NM			72.03	70.56	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - 2-Wire Voice Grade per month	OHM	TEFV2		19.66	265.84	46.97	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - 2-Wire Voice Grade per month [DISCONNECT]	OHM	TEFV2			37.63	4.00	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - 4-Wire Voice Grade per month	OHM	TEFV4		20.45	266.54	47.67	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - 4-Wire Voice Grade per month [DISCONNECT]	OHM	TEFV4			44.22	5.33	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - DS1 per month	OH1	TEFHG		36.49	216.65	183.54	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - DS1 per month [DISCONNECT]	OH1	TEFHG			24.30	16.95	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - DS3 Facility Termination per month	OH3	TEFHJ		531.91	556.37	343.01	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Channel - Dedicated - DS3 Facility Termination per month [DISCONNECT]	OH3	TEFHJ			139.13	96.84	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Interconnection Mid-Span Meet - Local Channel - Dedicated - DS1 per month	OH1MS	TEFHG		0.00	0.00		month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Local Interconnection Mid-Span Meet -Local Channel - Dedicated - DS3 per month	OH3MS	TEFHJ		0.00	0.00		month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Multiplexers - Channelization - DS1 to DS0 Channel System	OH1, OH1MS	SATN1		146.77	101.42	71.62	
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Multiplexers - Channelization - DS1 to DS0 Channel System [DISCONNECT]	OH1, OH1MS	SATN1			11.09	10.49	
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Multiplexers - DS3 to DS1 Channel System per month	OH3, OH3MS	SATNS		211.19	199.28	118.64	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Multiplexers - DS3 to DS1 Channel System per month [DISCONNECT]	OH3, OH3MS	SATNS			40.34	39.07	month
2MR-AT	FL	LOCAL INTERCONNECTION (DEDICATED TRANSPORT)	Multiplexers - DS3 Interface Unit (DS1 COCI) per month	OH1, OH1MS	SATCO		13.76	10.07	7.08	month
10	FL	ANCILLARY MESSAGE COMPENSATION	Non Intercompany Settlement (NICS) Billing Charge (Per Message)		1ZZCN		0.05			message