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

between one or more of

Illinois Bell Telephone Company d/b/a SBC Illinois,
Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana,
Michigan Bell Telephone Company d/b/a SBC Michigan,
Nevada Bell Telephone Company d/b/a SBC Nevada,
The Ohio Bell Telephone Company d/b/a SBC Ohio,
Pacific Bell Telephone Company d/b/a SBC California,
The Southern New England Telephone Company d/b/a SBC Connecticut,
Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas,
Wisconsin Bell, Inc. d/b/a SBC Wisconsin

and

Primo Communications, Inc.

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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 SBC Communications Inc.-owned ILEC's **Illinois Bell Telephone Company d/b/a SBC Illinois**, **Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana**, **Michigan Bell Telephone Company d/b/a SBC Michigan**, **Nevada Bell Telephone Company d/b/a SBC Nevada**, **The Ohio Bell Telephone Company d/b/a SBC Ohio**, **Pacific Bell Telephone Company d/b/a SBC California**, **The Southern New England Telephone Company d/b/a SBC Connecticut** and **Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas**, **SBC Kansas**, **SBC Missouri**, **SBC Oklahoma** and/or **SBC Texas**, and **Wisconsin Bell, Inc. d/b/a SBC Wisconsin**, (only to the extent that the agent for each such SBC-owned ILEC executes this Agreement for such SBC-owned ILEC and only to the extent that such SBC-owned ILEC provides Telephone Exchange Services as an ILEC in each of the state(s) listed below) and, Primo Communications, Inc.("CLEC"), (a Michigan corporation), shall apply to the state(s) of California, Illinois, Indiana, Michigan, Ohio, and Wisconsin.

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 unbundled network elements purchased from other entity(ies) and 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, directly or indirectly, Telephone Exchange Services and Exchange Access to residential and business End Users over their respective Telephone Exchange Service facilities in the 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 **Illinois Bell Telephone Company d/b/a SBC Illinois**, **Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana**, **Michigan Bell Telephone Company d/b/a SBC Michigan**, **Nevada Bell Telephone Company d/b/a SBC Nevada**, **The Ohio Bell Telephone Company d/b/a SBC Ohio**, **Pacific Bell Telephone Company d/b/a SBC California**, **The Southern New England Telephone Company d/b/a SBC Connecticut** and **Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas**, **SBC Kansas**, **SBC Missouri**, **SBC Oklahoma** and/or **SBC Texas**, and **Wisconsin Bell, Inc. d/b/a SBC Wisconsin** is the incumbent Local Exchange Carrier(s) and CLEC, a competitive Local Exchange Carrier, has or, prior to the provisioning of any Interconnection, access to 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:

This Agreement is composed of General Terms and Conditions, which are set forth below, together with certain Appendices, Attachments, Schedules, Exhibits and Addenda which immediately follow this Agreement, all of which are hereby incorporated in this Agreement by this reference and constitute a part of this Agreement.

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

Capitalized Terms used in this Agreement shall have the respective meanings specified below, in Section 1.x of each Appendix attached hereto, and/or as defined elsewhere in this Agreement.

1.1 General Definitions

1.1.1 **"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.

1.1.2 **"Access Compensation"** is the compensation paid by one Party to the other Party for the origination/termination of intraLATA toll calls to/from its End User. Access compensation is in accordance with the LEC's tariffed access rates.

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

1.1.4 **"Accessible Letters"** are correspondence used to communicate pertinent information regarding **SBC-13STATE** to the client/End User community.

1.1.5 **"Account Owner"** means a telecommunications company, including **SBC-13STATE**, that stores and/or administers Line Record Information and/or Group Record Information in a Party's LIDB and/or Calling Name Database.

1.1.6 **"Advanced Services"** means intrastate or interstate wireline Telecommunications Services, such as ADSL, IDSL, xDSL, Frame Relay, Cell Relay and VPOP-Dial Access Service (an **SBC-13STATE** Frame Relay-based service) that rely on packetized technology and have the capability of supporting transmissions speeds of at least 56 kilobits per second in both directions. This definition of Advanced Services does not include:

1.1.6.1 Data services that are not primarily based on packetized technology, such as ISDN,

1.1.6.2 x.25-based and x.75-based packet technologies, or

1.1.6.3 Circuit switched services (such as circuit switched voice grade service) regardless of the technology, protocols or speeds used for the transmission of such services.

1.1.7 **"Affiliate"** is As Defined in the Act.

1.1.8 **"Alternate Billing Service" (ABS)** means a 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 calls: calling card, collect and third number billed calls.

1.1.9 **"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.

1.1.10 **"As Defined in the Act"** means as specifically defined by the Act.

1.1.11 **"As Described in the Act"** means as described in or required by the Act.

1.1.12 **"Automated Message Accounting"** (**AMA**) is a structure inherent in switch technology that initially records Telecommunication message information. AMA format is contained in the Automated Message Accounting document published by Telcordia (formerly known as Bellcore) as GR-1100-CORE, which defines and amends the industry standard for message recording.

1.1.13 **"Billed Number Screening" (BNS)** means a validation of toll billing exception (TBE) data and performance of public telephone checks; i.e., determining if a billed line is a public (including those classified as semi-public) telephone number.

1.1.14 **"Bona Fide Request"** (**BFR**) is the process described in the applicable Appendix UNE.

1.1.15 **"Business Day"** means Monday through Friday, excluding holidays on which the applicable **SBC**-owned ILEC does not provision new retail services and products.

1.1.16 **"Busy Line Verification"** (**BLV**) means a service whereby an End User requests an operator to confirm the busy status of a line.

1.1.17 **"CABS"** means the Carrier Access Billing System.

1.1.18 **"Calling Card Service"** means a service that enables a calling End User to bill a telephone call to a calling card number with or without the help of an operator.

1.1.19 **"Calling Name Database"** means a Party's database containing current Calling Name Information, including the Calling Name Information of any telecommunications company participating in that Party's Calling Name Database. A Calling Name Database may be part of, or separate from, a LIDB.

1.1.20 **"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.

1.1.21 **"Calling Name Information"** means a Telecommunications Carrier's records of its End Users names associated with one or more assigned ten-digit telephone numbers.

1.1.22 **"Calling Number Delivery"** means a feature that enables an End User to view the directory number of the calling party on a display unit.

1.1.23 **"Calling Party Number"** (**CPN**) means a Signaling System 7 "SS7" parameter whereby the ten (10) digit number of the calling Party is forwarded from the End Office.

1.1.24 **"Central Automatic Message Accounting (CAMA) Trunk"** means a trunk that uses Multi-Frequency (MF) signaling to transmit calls from CLEC's switch to an **SBC-13STATE** E911 Selective Router.

1.1.25 **"Centralized Message Distribution System"** (**CMDS**) means the transport system that LECs use to exchange outcollect and Carrier Access Billing System "CABS" access messages among each other and other Parties connected to CMDS.

1.1.26 **"Central office switch"** (**Central Office**) is a switching entity within the public switched telecommunications network, including but not limited to:

1.1.26.1 **"End Office Switch" or "End Office"** is a 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.

1.1.26.2 **"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.

1.1.27 **"Charge Number"** is a CCS signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling party.

1.1.28 **"Claim"** means any pending or threatened claim, action, proceeding or suit.

1.1.29 **"CNAM Query"** means a Query that allows CLEC to query a Calling Name Database for Calling Name Information in order to deliver that information to CLEC's local CNDS subscribers.

1.1.30 **"CNAM Query Rate"** means a rate that applies to each CNAM Query received at the SCP where the Calling Name Database resides.

1.1.31 **"Collocation"** is an arrangement is an arrangement where a CLEC leases space at an **SBC-13STATE** premises for the placement of equipment necessary for interconnection or access to **SBC-13STATE** UNEs.

1.1.32 **"Commercial Mobile Radio Services"** (**CMRS**) means Commercial Mobile Radio Service, As Defined in the Act and FCC rules.

1.1.33 **"Commission"** means the applicable State agency with regulatory authority over Telecommunications. Unless the context otherwise requires, use of the term **"Commissions"** means all of the thirteen agencies listed in this Section. The following is a list of the appropriate State agencies:

1.1.33.1 **the Arkansas Public Service Commission (AR-PSC);**
1.1.33.2 **Public Utilities Commission of the State of California (CA-PUC);**
1.1.33.3 **the Connecticut Department of Public Utility Control (DPUC);**
1.1.33.4 **the Illinois Commerce Commission (IL-CC);**
1.1.33.5 **the Indiana Utilities Regulatory Commission (IN-URC);**
1.1.33.6 **the Kansas Corporation Commission (KS-CC);**
1.1.33.7 **the Michigan Public Service Commission (MI-PSC);**
1.1.33.8 **the Missouri Public Service Commission (MO-PSC);**
1.1.33.9 **the Public Utilities Commission of Nevada (NV-PUC);**
1.1.33.10 **the Public Utilities Commission of Ohio (PUC-OH);**
1.1.33.11 **the Oklahoma Corporation Commission (OK-CC);**
1.1.33.12 **the Public Utility Commission of Texas (PUC-TX); and**
1.1.33.13 **the Public Service Commission of Wisconsin (PSC-WI).**

1.1.34 **"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.

1.1.35 **"Common Language Location Identifier**" (**CLLI**) codes provide a unique 11-character representation of a network interconnection point. The first 8 characters identify the city, state and building location, while the last 3 characters identify the network component.

1.1.36 **"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 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.

1.1.37 **"Customer Usage Data"** means the Telecommunications Services usage data of a CLEC End User measured in minutes, sub-minute increments, message units, or otherwise, that is recorded by **SBC-13STATE** and forwarded to CLEC.

1.1.38 **"Custom Local Area Signaling Service Features"** (**CLASS**) means certain call-management service features that are currently available from **SBC-13STATE**'s local networks. These could include: Automatic Call Back; Automatic Recall; Call Trace; Caller Identification and related blocking features; Calling Number Delivery; Customer Originated Trace; Distinctive Ringing/Call Waiting; Selective Call Forward; and Selective Call Rejection.

1.1.39 **"Customer Name and Address Information" (CNA)** means the name, service address and telephone numbers of a Party's End Users for a particular Exchange Area. CNA includes nonpublished listings, coin telephone information and published listings.

1.1.40 **"Data Interexchange Carrier"** (**DIXC**) is a process designed to facilitate the reciprocal exchange of voice traffic load data between the **SBC-13STATE** and CLECs interconnecting with its network. This reciprocal exchange of data enables **SBC-13STATE** and each CLEC to have a complete view of traffic loads on both ends of two-way trunk groups. The knowledge of call attempt and overflow data counts on both ends of a two-way trunk group enables each company to more accurately estimate the offered, and thereby better estimate, the required quantities of trunks.

1.1.41 **"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:

1.1.41.1 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;

1.1.41.2 any delay, act or failure to act by the other Party or its End User, agent or subcontractor; or

1.1.41.3 any Force Majeure Event.

1.1.42 **"Dialing Parity"** is As Defined in the Act. As used in this Agreement, Dialing Parity refers to both Local Dialing Parity and Toll Dialing Parity.

1.1.43 **"Digital Signal Level"** is one of several transmission rates in the time-division multiplex hierarchy.

1.1.43.1 **"Digital Signal Level 0"** (**DS-0**) is the 64 Kbps zero-level signal in the time-division multiplex hierarchy.

1.1.43.2 **"Digital Signal Level 1"** (**DS-1**) is the 1.544 Mbps first-level signal in the time-division multiplex hierarchy.

1.1.43.3 **"Digital Signal Level 3"** (**DS-3**) is the 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

1.1.44 **"Digital Subscriber Line"** (**DSL**) is as defined in the applicable Appendix DSL and/or the applicable tariff, as appropriate.

1.1.45 **"Electronic File Transfer"** is any system or process that utilizes an electronic format and protocol to send or receive data files.

1.1.46 **"End Users"** 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 Users" does not include any of the Parties to this Agreement with respect to any item or service obtained under this Agreement.

1.1.47 **"Enhanced Service Provider"** (**ESP**) is a provider of enhanced services as those services are defined in 47 CFR Section 64.702.

1.1.48 **"Exchange Access"** is As Defined in the Act.

1.1.49 **"Exchange Area"** means an area, defined by the Commission, for which a distinct local rate schedule is in effect.

1.1.50 **"Exchange Message Interface"** (**EMI**) (formerly Exchange Message Record - EMR) is the standard used for exchange of Telecommunications message information among Telecommunications Carriers for billable, non-billable, sample, settlement and study data. EMI format is contained in Telcordia Practice BR-010-200-010, CRIS Exchange Message Record.

1.1.51 **"Exchange Service"** means Telephone Exchange Service, As Defined in the Act.

1.1.52 **"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. The intercarrier compensation mechanism as well as additional definitions for FGA are specified in the appropriate Appendix FGA.

1.1.53 **"Feature Group D"** (**FGD**) is 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.

1.1.54 **"FCC"** means the Federal Communications Commission.

1.1.55 **"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) at a mutually agreed upon location, at which one Party's responsibility or service begins and the other Party's responsibility ends.

1.1.56 **"Foreign Exchange"** (**FX**) means a service whereby calls either originated by or delivered to a customer who has purchased FX service from the state or interstate tariffs of either Party. FX also includes, but is not limited to, FX-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 local calling area but where the Party receiving the call is physically located outside of that local calling area. FX service can be either interLATA or intraLATA. InterLATA FX, where the originating and receiving parties are physically located in different LATAs, is considered equivalent to FGA and the intercarrier compensation mechanism is the same as FGA. IntraLATA FX, when provided by two or more local exchange carriers "LECs", is considered a jointly provided service and meet-point billed by those providing it utilizing a mutually agreed to meet-point billing, or meet-point billing like procedure.

1.1.57 **"Fraud Monitoring System"** means an off-line administration system that monitors suspected occurrences of ABS-related fraud.

1.1.58 **"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.

1.1.59 **"Group Record"** means information in LIDB and/or the LIDB administrative system that is common to all telephone numbers in an NPA-NXX or all Special Billing Numbers in an NXX-0/1XX.

1.1.60 **"Incumbent Local Exchange Carrier**" (**ILEC**) is As Defined in the Act.

1.1.61 **"Intellectual Property"** means copyrights, patents, trademarks, trade secrets, mask works and all other intellectual property rights.

1.1.62 **"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.

1.1.63 **"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 64 Kbps bearer channels and one 16 Kbps data channel (2B+D).

1.1.64 **"Interconnection"** is As Defined in the Act.

1.1.65 **"Interconnection Activation Date"** is 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.

1.1.66 **"Interexchange Carrier"** (**IXC**) means a carrier that provides, directly or indirectly, interLATA or intraLATA Telephone Toll Services.

1.1.67 **"InterLATA"** is As Defined in the Act.

1.1.68 **"Intermediate Distribution Frame"** (**IDF**) is a second frame that augments an existing Main Distribution Frame. Lines or outside cables do not terminate on the IDF.

1.1.69 **"Internet Service Provider"** (**ISP**) is an Enhanced Service Provider that provides Internet Services, and is defined in paragraph 341 of the FCC's First Report and Order in CC Docket No. 97-158.

1.1.70 **"IntraLATA Toll Traffic"** means the IntraLATA traffic between two locations within one LATA where one of the locations lies outside of the normal local calling area as defined by the applicable Commission.

1.1.71 **"Jurisdictional Identification Parameter"** (**JIP**) is an existing six (6) digit (NPA-NXX) field in the SS7 message. This field designates the first point of switching.

1.1.72 **"LIDB Editor"** means a SCP tool that bypasses the LIDB administrative system and provides emergency access to LIDB for data administration.

1.1.73 **"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. LIDB accepts queries from other network elements and provides return result, return error, and return reject responses as appropriate. Examples of information that Account Owners might store in LIDB and in their Line Records are: ABS Validation Data, Originating Line Number Screening (OLNS) data, ZIP Code data, and Calling Name Information.

1.1.74 **"LIDB Service Applications"** means the query types accepted for access to LIDB information.

1.1.75 **"Line Record"** means information in LIDB and/or the LIDB administrative system that is specific to a single telephone number or Special Billing Number.

1.1.76 **"Local Access Transport Area**" (**LATA**) is As Defined in the Act.

1.1.77 **"Local Exchange Carrier"** (**LEC**) is As Defined in the Act.

1.1.78 **"Local Exchange Routing Guide"** (**LERG**) is a Telcordia Reference document used by Telecommunications Carriers to identify NPA-NXX routing and homing information as well as Network element and equipment designations.

1.1.79 **"Local Calls"**, for purposes of intercarrier compensation, is traffic where all calls are within the same common local and common mandatory local calling area, i.e., within the same or different SBC Exchange(s) that participate in the same common local mandatory local calling area approved by the applicable state Commission. Local Calls must actually originate and actually terminate to parties physically located within the same common local or common mandatory local calling area.

1.1.80 **"Local Interconnection Trunks/Trunk Groups"** are used for the termination of Local Exchange Traffic, pursuant to Telcordia Technical Reference GR-317-CORE "GR-317.

1.1.81 **"Local Loop Transmission", "Unbundled Local Loop", "Loop"** means the transmission path which extends from the Network Interface Device or demarcation point at an End User's premise to the Main Distribution Frame or other designated frame or panel in the **SBC-13STATE** Serving Wire Center.

1.1.82 **"Local Number Portability"** means the ability of users of Telecommunications Services to retain, at the same location, the presence of a previously existing telephone number(s).

1.1.83 **"Location Routing Number (LRN)** is a 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.

1.1.84 **"Local Service Provider"** (**LSP**) is 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.

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

1.1.86 **"MECAB"** refers to the Multiple Exchange Carrier Access Billing document prepared by the Billing Committee of the Ordering and Billing Forum "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 or more LECs, or by one LEC in two or more states within a single LATA.

1.1.87 **"MECOD"** refers to the Multiple Exchange Carriers Ordering and Design 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 CLC 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 or more telecommunications providers.

1.1.88 **"Meet-Point Billing"** (**MPB**) refers to the billing associated with interconnection of facilities between two 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.

1.1.89 **"Multiple Bill/Single Tariff"** is a 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.

1.1.90 **"Mutual Compensation"** as defined in Appendix Reciprocal Compensation.

1.1.91 **"Network Data Mover"** (**NDM**) is an industry standard protocol for transferring information electrically.

1.1.92 **"Network Element"** is As Defined in the Act.

1.1.93 **"North American Numbering Plan"** (**NANP**) A numbering architecture in which every station in the NANP Area is identified by a unique ten-digit address consisting of a three-digit NPA code, a three digit central office code of the form NXX, and a four-digit line number of the form XXXX.

1.1.94 **"Numbering Plan Area"** (**NPA**) also called area code. An NPA is the 3-digit code that occupies the A, B, C positions in the 10-digit NANP format that applies throughout the NANP Area. NPAs are of the form NXX, where N represents the digits 2-9 and X represents any digit 0-9. In the NANP, NPAs are classified as either geographic or non-geographic. a) Geographic NPAs are NPAs which correspond to discrete geographic areas within the NANP Area. b) 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. The common examples are NPAs in the N00 format, e.g., 800.

1.1.95 **"Number Portability"** is As Defined in the Act.

1.1.96 **"NXX" or "Central Office Code"** is the three-digit switch entity indicator that is defined by the fourth through sixth digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.

1.1.97 **"Ordering and Billing Forum"** (**OBF**) is a forum comprised of local telephone companies and inter-exchange carriers whose responsibility is to create and document Telecommunication industry guidelines and standards.

1.1.98 **"Originating Line Information"** (**OLI**) is an SS7 Feature Group D signaling parameter which refers to the number transmitted through the network identifying the billing number of the calling Party.

1.1.99 **"Originating Point Code" (OPC)** means a code assigned to identify CLEC's system(s) that originate SS7 messages, including LIDB Service Queries.

1.1.100 "**Out of Exchange LEC (OE-LEC)"** means **<CLEC Name>** operating within **SBC-12STATE'S** incumbent local exchange area and provides telecommunications services utilizing NPA-NXXs identified to reside in a Third Party Incumbent LEC's local exchange area.

1.1.101 **"Out of Exchange Traffic"** is defined as local, transit, or intraLATA traffic to or from a non-**SBC ILEC** exchange area.

1.1.102 **"Party"** means either CLEC or the SBC-owned ILEC; use of the term "Party" includes each of the SBC-owned ILEC(s) that is a party to this Agreement. **"Parties"** means both CLEC and the SBC-owned ILEC; use of the term "Parties" includes each of the SBC-owned ILEC(s) that is a party to this Agreement.

1.1.103 **"Permanent Number Portability"** (**PNP**) is a long term method of providing LNP using LRN.

1.1.104 **"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.

1.1.105 **"Physical Collocation"** is as defined in Appendix Physical Collocation.

1.1.106 **"Plain Old Telephone Service"** (**POTS**) means telephone service for the transmission of human speech.

1.1.107 **"Point of Interconnection"** (**POI**) is a physical location at which the Parties' networks meet for the purpose of establishing Interconnection. POIs include a number of different technologies and technical interfaces based on the Parties' mutual agreement.

1.1.108 **"Port**" is the point of interface/access connection to the **SBC-13STATE** public switched network. This may be a switch line side interface or switch trunk side interface.

1.1.109 **"Rate Center Area"** means the following in each applicable area:

1.1.109.1 **SBC MIDWEST REGION 5-STATE**

1.1.109.1.1 **"**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.

1.1.109.2 **SBC NEVADA**

1.1.109.2.1 "Rate Center" denotes 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.

1.1.109.3 **SBC CALIFORNIA**

1.1.109.3.1 "Rate Center" denotes 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.

1.1.109.4 **SBC CONNECTICUT**

1.1.109.4.1 "Rate Center means the specific geographic point and corresponding area that have been identified by a given LEC as being associated with a particular NPA-NXX code that has been assigned to the LEC for its provision of Exchange Services.

1.1.109.5 **SBC SOUTHWEST REGION 5-STATE**

1.1.109.5.1 "Rate Center" means an 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.

1.1.110 **"Rating Point"** means the V&H coordinates associated with a particular telephone number for rating purposes.

1.1.111 **"Referral Announcement"** refers to a process by which calls are routed to an announcement that states the new telephone number of an End User.

1.1.112 **"Routing Point"** is a 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.

1.1.113 "**SBC Communications Inc**." **(SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.

1.1.114 **"SBC-2STATE" -** As used herein, **SBC-2STATE** means **SBC CALIFORNIA** and **SBC NEVADA**, the applicable SBC-owned ILEC(s) doing business in California and Nevada.

1.1.115 **"SBC-4STATE" -** As used herein, **SBC-4STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, and SBC Oklahoma, the applicable SBC-owned ILEC(s) doing business in Arkansas, Kansas, Missouri and Oklahoma.

1.1.116 **"SBC-7STATE" -** As used herein, **SBC-7STATE** means **SBC SOUTHWEST REGION 5-STATE, SBC CALIFORNIA** and **SBC NEVADA,** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.

1.1.117 **"SBC-8STATE"** - As used herein, **SBC-8STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC CALIFORNIA**, **SBC NEVADA**, and **SBC CONNECTICUT** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.

1.1.118 **"SBC-10STATE"** - As used herein, **SBC-10STATE** means **SBC SOUTHWEST REGION 5-STATE** and **SBC MIDWEST REGION 5-STATE** an the applicable SBC-owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas, and Wisconsin.

1.1.119 **"SBC-12STATE"** - As used herein, **SBC-12STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC MIDWEST REGION 5-STATE** and **SBC-2STATE** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

1.1.120 **"SBC-13STATE"** - As used herein, **SBC-13STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC MIDWEST REGION 5-STATE**, **SBC-2STATE** and **SBC CONNECTICUT** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

1.1.121 **"SBC ARKANSAS" -** As used herein, **SBC ARKANSAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, the applicable SBC-owned ILEC doing business in Arkansas.

1.1.122 **"SBC CALIFORNIA" –** As used herein, **SBC CALIFORNIA** means Pacific Bell Telephone Company d/b/a SBC California, the applicable SBC-owned ILEC doing business in California.

1.1.123 **"SBC CONNECTICUT" -** As used herein, **SBC CONNECTICUT** means The Southern New England Telephone Company d/b/a SBC Connecticut, the applicable above listed ILEC doing business in Connecticut.

1.1.124 **"SBC KANSAS"** - As used herein, **SBC KANSAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Kansas, the applicable SBC-owned ILEC doing business in Kansas.

1.1.125 **"SBC ILLINOIS" -** As used herein, **SBC ILLINOIS** means Illinois Bell Telephone Company d/b/a SBC Illinois, the applicable SBC-owned ILEC doing business in Illinois.

1.1.126 **"SBC INDIANA" -** As used herein, **SBC INDIANA** means Indiana Bell Telephone Company, Incorporated d/b/a SBC Indiana, the applicable SBC-owned ILEC doing business in Indiana.

1.1.127 **"SBC MICHIGAN" -** As used herein, **SBC MICHIGAN** means Michigan Bell Telephone Company d/b/a SBC Michigan, the applicable SBC-owned doing business in Michigan.

1.1.128 **"SBC MIDWEST REGION 5-STATE"** - As used herein, **SBC MIDWEST REGION 5-STATE** means Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

1.1.129 **"SBC MISSOURI" -** As used herein, **SBC MISSOURI** means Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, the applicable SBC-owned ILEC doing business in Missouri.

1.1.130 **"SBC NEVADA" –** As used herein, **SBC NEVADA** means Nevada Bell Telephone Company d/b/a SBC Nevada, the applicable SBC-owned ILEC doing business in Nevada.

1.1.131 **"SBC OHIO" -** As used herein, **SBC OHIO** means The Ohio Bell Telephone Company d/b/a SBC Ohio, the applicable SBC-owned ILEC doing business in Ohio.

1.1.132 **"SBC OKLAHOMA" -** As used herein, **SBC OKLAHOMA** means Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma, the applicable SBC-owned ILEC doing business in Oklahoma.

1.1.133 **"SBC SOUTHWEST REGION 5-STATE"** - As used herein, **SBC SOUTHWEST REGION 5-STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.

1.1.134 **"SBC TEXAS"** – As used herein, **SBC TEXAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Texas, the applicable SBC-owned ILEC doing business in Texas.

1.1.135 **"SBC WISCONSIN" -** As used herein, **SBC WISCONSIN** means Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC doing business in Wisconsin.

1.1.136 **"Service Control Point"** (**SCP**) is the node in the common channel signaling network that accepts Queries for certain Database services. The SCP is a real time database system that receives Queries from service platforms, performs subscriber or application-specific service logic, and then sends a Response back to the Query-originating platform. Such service platforms can be Service Switching Points (SSPs) or other network nodes capable of properly formatting and launching Queries.

1.1.137 **"Service Management System" (SMS)** means an off-line system used to access, create, modify, or update information in a Database.

1.1.138 **"Service Provider Number Portability" (SPNP)** is synonymous with Permanent Number Portability "PNP".

1.1.139 **"Service Switching Point" (SSP)** is a telephone central office switch equipped with a Signaling System 7 (SS7) interface.

1.1.140 **"Signaling System 7"** (**SS7**) means a signaling protocol used by the CCS Network.

1.1.141 **"Signal Transfer Point"** (**STP**) performs a packet switching function that routes signaling messages among Service Switching Points (**SSP**), Service Control Points (**SCP**), Signaling Points (**SP**), and other STPs in order to set up calls and to query databases for Advanced Services.

1.1.142 **"Special Billing Number" (SBN)** means a Line Record in LIDB that is based on an NXX-0/1XX numbering format. NXX-0/1XX numbering formats are similar to NPA-NXX formats except that the fourth digit of a SBN is either a zero (0) or a one (1).

1.1.143 **"State Abbreviation"** means the following:

1.1.143.1 "AR" means Arkansas
1.1.143.2 "CA" means California
1.1.143.3 "CT" means Connecticut
1.1.143.4 "IL" means Illinois
1.1.143.5 "IN" means Indiana
1.1.143.6 "KS" means Kansas
1.1.143.7 "MI" means Michigan
1.1.143.8 "MO" means Missouri
1.1.143.9 "NV" means Nevada
1.1.143.10 "OH" means Ohio
1.1.143.11 "OK" means Oklahoma
1.1.143.12 "TX" means Texas
1.1.143.13 "WI" means Wisconsin

1.1.144 **"Switched Access Detail Usage Data"** means a category 1101xx record as defined in the EMI Telecordia Practice BR 010-200-010.

1.1.145 **"Switched Exchange Access Service"** means the offering of transmission or switching cervices 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.

1.1.146 **"Synchronous Optical Network"** (**SONET**) is an 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.

1.1.147 **"Tape Load Facility"** means data entry points at the LIDB administrative system and/or the SCPs where LIDB resides.

1.1.148 **"Telecommunications"** is As Defined in the Act.

1.1.149 **"Telecommunications Carrier"** is As Defined in the Act.

1.1.150 **"Telecommunications Service"** is As Defined in the Act.

1.1.151 **"Telephone Exchange Service"** is As Defined in the Act.

1.1.152 **"Telephone Toll Service"** is As Defined in the Act.

1.1.153 **"Third Party"** means any Person other than a Party.

1.1.154 **"Toll Billing Exception Service" (TBE)** means a service that allows End Users to restrict third number billing or collect calls to their lines.

1.1.155 **"Toll Free Service"** is service provided with any dialing sequence that invokes toll-free, 800-like, service processing, for example for illustration only, 800 or 800-like services. Toll Free Service includes but is not limited to calls placed to 800/888 NPA Service Access Codes (SAC).

1.1.156 **"Translation Type"** means a code in the Signaling Connection Control Part (SCCP) of the SS7 signaling message. Signal Transfer Points (STPs) use Translation Types to identify the routing table used to route a LIDB Query and/or CNAM Query. All LIDB Queries and/or CNAM Queries that use the same Translation Type are routed to the same LIDB and/or CNAM Database for a particular Line Record or, prior to number portability, for a particular NPA-NXX.

1.1.157 **"Trunk"** means a communication line between two switching systems.

1.1.158 **"Trunk-Side"** refers to a 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.

1.1.159 "**Unbundled Network Element**" (UNE) is as defined in Appendix Unbundled Network Elements.

1.1.160 **"Virtual Collocation"** is as defined in Appendix Virtual Collocation.

1.1.161 **"Wire Center"** is the location of one or more local switching systems. 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.

1.2 Definitions Applicable to **SBC-12STATE** Only

1.2.1 **"Main Distribution Frame"** (**MDF**) is termination frame for outside facility and inter-exchange office equipment at the central office for DS-0 and DSL services.

1.2.2 **"Serving Wire Center"** (**SWC**) means a 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.

1.2.3 **"Universal Digital Loop Carrier"** (**UDLC**) describes a DLC system that has a Central Office terminal channel bank that is connected to the CO switches on the analog side.

1.3 Definitions Applicable to **SBC-7STATE** Only

1.3.1 **"Line Side"** refers to 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.

1.4 Definitions Applicable to **SBC MIDWEST REGION 5-STATE** Only

1.4.1 **"Line Side"** refers to the switch port toward the CLEC's side of the equipment.

2. INTERPRETATION, CONSTRUCTION AND SEVERABILITY

2.1 Definitions

2.1.1 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.

2.2 Headings Not Controlling

2.2.1 The headings and numbering of Sections, Parts, Appendices 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.

2.2.2 This Agreement incorporates a number of Appendices which, together with their associated Attachments, Exhibits, Schedules and Addenda, constitute the entire Agreement between the Parties. In order to facilitate use and comprehension of the Agreement, the Appendices 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 appendix, attachment, exhibit, schedule or addenda may otherwise have.

2.3 Referenced Documents

2.3.1 Unless the context shall otherwise specifically require, and subject to Section 21, whenever any provision of this Agreement refers to a technical reference, technical publication, CLEC Practice, **SBC-13STATE** Practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement (collectively, a "**Referenced Instrument**"), it will be deemed to be a reference to the then-current version or edition (including any amendments, supplements, addenda, or successors) of each Referenced Instrument that is in effect, and will include the then-current version or edition (including any amendments, supplements, addenda, or successors) of any other Referenced Instrument incorporated by reference therein.

2.4 References

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

2.5 Tariff References

2.5.1 To the extent a tariff provision or rate is incorporated or otherwise applies between the Parties due to the provisions of this Agreement, it is understood that said tariff provision or rate applies only in the jurisdiction in which such tariff provision or rate is filed, and applies to the CLEC and only the SBC13-STATE ILEC(s) that operates within that jurisdiction. Further, it is understood that any changes to said tariff provision or rate are also automatically incorporated herein or otherwise hereunder, effective hereunder on the date any such change is effective.

2.5.2 Wherever any Commission ordered tariff provision or rate is incorporated, cited or quoted herein, it is understood that said incorporation or reference applies only to the entity within the state whose Commission ordered that tariff.

2.5.3 Wherever the term "customer" is used in connection with **SBC SOUTHWEST REGION 5-STATE**'s retail tariffs, the term "customer" means the ultimate "consumer" or the "end user" of any tariffed service.

2.6 Conflict in Provisions

2.6.1 In the event of a conflict between the provisions of this Agreement and the Act, the provisions of the Act shall govern.

2.6.2 If any definitions, terms or conditions in any given Appendix, Attachment, Exhibit, Schedule or Addenda 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 Appendix, Attachment, Exhibit, Schedule or Addenda. In particular, if an Appendix contains a Term length that differs from the Term length in the main body of this Agreement, the Term length of that Appendix will control the length of time that services or activities are to occur under that Appendix, but will not affect the Term length of the remainder of this Agreement.

2.6.3 In **SBC CONNECTICUT** only, in the event of a conflict between any provision in this Agreement and any provision in the DPUC-ordered tariffs covering the services that are the subject of this Agreement with **SBC CONNECTICUT**, such DPUC-ordered tariffs will prevail.

2.7 Joint Work Product

2.7.1 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.

2.8 Severability

2.8.1 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 effect 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 and Unbundled Network Elements as a total arrangement and it is intended to be nonseverable.

2.9 Incorporation by Reference

2.9.1 The General Terms and Conditions of this Agreement, and every Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service provided hereunder, shall be subject to all rates, terms and conditions contained in the Appendices to this Agreement which are legitimately related to such Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service; and all such rates, terms and conditions are

incorporated by reference herein and deemed a part of every Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service provided hereunder. 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 be legitimately related to, and to be applicable to, each Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; assurance of payment; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnity; remedies; intellectual property; publicity and use of trademarks and service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; relationship of the Parties/independent contractor; no third Party beneficiaries, disclaimer of agency; assignment; subcontracting; hazardous substances and responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; customer inquiries; expenses; conflict of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

2.10 Non-Voluntary Provisions

2.10.1 This Agreement incorporates certain rates, terms and conditions that were not voluntarily negotiated by **SBC-13STATE**, 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, a "Non-Voluntary Arrangement"). **SBC-13STATE** has identified some, but not all, of the Non-Voluntary Arrangements contained in this Agreement, by designating such provisions with asterisks. 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, any Party may, by providing written notice to the other Party, require that any affected Non-Voluntary Arrangement (and any related rates, terms and conditions) be deleted or renegotiated, as applicable, in good faith and this Agreement amended accordingly. If such modifications to this Agreement are not executed within sixty (60) calendar days after the date of such notice, a Party may pursue its rights under Section 10.

2.10.2 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.

2.11 State-Specific Rates, Terms and Conditions

2.11.1 For ease of administration, this multistate Agreement contains certain specified rates, terms and conditions which apply only in a designated state ("**state-specific terms**"). To the extent that this Agreement contains specified rates, terms and conditions which apply only in a given state, such rates, terms and conditions shall not apply and shall have no effect in any other state(s) to which this Agreement is submitted for approval under Section 252(e) of the Act.

2.11.2 State-specific terms, as the phrase is described in Section 2.11.1 above, have been negotiated (or in the case of 2.10.2 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 are to apply.

2.12 Scope of Obligations

2.12.1 Notwithstanding anything to the contrary contained herein except for the Out of Exchange Appendix, **SBC-13STATE**'s obligations under this Agreement shall apply only to:

2.12.1.1 the specific operating area(s) or portion thereof in which **SBC-13STATE** is then deemed to be the ILEC under the Act (**the "ILEC Territory"**), and only to the extent that the CLEC is operating and offering service to End Users identified to be residing in such ILEC Territory; and

2.12.1.2 assets that **SBC-13STATE** owns or leases and which are used in connection with **SBC-13STATE**'s provision to CLEC of any Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products or services provided or contemplated under this Agreement, the Act or any tariff or ancillary agreement referenced herein (individually and collectively, the **"ILEC Assets"**).

2.12.1.3 The underlying Interconnection Agreement sets forth the terms and conditions pursuant to which **SBC-12STATE** 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, Interconnection under Section 251(c)(2) of the Act and/or Resale under Section 251(c)(4) of the Act in **SBC-12STATE**'s incumbent local exchange areas for the provision of CLEC's Telecommunications Services. The Parties acknowledge and agree that **SBC-12STATE** is only obligated to make available UNEs and access to UNEs under Section 251(c)(3) of the Act, Collocation under Section 251(c)(6) of the Act, Interconnection under Section 251(c)(2) of the Act and/or Resale under Section 251(c)(4) of the Act to CLEC in **SBC-12STATE**'s incumbent local exchange areas. **SBC-12STATE** has no obligation to provide such UNEs, Collocation, Interconnection and/or Resale to CLEC for the purposes of CLEC providing and/or extending service outside of **SBC-12STATE**'s incumbent local exchange areas. In addition, **SBC-12STATE** is not obligated to provision UNEs or to provide access to UNEs under Section 251(c)(3) of the Act, Collocation under Section 251(c)(6) of the Act, Interconnection under Section 251(c)(2) of the Act and/or Resale under Section 251(c)(4) of the Act and is not otherwise bound by any 251(c) obligations in geographic areas other than **SBC-12STATE**'s incumbent local exchange areas. Therefore, the Parties understand and agree that the rates, terms and conditions set forth in **SBC-12STATE**'s current Interconnection Agreement, and any associated provisions set forth elsewhere in CLEC's current Interconnection Agreement (including but not limited to the rates set forth in this Agreement associated with UNEs under Section 251(c)(3) of the Act, Collocation under Section 251(c)(6) of the Act, Interconnection under Section 251(c)(2) of the Act and/or Resale under Section 251(c)(4) of the Act), shall only apply to the Parties and be available to CLEC for provisioning telecommunication services within an **SBC-12STATE** incumbent local exchange area(s) in the State in which CLEC's current Interconnection Agreement with **SBC-12STATE** has been approved by the relevant state Commission and is in effect.

2.13 Affiliates

2.13.1 These General Terms and Conditions and all attachments and Appendices hereto (this Agreement), including subsequent amendments, if any, shall bind **SBC-13STATE**, 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 **SBC-13STATE** 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 until either **SBC-13STATE** 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 supercede a currently effective interconnection agreement between any such CLEC Affiliate and **SBC-13STATE** until the expiration of such other agreement.

2.14 This Agreement sets forth the terms and conditions pursuant to which **SBC-13STATE** agrees to provide CLEC with access to UNEs, Collocation and Resale in **SBC-13STATE**'s incumbent local exchange areas for the provision of CLEC's Telecommunications Services ((Act, Section 251(c)). The Parties acknowledge and agree that **SBC-13STATE** is only obligated to make available UNEs, Collocation and Resale to CLEC in **SBC-13STATE**'s incumbent local exchange areas. **SBC-13STATE** has no obligation to provide UNEs, Collocation and Resale to CLEC for the purposes of CLEC providing and/or extending service outside of **SBC-13STATE**'s incumbent local exchange areas. In addition, **SBC-13STATE** is not obligated to provision UNEs, Collocation and Resale or provide any other rights under Section 251 (c) of the Act outside of **SBC-13STATE**'s incumbent local exchange areas. Therefore, the Parties understand and agree that the rates, terms and conditions set forth in this Interconnection Agreement, and any associated provisions set in the Attachments, Appendices, Schedules and/or Exhibits in the CLEC's current Interconnection Agreement (including but not limited to the associated UNE, Collocation and Resale rates set forth in this Agreement), shall only apply and be available to CLEC for provisioning services within an **SBC-13STATE** incumbent local exchange area(s) in the State in which the CLEC's Interconnection Agreement has been approved by the Commission and is in effect.

3. NOTICE OF CHANGES -- SECTION 251(c)(5)

3.1 Nothing in this Agreement shall limit either Party's ability to upgrade its network through the incorporation of new equipment, new software or otherwise. 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"**).

4. GENERAL RESPONSIBILITIES OF THE PARTIES

4.1 Upon approval by the Commission, CLEC agrees to begin providing Telephone Exchange Service within its certificated service area to business End Users within _____ calendar days and to residential End Users within _____ calendar days.

4.2 **SBC-12STATE** and CLEC shall each use their best efforts to meet the Interconnection Activation Dates.

4.3 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 **SBC-13STATE**'s network as referenced in Telcordia 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.

4.4 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.

4.5 Each Party is solely responsible for all products and services it provides to its End Users and to other Telecommunications Carriers.

4.6 Facilities-based carriers and UNE-based Switch Port providers are responsible for administering their End User records in a LIDB.

4.6.1 **SBC CALIFORNIA** reserves the right on one hundred eighty (180) calendar days notice to require UNE-Based Switch Port providers to administer their End User records in **SBC CALIFORNIA**'s LIDB.

4.6.2 **SBC NEVADA** does not have a line information database and/or Calling Name database. Line Information Database services can be purchased from **SBC CALIFORNIA**.

4.7 At all times during the term of this Agreement, each Party 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:

4.7.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Agreement and Employers Liability insurance with minimum limits of $100,000 for Bodily Injury-each accident, $500,000 for Bodily Injury by disease-policy limits and $100,000 for Bodily Injury by disease-each employee.

4.7.2 Commercial General Liability insurance with minimum limits of: $10,000,000 General Aggregate limit; $5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; $1,000,000 each occurrence sub-limit for Personal Injury and Advertising; $10,000,000 Products/Completed Operations Aggregate limit, with a $5,000,000 each occurrence sub-limit for Products/Completed Operations. Fire Legal Liability sub-limits of $2,000,000 are also required if this Agreement involves collocation. The other Party must be named as an Additional Insured on the Commercial General Liability policy.

4.7.3 If use of an automobile is required, Automobile Liability insurance with minimum limits of $1,000,000 combined single limits per occurrence for bodily injury and property damage, which coverage shall extend to all owned, hired and non-owned vehicles.

4.7.4 Each Party shall require subcontractors providing services under this Agreement to maintain in force the insurance coverage and limits required in Sections 4.7 through 4.7.3 of this Agreement.

4.7.5 The Parties agree that companies affording the insurance coverage required under Section 4.7 shall have a rating of B+ or better and a Financial Size Category rating of VII or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance coverage.

4.7.6 Each Party agrees to provide the other Party with at least thirty (30) calendar days advance written notice of cancellation, material reduction or non-renewal of any of the insurance policies required herein.

4.7.7 Each Party agrees to accept the other Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:

4.7.7.1 The Party desiring to satisfy its Workers' Compensation and Employers Liability obligations through self-insurance shall submit to the other Party a copy of its Certificate of Authority to Self-Insure its Workers' Compensation obligations issued by each state covered by this Agreement or the employer's state of hire; and

4.7.7.2 The Party desiring to satisfy its automobile liability obligations through self-insurance shall submit to the other Party a copy of the state-issued letter approving self-insurance for automobile liability issued by each state covered by this Agreement; and

4.7.7.3 The Party desiring to satisfy its general liability obligations through self-insurance must provide evidence acceptable to the other Party that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps.

4.7.8 This Section 4.7 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.

4.8 Simultaneously with CLEC's execution of this Agreement, CLEC shall insert the appropriate it's state-specific authorized and nationally recognized OCN/AECNs for facilities-based (Interconnection and/or Unbundled Network Elements) and a separate and distinct OCN/AECN for Resale Services on the signature page of this Agreement and provide **SBC-13STATE** with a copy.

4.9 Assignment

4.9.1 Assignment of Contract

4.9.1.1 CLEC may not assign or transfer this Agreement or any rights or obligations hereunder, whether by operation of law or otherwise, to a non-affiliated third party without the prior written consent of **SBC-13STATE**. Any attempted assignment or transfer that is not permitted is void *ab initio*.

4.9.1.2 CLEC may assign or transfer this Agreement and all rights and obligations hereunder, whether by operation of law or otherwise, to its Affiliate by providing sixty (60) calendar days' advance written notice of such assignment or transfer to **SBC-13STATE**; 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 its Affiliate if that Affiliate is a party to a separate agreement with **SBC-13STATE** under Sections 251 and 252 of the Act. Any attempted assignment or transfer that is not permitted is void *ab initio*.

4.9.2 Corporate Name Change and/or change in "d/b/a" only

4.9.2.1 Any assignment or transfer of an Agreement wherein only the CLEC name is changing, and which does not include a change to a CLEC OCN/ACNA, constitutes a CLEC Name Change. For a CLEC Name Change, CLEC will incur a record order charge for each CLEC CABS BAN. For resale or any other products not billed in CABS, to the extent a record order is available, a record order charge will apply per end user record. Rates for record orders are contained in the Appendix Pricing, Schedule of Prices. CLEC shall also submit a new Operator Service Questionnaire (OSQ) to update any OS/DA Rate Reference information and Branding pursuant to the rates terms and conditions of Appendices Resale and UNE, as applicable, at the rates specified in the Appendix Pricing, Schedule of Prices to this Agreement.

4.9.3 Company Code Change

4.9.3.1 Any assignment or transfer of an Agreement associated with the transfer or acquisition of "assets" provisioned under that Agreement, where the OCN/ACNA formerly assigned to such "assets" is changing constitutes a CLEC Company Code Change. For the purposes of Section 4.9.3.1, "assets" means any Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service provided under that Agreement. CLEC shall provide **SBC-13STATE** with ninety (90) calendar days advance written notice of any assignment associated with a CLEC Company Code Change and obtain **SBC-13STATE**'s consent. **SBC-13STATE** shall not unreasonably withhold consent to a CLEC Company Code Change; provided, however, **SBC-13STATE**'s consent to any CLEC Company Code Change is contingent upon cure of any outstanding charges owed under this Agreement and any outstanding charges associated with the "assets" subject to the CLEC Company Code Change. In addition, CLEC acknowledges that CLEC may be required to tender additional assurance of payment if requested under the terms of this Agreement.

4.9.3.2 For any CLEC Company Code Change, CLEC must submit a service order changing the OCN/ACNA for each end user record and/or a service order for each circuit ID number, as applicable. CLEC shall pay the appropriate charges for each service order submitted to accomplish a CLEC Company Code Change; such charges are contained in the Appendix Pricing, Schedule of Prices. In addition, CLEC shall submit a new OSQ to update any OS/DA Rate Reference information and Branding pursuant to the rates terms and conditions of Appendices Resale and UNE, as applicable, at the rates specified in the Appendix Pricing, Schedule of Prices to this Agreement. In addition, CLEC shall pay

any and all charges required for re-stenciling, re-engineering, changing locks and any other work necessary with respect to Collocation, as determined on an individual case basis.

4.9.4 Assignment of any Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service.

4.9.4.1 Any assignment or transfer of any Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service provisioned pursuant to this Agreement without the transfer or the assignment of this Agreement shall be deemed a CLEC to CLEC Mass Migration. The CLEC that is a Party to this Agreement shall provide **SBC-13STATE** with ninety (90) calendar days advance written notice of any CLEC to CLEC Mass Migration. CLEC's written notice shall include the anticipated effective date of the assignment or transfer. The acquiring CLEC must cure any outstanding charges associated with any Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service to be transferred. In addition, the acquiring CLEC may be required to tender additional assurance of payment if requested under the terms of the acquiring CLEC's agreement.

4.9.4.2 Both CLECs involved in any CLEC to CLEC Mass Migration shall comply with all Applicable Law relating thereto, including but not limited to all FCC and state Commission rules relating to notice(s) to end users. The acquiring CLEC shall be responsible for issuing all service orders required to migrate any Interconnection, Resale Service, Unbundled Network Element, function, facility, product or service provided hereunder. The appropriate service order charge or administration fee (for interconnection) will apply as specified in the Appendix Pricing, Schedule of Prices to the acquiring CLEC's agreement. The acquiring CLEC shall also submit a new OSQ to update any OS/DA Rate Reference information and Branding pursuant to the rates terms and conditions of Appendices Resale and UNE, as applicable, at the rates specified in the Appendix Pricing, Schedule of Prices to the acquiring CLEC's agreement. In addition, the acquiring CLEC shall pay any and all charges required for re-stenciling, re-engineering, changing locks and any other work necessary with respect to Collocation, as determined on an individual case basis.

4.9.5 Project Coordination

4.9.5.1 **SBC-13STATE** will provide project management support to effectuate changes of the types identified in Sections 4.9.2, 4.9.3, and 4.9.4.

4.9.5.2 **SBC-13TATE** will provide project management support to minimize any possible service outages during any CLEC to CLEC Mass Migration. Should **SBC-13STATE**'s most current version of LSOR or ASOR guidelines not support the required order activity, **SBC-13STATE** will issue service orders at the manual rate, as specified in the Appendix Pricing, Schedule of Prices to this Agreement, based upon type of service provided, and on the condition that CLEC provides to **SBC-13STATE** any and all information **SBC-13STATE** reasonably requests to effectuate such changes.

4.10 When a End User changes its service provider from **SBC-13STATE** to CLEC or from CLEC to **SBC-13STATE** and does not retain its original telephone number, the Party formerly providing service to such End User shall furnish a referral announcement **("Referral Announcement")** on the original telephone number that specifies the End User's new telephone number.

4.10.1 The following pertains to **SBC ILLINOIS**, **SBC WISCONSIN** and **SBC CALIFORNIA** only:

4.10.1.1 Referral Announcements shall be provided by a Party to the other Party for the period of time and at the rates set forth in the referring Party's tariff(s); provided, however, if either Party provides Referral Announcements for a period different (either shorter or longer) than the period(s) stated in its tariff(s) when its End Users change their

telephone numbers, such Party shall provide the same level of service to End Users of the other Party.

4.10.2 The following applies to **SBC INDIANA** only:

4.10.2.1 Referral Announcements shall be provided by a Party to the other Party for the period specified in 170 IAC 7-1.1-11(I)(3)(a) and (b) and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period different than the above period(s) when its End Users change their telephone numbers, such Party shall provide the same level of service to End Users of the other Party.

4.10.3 The following applies to **SBC MICHIGAN** only:

4.10.3.1 Referral Announcements shall be provided by a Party to the other Party for the period specified in Michigan Administrative Rule 484.134 and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period longer than the above period(s) when its End Users change their telephone numbers, such Party shall provide the same level of service to End Users of the other Party.

4.10.4 The following applies to **SBC OHIO** only:

4.10.4.1 Referral Announcements shall be provided by a Party to the other Party for the period of time specified in Rule 4901:1-5-12, Ohio Administrative Code and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period longer than the above period(s) when its End Users change their telephone numbers, such Party shall provide the same level of service to End Users of the other Party.

4.11 Each Party shall be responsible for labor relations with its own employees. Each Party agrees to notify the other Party as soon as practicable whenever such Party has knowledge that a labor dispute concerning its employees is delaying or threatens to delay such Party's timely performance of its obligations under this Agreement and shall endeavor to minimize impairment of service to the other Party (for example, by using its management personnel to perform work or by other means) in the event of a labor dispute to the extent permitted by Applicable Law.

4.12 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.

4.13 This Agreement contains comprehensive OSS terms and conditions; however, CLEC represents and covenants that it will only use OSS furnished pursuant to this Agreement for activities related to UNEs, resold services or other services covered by this Agreement, for which this Agreement contains explicit terms, conditions and rates.

4.14 The Parties acknowledge and agree that they do not intend to include products and services in this Agreement that do not have corresponding rates and charges. Accordingly, if this Agreement is executed and/or approved by the Commission and the Parties later discover that a product or service is included in this Agreement without an associated rate or charge, the Parties agree that they will agree upon a rate or charge to include in this Agreement before the product or service is provided or performed. If the Parties cannot agree, either Party may pursue dispute resolution under the applicable provisions of this Agreement.

5. EFFECTIVE DATE, TERM, AND TERMINATION

5.1 In **SBC-13STATE,** with the exception of **SBC OHIO**, 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 **SBC 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.

5.2 The term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on June 07, 2005 provided; however, should CLEC implement (i.e. provided assurance of payment, ordered facilities, and submitted ASRs for trunking) this Agreement within six (6) months of the Effective Date, then this Agreement will automatically renew for one additional year and expire on June 07, 2006 (the **"Term**"). Absent the receipt by one Party of written notice from the other Party within 180 calendar days prior to the expiration of the Term to the effect that such Party does not intend to extend the Term, this Agreement shall remain in full force and effect on and after the expiration of the Term until terminated by either Party pursuant to Section 5.3 or 5.4.

5.3 Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement and the provision of any Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products or 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. Any termination of this Agreement pursuant to this Section 5.3 shall take effect immediately upon delivery of written notice to the other Party that it failed to cure such nonperformance or breach within forty-five (45) calendar days after written notice thereof.

5.4 If pursuant to Section 5.2, this Agreement continues in full force and effect after the expiration of the Term, either Party may terminate this Agreement after delivering written notice to the other Party of its intention to terminate this Agreement, subject to Sections 5.5 and 5.6. Neither Party shall have any liability to the other Party for termination of this Agreement pursuant to this Section 5.4 other than its obligations under Sections 5.5 and 5.6.

5.5 Upon termination or expiration of this Agreement in accordance with Sections 5.2, 5.3, 5.4 or 23.2:

5.5.1 Each Party shall continue to comply with its obligations set forth in Section 42; and

5.5.2 Each Party shall promptly pay all amounts owed under this Agreement or place any Disputed Amounts into an escrow account that complies with Section 8.4 hereof;

5.5.3 Each Party's confidentiality obligations shall survive; and

5.5.4 Each Party 's indemnification obligations shall survive.

5.6 If either Party serves notice of expiration pursuant to Section 5.2 or Section 5.4, CLEC shall have ten (10) calendar days to provide **SBC-13STATE** written confirmation if CLEC wishes to pursue a successor agreement with **SBC-13STATE** or terminate its agreement. CLEC shall identify the action to be taken on each applicable (13) state(s). If CLEC wishes to pursue a successor agreement with **SBC-13STATE**, CLEC shall attach to its written confirmation or notice of expiration/termination, as applicable, a written request to commence negotiations with **SBC-13STATE** under Sections 251/252 of the Act and identify each of the state(s) the successor agreement will cover. Upon receipt of CLEC's Section 252(a)(1) request, the Parties shall commence good faith negotiations on a successor agreement.

5.7 If written notice is not issued pursuant to Section 5.2, the rates, terms and conditions of this Agreement shall continue in full force and effect until the earlier of (i) the effective date of its successor agreement, whether such successor agreement is established via negotiation, arbitration or pursuant to Section 252(i) of the Act; or (ii) the date that is ten (10) months after the date on which **SBC-13STATE** received CLEC's Section 252(a)(1) request.

5.8 If at any time during the Section 252(a)(1) negotiation process (prior to or after the expiration date or termination date of this Agreement), CLEC withdraws its Section 252(a)(1) request, CLEC must include in its notice of withdrawal a request to adopt a successor agreement under Section 252(i) of the Act or affirmatively state that CLEC does not wish to pursue a successor agreement with **SBC-13STATE** for a

given state. The rates, terms and conditions of this Agreement shall continue in full force and effect until the later of: 1) the expiration of the term of this Agreement, or 2) the expiration of ninety (90) calendar days after the date CLEC provides notice of withdrawal of its Section 252(a)(1) request. If the Term of this Agreement has expired, on the earlier of (i) the ninety-first (91st) calendar day following **SBC-13STATE**'s receipt of CLEC's notice of withdrawal of its Section 252(a)(1) request or (ii) the effective date of the agreement following approval by the Commission of the adoption of an agreement under 252(i), the Parties shall, have no further obligations under this Agreement except those set forth in Section 5.5 of this Agreement.

5.9 If CLEC does not affirmatively state that it wishes to pursue a successor agreement with **SBC-13STATE** in its, as applicable, notice of expiration or termination or the written confirmation required after receipt of the SBC-owned ILEC's notice of expiration or termination, then the rates, terms and conditions of this Agreement shall continue in full force and effect until the later of 1) the expiration of the Term of this Agreement, or 2) the expiration of ninety (90) calendar days after the date CLEC provided or received notice of expiration or termination. If the Term of this Agreement has expired, on the ninety-first (91st) day following CLEC provided or received notice of expiration or termination, the Parties shall have no further obligations under this Agreement except those set forth in Section 5.5 of this Agreement.

5.10 In the event of termination of this Agreement pursuant to Section 5.9, **SBC-13STATE** and CLEC shall cooperate in good faith to effect an orderly transition of service under this Agreement; provided that CLEC shall be solely responsible (from a financial, operational and administrative standpoint) to ensure that its End Users have been transitioned to a new LEC by the expiration date or termination date of this Agreement.

6. END USER FRAUD

6.1 **SBC-13STATE** shall not be liable to CLEC for any fraud associated with CLEC's End User's account, including 1+ IntraLATA toll, ported numbers, and Alternate Billing Service (**ABS**). ABS is a service that allows End Users to bill calls to account(s) that might not be associated with the originating line. There are three types of ABS calls: calling card, collect, and third number billed calls.

6.2 The Parties agree to cooperate with one another to investigate, minimize, and take corrective action in cases of fraud involving 1+ IntraLATA toll calls, ABS, 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.

6.3 In cases of suspected fraudulent activity by an End User, at a minimum, the cooperation referenced in Section 6.2 will include providing to the other Party, upon request, information concerning Customers 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.

6.4 **SBC-10STATE**, **SBC CALIFORNIA,** and **SBC CONNECTICUT** will provide notification messages to CLEC on suspected occurrences of ABS-related fraud on CLEC accounts stored in the applicable LIDB. **SBC CALIFORNIA** will provide such alert messages by e-mail. **SBC-10STATE** and **SBC CONNECTICUT** will provide via fax.

6.4.1 **SBC SOUTHWEST REGION 5-STATE (**on behalf of itself and **SBC CONNECTICUT**) and **SBC CALIFORNIA** will use a Fraud Monitoring System to determine suspected occurrences of ABS-related fraud for CLEC using the same criteria **SBC SOUTHWEST REGION 5-STATE** and **SBC CALIFORNIA** use to monitor fraud on their respective accounts.

6.4.2 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.

6.4.3 The Parties will provide contact names and numbers to each other for the exchange of Fraud Monitoring System alert notification information twenty-four (24) hours per day seven (7) days per week.

6.4.4 For each alert notification provided to CLEC, CLEC may request a corresponding thirty-day (30-day) historical report of ABS-related query processing. CLEC may request up to three reports per alert.

6.5 In **SBC SOUTHWEST REGION 5-STATE** and **SBC CALIFORNIA** ABS-related alerts are provided to CLEC at no additional charge, except as related in 6.6 below.

6.6 In **SBC CALIFORNIA** 1+ IntraLATA toll fraud alerts are offered for Resale only under the product name Traffic Alert Referral Service (**TARS**). For TARS, CLEC agrees to pay a recurring usage rate as outlined in Appendix Pricing. For terms and conditions for TARS, see Appendix Resale.

7. ASSURANCE OF PAYMENT

7.1 Upon request by **SBC-13STATE**, CLEC will provide **SBC-13STATE** with adequate assurance of payment of amounts due (or to become due) to **SBC-13STATE**.

7.2 Assurance of payment may be requested by **SBC-12STATE** if:

7.2.1 at the Effective Date CLEC had not already established satisfactory credit by having made at least twelve (12) consecutive months of timely payments to **SBC-13STATE** for charges incurred as a CLEC; or

7.2.2 in **SBC-12STATE**'s reasonable judgment, at the Effective Date or at any time thereafter, there has been an impairment of the established credit, financial health, or credit worthiness of CLEC. Such impairment will be determined 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; or

7.2.3 CLEC fails to timely pay a bill rendered to CLEC by **SBC-12STATE** (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 9.3); or

7.2.4 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.

7.3 Unless otherwise agreed by the Parties, the assurance of payment will, at **SBC-12STATE**'s option, consist of

7.3.1 a cash security deposit in U.S. dollars held by **SBC-12STATE** ("Cash Deposit") or

7.3.2 an unconditional, irrevocable standby bank letter of credit from a financial institution acceptable to **SBC-12STATE** naming the SBC-owned ILEC(s) designated by **SBC-12STATE** as the beneficiary(ies) thereof and otherwise in form and substance satisfactory to **SBC-12STATE** ("Letter of Credit").

7.3.3 The Cash Deposit or Letter of Credit must be in an amount equal 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 **SBC-12STATE**, for the Interconnection, Resale Services, Unbundled Network Elements, Collocation or any other functions, facilities, products or services to be furnished by **SBC-12STATE** under this Agreement.

7.3.3.1 Notwithstanding anything else set forth in this Agreement, **SBC SOUTHWEST REGION 5-STATE** will not request assurance of payment of charges reasonably anticipated by **SBC SOUTHWEST REGION 5-STATE** to be incurred in Arkansas in an amount that would exceed one (1) month's projected bill for CLEC's initial market entry; provided, however, that after three (3) months of operation, **SBC SOUTHWEST REGION 5-STATE** may request assurance of payment of charges reasonably anticipated by **SBC SOUTHWEST REGION 5-STATE** to be incurred in Arkansas in an amount not to exceed two times projected average monthly billing to CLEC.

7.3.3.2 Notwithstanding anything else set forth in this Agreement, **SBC SOUTHWEST REGION 5-STATE** will not request assurance of payment of charges reasonably anticipated by **SBC SOUTHWEST REGION 5-STATE** to be incurred in Oklahoma in an amount that would exceed two times projected average monthly billing to CLEC.

7.4 To the extent that **SBC-12STATE** 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.

7.5 A Cash Deposit will accrue interest, however, **SBC-12STATE** will not pay interest on a Letter of Credit.

7.6 **SBC-12STATE** 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:

7.6.1 CLEC owes **SBC-12STATE** undisputed charges under this Agreement that are more than thirty (30) calendar days past due; or

7.6.2 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

7.6.3 The expiration or termination of this Agreement.

7.7 If **SBC-12STATE** draws on the Letter of Credit or Cash Deposit, upon request by **SBC-12STATE**, CLEC will provide a replacement or supplemental letter of credit or cash deposit conforming to the requirements of Section 7.3.

7.8 Notwithstanding anything else set forth in this Agreement, if **SBC-12STATE** makes a request for assurance of payment in accordance with the terms of this Section, then **SBC-12STATE** shall have no obligation thereafter to perform under this Agreement until such time as CLEC has furnished **SBC-12STATE** with the assurance of payment requested; provided, however, that **SBC-12STATE** will permit CLEC a minimum of ten (10) Business Days to respond to a request for assurance of payment before invoking this Section.

7.8.1 If CLEC fails to furnish the requested adequate assurance of payment on or before the date set forth in the request, **SBC-12STATE** may also invoke the provisions set forth in Section 9.5 through Section 9.7.

7.9 The fact that a Cash Deposit or Letter of Credit is requested by **SBC-12STATE** 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.

7.10 For adequate assurance of payment of amounts due (or to become due) to **SBC CONNECTICUT**, see the applicable DPUC ordered tariff.

8. BILLING AND PAYMENT OF CHARGES

8.1 Unless otherwise stated, each Party will render monthly bill(s) to the other for Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products and services provided hereunder at the rates set forth in the applicable Appendix Pricing, as set forth in applicable tariffs or other documents specifically referenced herein and, as applicable, as agreed upon by the Parties or authorized by a Party.

8.1.1 Remittance in full of all bills rendered by **SBC-10STATE** and **SBC CALIFORNIA** is due within thirty (30) calendar days of each bill date (the **"Bill Due Date"**). Payment must be made in accordance with the terms set forth in Section 8.3 of this Agreement.

8.1.2 Remittance in full of all bills rendered by **SBC NEVADA** is due in accordance with the terms set forth in the Commission C2-A Tariff, with the date on which amounts are due referred to herein as the **"Bill Due Date."**

8.1.3 Remittance in full of all bills rendered by **SBC CONNECTICUT** is due in accordance with the terms set forth in the Connecticut Access Service Tariff approved by the DPUC, with the date on which amounts are due referred to herein as the **"Bill Due Date."**

8.1.4 Remittance in full of all bills rendered by CLEC is due within thirty (30) calendar days of each bill date (the **"Bill Due Date"**).

8.1.5 If CLEC fails to remit payment for any charges by the Bill Due Date, or if payment for any portion of the charges is received from CLEC after the Bill Due Date, or if payment for any portion of the charges is received in funds which are not immediately available to **SBC-12STATE** as of the Bill Due Date (individually and collectively, **"Past Due"**), then a late payment charge will be assessed as provided in Sections 8.1.5.1 through 8.1.5.3, as applicable.

8.1.5.1 If any charge incurred under this Agreement that is billed out of any **SBC-8STATE** billing system other than the **SBC SOUTHWEST REGION 5-STATE** Customer Records Information System (CRIS) is Past Due, the unpaid amounts will accrue interest from the day following the Bill Due Date until paid at the lesser of (i) the rate used to compute the Late Payment Charge in the applicable **SBC-8STATE** intrastate access services tariff for that state and (ii) the highest rate of interest that may be charged under Applicable Law. The method and timing for application of interest to any charge incurred under this Agreement that is billed out of any **SBC-8STATE** billing system other than **SBC SOUTHWEST REGION 5-STATE**'s CRIS will comply with the process set forth in the applicable **SBC-8STATE** intrastate access services tariff for that state.

8.1.5.2 If any charge incurred under this Agreement that is billed out of **SBC SOUTHWEST REGION 5-STATE**'s CRIS is Past Due, the unpaid amounts will accrue interest from the day following the Bill Due Date until paid. The interest rate applied to **SBC SOUTHWEST REGION 5-STATE** CRIS-billed Past Due unpaid amounts will be the lesser of (i) the rate used to compute the Late Payment Charge contained in the applicable **SBC SOUTHWEST REGION 5-STATE** intrastate retail tariff governing Late Payment Charges to **SBC SOUTHWEST REGION 5-STATE**'s retail End Users that are business End Users in that state and (ii) the highest rate of interest that may be charged under Applicable Law. The method and timing for application of interest to any charge incurred under this Agreement that is billed out of **SBC SOUTHWEST REGION 5-STATE**'s CRIS will be governed by the **SBC SOUTHWEST REGION 5-STATE** intrastate retail tariff governing Late Payment Charges to **SBC SOUTHWEST REGION 5-STATE**'s retail End Users that are business End Users in that state.

8.1.5.3 If any charge incurred under this Agreement that is billed out of any **SBC MIDWEST REGION 5-STATE** billing system is Past Due, the unpaid amounts will accrue interest from the Bill Due Date at the lesser of (i) one and one-half percent (1 ½%) per month and (ii) the highest rate of interest that may be charged under Applicable Law,

compounded daily from the day following the Bill Due Date to and including the date that the payment is actually made and available.

8.2 If any charge incurred by **SBC-13STATE** 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 **SBC-13STATE** 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.

8.3 CLEC shall make all payments to **SBC-12STATE** via electronic funds credit transfers through the Automated Clearing House Association (ACH) network to the financial institution designated by **SBC-12STATE**. Remittance information will be communicated together with the funds transfer via the ACH network. CLEC must use the CCD+ or the CTX transaction set. CLEC and **SBC-12STATE** will abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each ACH credit transfer must be received by **SBC-12STATE** no later than the Bill Due Date of each bill or Late Payment Charges will apply. **SBC-12STATE** 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.

8.3.1 Processing of payments not made via electronic funds credit 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 credit transfers through the ACH network.

8.3.2 CLEC must make all payments to **SBC CONNECTICUT** in "immediately available funds." All payments to **SBC CONNECTICUT** must be made using one of the methods set forth in the Connecticut Access Service Tariff approved by the DPUC or via electronic funds credit transfers through the Automated Clearing House Association (ACH) network to the financial institution designated by **SBC CONNECTICUT**. If CLEC makes payment through funds transfer via the ACH network, remittance information will be communicated together with the funds transfer via the ACH network. If CLEC makes payment through funds transfer via the ACH network, CLEC must use the CCD+ or the CTX transaction set. CLEC and **SBC CONNECTICUT** will abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each payment must be received by **SBC CONNECTICUT** no later than the Bill Due Date of each bill or Late Payment Charges will apply. **SBC CONNECTICUT** 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.

8.4 If any portion of an amount due to a Party (the **"Billing Party"**) under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the **"Non-Paying Party"**) must, prior to the Bill Due Date, give written notice to the Billing Party of the amounts it disputes **("Disputed Amounts")** and include in such written notice the specific details and reasons for disputing each item listed in Section 10.4.1. The Disputing Party should utilize any existing and preferred form 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 [other than disputed charges arising from Appendix Reciprocal Compensation] into an interest bearing escrow account with a Third Party escrow agent mutually agreed upon by the Parties.

8.5 Disputed Amounts in escrow will be subject to Late Payment Charges as set forth in Section 8.1.5.

8.6 Requirements to Establish Escrow Accounts.

8.6.1 To be acceptable, the Third Party escrow agent must meet all of the following criteria:

8.6.1.1 The financial institution proposed as the Third Party escrow agent must be located within the continental United States;

8.6.1.2 The financial institution proposed as the Third Party escrow agent may not be an Affiliate of either Party; and

8.4.1.3 The financial institution proposed as the Third Party escrow agent must be authorized to handle ACH (credit transactions) (electronic funds) transfers.

8.6.2 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:

8.6.2.1 The escrow account must be an interest bearing account;

8.6.2.2 all charges associated with opening and maintaining the escrow account will be borne by the disputing Party;

8.6.2.3 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;

8.6.2.4 all interest earned on deposits to the escrow account will be disbursed to the Parties in the same proportion as the principal; and

8.6.2.5 disbursements from the escrow account will be limited to those:

8.6.2.5.1 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

8.6.2.5.2 made in accordance with the final, non-appealable order of the arbitrator appointed pursuant to the provisions of Section 10.7; or

8.6.2.5.3 made in accordance with the final, non-appealable order of the court that had jurisdiction to enter the arbitrator's award pursuant to Section 10.7.

8.6.3 Disputed Amounts in escrow will be subject to Late Payment Charges as set forth in Section 8.1.5.

8.6.4 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provisions set forth in Section 10.

8.7 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:

8.7.1 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;

8.7.1.1 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;

8.7.1.2 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

8.7.1.3 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 8.1.5.

8.8 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 8.7.1.1 and Section 8.7.1.3 are completed within the times specified therein.

8.8.1 Failure by the Non-Paying Party to pay any charges determined to be owed to the Billing Party within the time specified in Section 8.7 shall be grounds for termination of the Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products and services provided under this Agreement.

8.9 If either Party requests one or more additional copies of a bill, the requesting Party will pay the Billing Party a reasonable fee for each additional copy, unless such copy was requested due to failure in delivery of the original bill or correction(s) to the original bill.

8.9.1 Each additional copy of any bill provided for billing from **SBC SOUTHWEST REGION 5-STATE**'s CABS billing system will incur charges as specified in Access Service Tariff FCC No. 73 Section 13 Alternate Bill Media.

8.9.2 Bills provided to CLEC from **SBC SOUTHWEST REGION 5-STATE**'s CRIS system through Bill Plus will incur charges as specified in Appendix Pricing.

8.10 Exchange of Billing Message Information

8.10.1 **SBC-13STATE** will provide CLEC a specific Daily Usage File (**"DUF" or "Usage Extract"**) for Resale Services and Unbundled Network Element usage sensitive services provided hereunder (**"Customer Usage Data"**). Such Customer Usage Data will be provided by **SBC-13STATE** in accordance with Exchange Message Interface **(EMI)** guidelines supported by OBF. Any exceptions to the supported formats will be noted in the DUF implementation requirements documentation for each SBC-owned ILEC. The DUF will include (i) specific daily usage, including both Local Traffic (if and where applicable) and LEC-carried IntraLATA Toll Traffic, in EMI format for usage sensitive services furnished in connection with each Resale Service and Unbundled Network Element to the extent that similar usage sensitive information is provided to retail End Users of **SBC-13STATE** within that state, (ii) with sufficient detail to enable CLEC to bill its End Users for usage sensitive services furnished by **SBC-13STATE** in connection with Resale Services and Unbundled Network Elements provided by **SBC-13STATE**. Procedures and processes for implementing the interfaces with **SBC-13STATE** will be included in implementation requirements documentation.

8.10.2 To establish file transmission for the Daily Usage File, CLEC must provide to **SBC-13STATE** a separate written request for each state no less than sixty (60) calendar days prior to the desired first transmission date for each file.

8.10.3 Unless otherwise specified in Appendix Message Exchange, call detail for LEC-carried calls that are alternately billed to CLEC End Users lines provided by **SBC-13STATE** through Resale or Unbundled Network Elements will be forwarded to CLEC as rated call detail on the DUF.

8.10.4 **SBC SOUTHWEST REGION 5-STATE** will bill CLEC for Usage Extract furnished by **SBC SOUTHWEST REGION 5-STATE** in accordance with the price(s) provided in the applicable Appendix Pricing under "Electronic Billing Information."

8.10.5 Interexchange call detail on Resale Services or Unbundled Network Elements (ports) that is forwarded to **SBC-13STATE** for billing, which would otherwise be processed by **SBC-13STATE** for its retail End Users, will be returned to the IXC and will not be passed through to CLEC. This call detail will be returned to the IXC with a transaction code indicating that the returned call originated from a resold account. Billing for Information Services and other ancillary services traffic on Resale Services and Unbundled Network Elements (ports) will be passed through when **SBC-13STATE** records the message.

8.10.6 **SBC MIDWEST REGION 5-STATE** and **SBC-2STATE** Ancillary Services messages originated on or billed to a Resale Service or Unbundled Network Element (port) in those seven (7) states are subject to the rates, terms and conditions of Appendix MESSAGE EXCHANGE.

8.10.7 CLEC is responsible for providing all billing information to each of its End Users, regardless of the method used to provision the End User's service.

9. NONPAYMENT AND PROCEDURES FOR DISCONNECTION

9.1 If a Party is furnished Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products and services under the terms of this Agreement in more than one (1) state, Sections 9.1 through 9.7, inclusive, shall be applied separately for each such state.

9.2 Failure to pay charges shall be grounds for disconnection of Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products and 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 miscellaneous charges **("Unpaid Charges"),** and any portion of such Unpaid Charges remain unpaid after the Bill Due Date, the Billing Party will notify the Non-Paying Party in writing that in order to avoid disruption or disconnection of the Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products and services furnished under this Agreement, the Non-Paying Party must remit all Unpaid Charges to the Billing Party within ten (10) Business Days following receipt of the Billing Party's notice of Unpaid Charges.

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9.2.1 **SBC INDIANA** will also provide any written notification to the Indiana Utility Regulatory Commission as required by rule 170 IAC 7-6.

9.2.2 **SBC KANSAS** will also provide any written notification to the Kansas Corporation Commission as required by Order Number 5 (dated March 25, 2002) in Docket 01-GIMT-649-GIT.

9.2.3 **SBC MISSOURI** will also provide any written notification to the Missouri Public Service Commission as required by Rule 4 CSR 240-32.120.

9.3 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 ten (10) Business Days following receipt of the Billing Party's notice of Unpaid Charges:

9.3.1 notify the Billing Party in writing which portion(s) of the Unpaid Charges it disputes, including the total amount disputed **("Disputed Amounts")** and the specific details listed in Section 10.4.1 of this Agreement, together with the reasons for its dispute; and

9.3.2 pay all undisputed Unpaid Charges to the Billing Party; and

9.3.3 pay all Disputed Amounts [other than disputed charges arising from Appendix Reciprocal Compensation] into an interest bearing escrow account that complies with the requirements set forth in Section 8.4; and

9.3.4 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 8.4 and deposited a sum equal to the Disputed Amounts [other than disputed charges arising from Appendix Reciprocal Compensation] into that account. Until evidence that the full amount of the Disputed Charges [other than disputed charges arising from Appendix Reciprocal Compensation] has been deposited into an escrow account that complies with Section 8.4 is furnished to the Billing Party, such Unpaid Charges will not be deemed to be "disputed" under Section 10.

9.4 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provision set forth in Section 10.

9.5 **SBC-12STATE**

9.5.1 If the Non-Paying Party fails to (a) pay any undisputed Unpaid Charges in response to the Billing Party's Section 9.2 notice, (b) 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 8.4 within the time specified in Section 9.3, (c) timely furnish any assurance of payment requested in accordance with Section 7 or (d) make a payment in accordance with the terms of any mutually agreed payment arrangement, 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 (a) through (d) of this Section 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:

9.5.1.1 suspend acceptance of any application, request or order from the Non-Paying Party for new or additional Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products or services under this Agreement; and/or

9.5.1.2 suspend completion of any pending application, request or order from the Non-Paying Party for new or additional Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products or services under this Agreement.

9.5.2 Notwithstanding anything to the contrary in this Agreement, the Billing Party's exercise of any of its options under Section 9.5.1, Section 9.5.1.1 and Section 9.5.1.2:

9.5.2.1 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

9.5.2.2 will exclude any affected application, request, order or service from any otherwise applicable performance interval, Performance Benchmark or Performance Measure.

9.6 **SBC MIDWEST REGION 5-STATE** only

9.6.1 If the Non-Paying Party fails to pay the Billing Party on or before the date specified in the demand provided under Section 9.5.1 of this Agreement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law,

9.6.1.1 cancel any pending application, request or order from the Non-Paying Party for new or additional Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products or services under this Agreement; and

9.6.1.2 discontinue providing any Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products or services furnished under this Agreement.

9.6.1.2.1 Notwithstanding any inconsistent provisions in this Agreement, discontinuance of service by **SBC INDIANA** will comply with Indiana Utility Regulatory Commission rule 170 IAC 7-6.

9.6.1.2.2 The Billing Party has no liability to the Non-Paying Party or its End Users in the event of discontinuance of service.

9.6.1.2.3 Additional charges may become applicable under the terms of this Agreement following discontinuance of service.

9.7 **SBC-7STATE** only

9.7.1 Any demand provided by **SBC-7STATE** to CLEC under Section 9.5.1 will further specify that upon disconnection of CLEC, **SBC-7STATE** will cause CLEC's End Users that are provisioned through Resale Services to be transferred to **SBC-7STATE** local service.

9.7.1.1 A copy of the demand provided to CLEC under Section 9.7.1 will be provided to the Commission.

9.7.2 If the Non-Paying Party fails to pay the Billing Party on or before the date specified in the demand provided under Section 9.5.1 of this Agreement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law,

9.7.2.1 cancel any pending application, request or order for new or additional Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products or services under this Agreement; and

9.7.2.2 disconnect any Interconnection, Resale Services, Unbundled Network Elements, Collocation, functions, facilities, products or services furnished under this Agreement.

9.7.2.2.1 Notwithstanding any inconsistent provisions in this Agreement, disconnection of service by **SBC KANSAS** will comply with Kansas Corporation Commission Order Number 5 (dated March 25, 2002) in Docket 01-GIMT-649-GIT.

9.7.3 On the same date that Resale Services to CLEC are disconnected, **SBC-7STATE** will transfer CLEC's End Users provisioned through Resale Services to **SBC-7STATE**'s local service. To the extent available at retail from **SBC-7STATE**, the Resale End Users transferred to **SBC-7STATE**'s local service will receive the same services that were provided through CLEC immediately prior to the time of transfer; provided, however, **SBC-7STATE** reserves the right to toll restrict (both interLATA and intraLATA) such transferred End Users.

9.7.3.1 Notwithstanding any inconsistent provisions in this Agreement, the transfer of Resale End Users to **SBC MISSOURI** will comply with Missouri Public Service Commission Rule 4 CSR 240-32.120.

9.7.3.2 **SBC-7STATE** will inform the Commission of the names of all Resale End Users transferred through this process.

9.7.3.3 Conversion charges and service establishment charges for transferring Resale End Users to **SBC-7STATE** as specified in Section 9.7.3 will be billed to CLEC.

9.7.3.4 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 9.7.2. **SBC-7STATE** has no liability to CLEC or CLEC's End Users in the event of disconnection of service to CLEC and the transfer of any Resale End Users to **SBC-7STATE** local service in connection with such disconnection.

9.7.4 Within five (5) calendar days following the transfer, **SBC-7STATE** will notify each transferred Resale End User that because of CLEC's failure to pay **SBC-7STATE**, the End User's local service is now being provided by **SBC-7STATE**. This notice will also advise each transferred Resale End User that the End User has thirty (30) calendar days from the date of transfer to select a new Local Service Provider.

9.7.4.1 Notwithstanding any inconsistent provisions in this Agreement, notice of transfer to Missouri Resale End Users will comply with Missouri Public Service Commission Rule 4 CSR 240-32.120.

9.7.4.1.1 Notwithstanding any inconsistent provisions in this Agreement, notice of transfer to Kansas Resale End Users will comply with Kansas Corporation Commission Order No. 5 (dated March 25, 2002) in Docket 01-GIMT-649-GIT.

9.7.5 The transferred Resale End User shall be responsible for any and all charges incurred during the selection period other than those billed to CLEC under Section 9.7.3.3.

9.7.6 If any Resale End User transferred to **SBC-7STATE**'s local service under Section 9.7.3 of this Agreement fails to select a new Local Service Provider within thirty (30) calendar days of the transfer, **SBC-7STATE** may terminate the transferred Resale End User's service.

9.7.6.1 **SBC-7STATE** will notify the Commission of the names of all transferred Resale End Users whose local service was terminated pursuant to Section 9.7.5.

9.7.6.2 Nothing in this Agreement shall be interpreted to obligate **SBC-7STATE** to continue to provide local service to any transferred Resale End User beyond the thirty (30) calendar day selection period. Nothing herein shall be interpreted to limit any and all

disconnection rights **SBC-7STATE** has with regard to such transferred Resale End Users under Applicable Law; provided, however,

9.7.6.2.1 in **SBC CALIFORNIA** only, following expiration of the selection period and disconnection of such transferred Resale End Users, where facilities permit, **SBC CALIFORNIA** will furnish transferred and subsequently disconnected local residential End Users with "quick dial tone."

9.8 **SBC CONNECTICUT** only

9.8.1 For nonpayment and procedures for disconnection for **SBC CONNECTICUT**, see the applicable DPUC ordered tariff.

10. DISPUTE RESOLUTION

10.1 Finality of Disputes

10.1.1 Except as otherwise specifically provided for in this Agreement, no claim may be brought for any dispute arising from this Agreement more than twenty-four (24) 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.

10.1.2 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.

10.2 Alternative to Litigation

10.2.1 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.

10.3 Commencing Dispute Resolution

10.3.1 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:

10.3.1.1 Service Center (**SBC MIDWEST REGION 5-STATE**), LSC (**SBC-7STATE**) or LEC-C (**SBC CONNECTICUT**);

10.3.1.2 Informal Dispute Resolution; and

10.3.1.3 Formal Dispute Resolution, each of which is described below.

10.4 LSC/ Service Center/LEC-C 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 **SBC-13STATE** for Disputed Amounts must be made on the "13 Billing Claims Dispute Form".

10.4.1 If the written notice given pursuant to Section 10.3 discloses that a CLEC dispute relates to billing, then the procedures set forth in this Section 10.4 shall be used and the dispute shall first be referred to the appropriate service center [**SBC MIDWEST REGION 5-STATE** Service Center; **SBC-7STATE** Local Service Center **(LSC)**; **SBC CONNECTICUT** Local Exchange Carrier Center (LEC-C)] for resolution. In order to resolve a billing dispute, CLEC shall furnish **SBC-13STATE** written notice of (i) the date of the bill in question, (ii) CBA/ESBA/ASBS or BAN number of the bill in question, (iii) telephone number, circuit ID number or trunk number in question, (iv) any USOC information relating to the item questioned, (v) amount billed and (vi) amount in question and (vii) the reason that CLEC disputes the billed amount. To be deemed a "dispute" under this Section 10.4, CLEC must provide evidence that it has either paid the disputed amount or established an interest bearing escrow account that complies with the

requirements set forth in Section 8.4 of this Agreement and deposited all Unpaid Charges relating to Resale Services and Unbundled Network Elements into that escrow account. Failure to provide the information and evidence required by this Section 10.4.1 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.

10.4.2 The Parties shall attempt to resolve Disputed Amounts appearing on **SBC-13STATE**'s current billing statements thirty (30) to sixty (60) calendar days from the Bill Due Date (provided the CLEC furnishes all requisite information and evidence under Section 10.4.1 by the Bill Due Date). If not resolved within thirty (30) calendar days, upon request, **SBC-13STATE** will notify CLEC of the status of the dispute and the expected resolution date.

10.4.3 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 10.4.1), **SBC-13STATE** will notify CLEC of the status of the dispute and the expected resolution date.

10.4.4 Any notice of Disputed Amounts given by **SBC-13STATE** to CLEC pursuant to Section 10.3 shall furnish CLEC written notice of: (i) the date of the bill in question, (ii) the account number or other identification of the bill in question, (iii) any telephone number, circuit ID number or trunk number in question, (iv) any USOC (or other descriptive information) questioned, (v) the amount billed, (vi) the amount in question, and (vii) the reason that **SBC-13STATE** disputes the billed amount. The Parties shall attempt to resolve Disputed Amounts appearing on current billing statement(s) thirty (30) to sixty (60) calendar days from the Bill Due Date (provided **SBC-13STATE**, furnishes all requisite information by the Bill Due Date) and 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, CLEC will notify **SBC-13STATE** of the status of the dispute and the expected resolution date.

10.4.5 If the Non-Paying Party is not satisfied by the resolution of the billing dispute under this Section 10.4, the Non-Paying Party may notify the Billing Party in writing that it wishes to invoke the Informal Resolution of Disputes afforded pursuant to Section 10.5 of this Agreement.

10.5 Informal Resolution of Disputes

10.5.1 Upon receipt by one Party of notice of a dispute by the other Party pursuant to Section 10.3 or Section 10.4.5, 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.

10.6 Formal Dispute Resolution

10.6.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 10.5, then either Party may invoke the formal Dispute Resolution procedures described in this Section 10.6. 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 10.3.

10.6.2 Claims Subject to Mandatory Arbitration. The following claims, if not settled through informal Dispute Resolution, will be subject to mandatory arbitration pursuant to Section 10.7 below:

10.6.2.1 Each unresolved billing dispute involving one percent (1%) or less of the amounts charged to the Disputing Party under this Agreement in the state in which the dispute arises during the twelve (12) months immediately preceding receipt of the letter initiating Dispute Resolution under Section 10.3. If the disputing Party has not been billed for a minimum of twelve (12) months immediately preceding receipt of the letter initiating Dispute Resolution under Section 10.3, the Parties will annualize the actual number of months billed.

10.6.3 Claims Subject to Elective Arbitration. Claims will be subject to elective arbitration pursuant to Section 10.7 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.

10.6.4 Claims Not Subject to Arbitration. 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.

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

10.6.4.2 Actions to compel compliance with the Dispute Resolution process.

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

10.7 Arbitration

10.7.1 Disputes subject to mandatory or 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 **Dallas, Texas (SBC SOUTHWEST REGION 5-STATE); Chicago, Illinois (SBC MIDWEST REGION 5-STATE), San Francisco, California (SBC CALIFORNIA); Reno, Nevada (SBC NEVADA)**; **or New Haven, Connecticut (SBC CONNECTICUT)**, 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 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.

11. AUDITS – Applicable in SBC-12STATE only

11.1 Subject to the restrictions set forth in Section 20 and except as may be otherwise expressly provided in this Agreement, a Party (the **"Auditing Party"**) may audit the other Party's (the **"Audited Party"**)

books, records, data and other documents, as provided herein, once annually, with the audit period commencing not earlier than the date on which services were first supplied under this Agreement **("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.

11.1.1 The scope of 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. Such audit shall begin no fewer than thirty (30) calendar days after Audited Party receives a written notice requesting an audit and shall be completed no later than thirty (30) calendar days after the start of such audit.

11.1.2 Such audit shall be conducted either by the Auditing Party's employee(s) or an independent auditor acceptable to both Parties; provided, however, if the Audited Party requests that an independent auditor be engaged and the Auditing Party agrees, the Audited Party shall pay one-quarter (1/4) of the independent auditor's fees and expenses. If an independent auditor is to be engaged, the Parties shall select an auditor by the thirtieth day following Audited Party's receipt of a written audit notice. Auditing Party shall cause the independent auditor to execute a nondisclosure agreement in a form agreed upon by the Parties.

11.1.3 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. 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.

11.1.4 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.

11.1.5 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 8.1 (depending on the SBC-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.

11.1.6 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.

11.1.7 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 11.1. Any additional audit shall be at the requesting Party's expense.

11.2 Audits - **SBC CONNECTICUT** only

11.2.1 Except as provided in Appendix Compensation, **SBC CONNECTICUT** shall arrange for one (1) annual independent audit to be conducted by a "Big Six" independent public accounting firm or an accounting firm mutually agreed to by **SBC CONNECTICUT**, CLEC and all other CLECs doing business with **SBC CONNECTICUT** under the terms of an agreement adopted pursuant to Sections 251 and 252 of the Act for the purpose of evaluating the accuracy of **SBC CONNECTICUT**'s billing and invoicing.

11.2.2 **SBC CONNECTICUT** will cooperate fully with the independent auditor in such audit and provide reasonable access to any and all appropriate **SBC CONNECTICUT** employees, books, records and other documents reasonably necessary to perform the audit.

11.2.3 **SBC CONNECTICUT** shall promptly correct any billing error that is revealed in the audit, including making refund of any overpayment to CLEC in the form of a credit on the invoice for the first full billing cycle after the audit report is issued; such refund shall include interest on the overpayment at the rate of eight percent (8%) per year. In the event that the audit reveals any underbilling and resulting underpayment to **SBC CONNECTICUT** by CLEC, the underpayment shall be reflected in CLEC's invoice for the first full billing cycle after the audit report is issued. **SBC CONNECTICUT** will not be entitled to recover interest on any underbilling to CLEC revealed by the audit for the time preceding the amount appearing on CLEC's bill from **SBC CONNECTICUT**, however, **SBC CONNECTICUT** shall be entitled to recover interest at the interest rate referenced in Section 8.1.5.1 on such underbilling and CLEC shall pay interest for the number of calendar days from the Bill Due Date of the bill on which such underbilling was rectified until the date on which payment is made and available to **SBC CONNECTICUT**.

12. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

12.1 EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NO PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE INTERCONNECTION, RESALE SERVICES, UNBUNDLED NETWORK ELEMENTS, FUNCTIONS, FACILITIES, PRODUCTS AND SERVICES IT PROVIDES UNDER OR IS CONTEMPLATED TO PROVIDE UNDER THIS AGREEMENT AND EACH PARTY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, NO PARTY TO THIS AGREEMENT ASSUMES RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY ANY OTHER PARTY TO THIS AGREEMENT WHEN SUCH DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.

13. LIMITATION OF LIABILITY

13.1 Except for indemnity obligations expressly set forth herein or as otherwise expressly provided in specific appendices, each Party's liability to the other Party for any Loss relating to or arising out of such Party's performance under this Agreement, including any negligent act or omission (whether willful or inadvertent), whether in contract, tort or otherwise, including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement also constitute a violation of a statute, including the Act, shall not exceed in total the amount **SBC-13STATE** or CLEC has charged or would have charged to the other Party for the affected Interconnection, Resale

Services, Unbundled Network Elements, functions, facilities, products and service(s) that were not performed or were improperly performed.

13.2 Except as otherwise expressly provided in specific appendices, 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.

13.3 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, Resale Services, Unbundled Network Elements, functions, facilities, products and 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, Resale Services, Unbundled Network Elements, functions, facilities, products and 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 13.3.

13.4 Neither CLEC nor **SBC-13STATE** 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 14 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 13.4 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, Resale Services, Unbundled Network Elements, functions, facilities, products and 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.

13.5 **SBC-13STATE** shall not be liable for damages to an End User's premises resulting from the furnishing of any Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products or services, including, if applicable, the installation and removal of equipment and associated wiring, unless the damage is caused by **SBC-13STATE**'s gross negligence or willful misconduct. **SBC-13STATE** does not guarantee or make any warranty with respect to Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products or services when used in an explosive atmosphere.

13.6 CLEC hereby releases **SBC-13STATE** from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided by CLEC to **SBC-13STATE** under this Agreement, including any errors or omissions occurring in CLEC's End User listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, Consequential, punitive or incidental damages.

13.7 **SBC-13STATE** 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.

13.8 This Section 13 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, Unbundled Network Elements, functions, facilities, products and services available hereunder, and no different pricing reflecting different costs and different limits of liability was agreed to.

14. INDEMNITY

14.1 Except as otherwise expressly provided herein or in specific appendices, each Party shall be responsible only for the Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and 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, Resale Services, Unbundled Network Elements, functions, facilities, products and services provided by the other Party, its agents, subcontractors, or others retained by such Parties.

14.2 Except as otherwise expressly provided herein or in specific appendices, 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, Resale Services, Unbundled Network Elements, functions, facilities, products and 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.

14.3 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, Resale Service, Unbundled Network Element, function, facility, product or 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.

14.4 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, Resale Services, Unbundled Network Elements, functions, facilities, products and services provided under this Agreement involving:

14.4.1 Any Claim or Loss arising from such Indemnifying Party's use of Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and 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.

14.4.1.1 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, Resale Services, Unbundled Network Elements, functions, facilities, products or 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, Resale Services, Unbundled Network Elements, functions, facilities, products or services provided pursuant to this Agreement.

14.4.1.2 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, Resale Services, Unbundled Network Elements, functions, facilities, products or services provided under this Agreement; provided, however, that an Indemnifying Party's obligation to defend and indemnify the Indemnified Party shall not apply:

14.4.1.2.1 where an Indemnified Party or its End User modifies Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products or services; provided under this Agreement; and

14.4.1.2.2 no infringement would have occurred without such modification.

14.4.2 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.

14.5 CLEC acknowledges that its right under this Agreement to Interconnect with **SBC-13STATE**'s network and to unbundle and/or combine **SBC-13STATE**'s Unbundled Network Elements (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.

14.5.1 The Parties acknowledge that on April 27, 2000, the FCC released its Memorandum Opinion and Order in CC Docket No. 96-98 (File No. CCBPol. 97-4), In the Matter of Petition of MCI *for* Declaratory *Ruling.* The Parties further acknowledge and agree that by executing this Agreement, neither Party waives any of its rights, remedies, or arguments with respect to such decision and any remand thereof, including its right to seek legal review or a stay pending appeal of such decision.

14.5.1.1 **SBC-13STATE** agrees to use its best efforts to obtain for CLEC, under commercially reasonable terms, Intellectual Property rights to each UNE necessary for CLEC to use such UNE in the same manner as **SBC-13STATE**.

14.5.1.2 **SBC-13STATE** shall have no obligation to attempt to obtain for CLEC any Intellectual Property right(s) that would permit CLEC to use any UNE in a different manner than used by **SBC-13STATE**.

14.5.1.3 To the extent not prohibited by a contract with the vendor of the network element sought by CLEC that contains Intellectual Property licenses, **SBC-13STATE** shall reveal to CLEC the name of the vendor, the Intellectual Property rights licensed to **SBC-13STATE** under the vendor contract and the terms of the contract (excluding cost terms). **SBC-13STATE** shall, at CLEC's request, contact the vendor to attempt to obtain permission to reveal additional contract details to CLEC.

14.5.1.4 All costs associated with the extension of Intellectual Property rights to CLEC pursuant to Section 14.5.1.1, 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 UNE to which the Intellectual Property rights relate and apportioned to all requesting carriers using that UNE including **SBC-13STATE**.

14.5.2 **SBC-13STATE** 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 Unbundled Network Elements (including combining with CLEC's Network Elements) in **SBC-13STATE**'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 UNEs are vendor licenses and warranties and are a part of the Intellectual Property rights **SBC-13STATE** agrees in Section 14.5.1.1 to use its best efforts to obtain.

14.5.3 **SBC-13STATE** 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 **SBC-13STATE**'s network and unbundling and/or combining **SBC-13STATE**'s Unbundled Network Elements (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 UNEs shall be vendor's indemnities and are a part of the Intellectual Property rights **SBC-13STATE** agrees in Section 14.5.1.1 to use its best efforts to obtain.

14.6 CLEC shall reimburse **SBC-13STATE** for damages to **SBC-13STATE**'s facilities utilized to provide Interconnection or UNEs 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 **SBC-13STATE**'s facilities, or due to malfunction of any facilities, functions, products, services or equipment provided by any person or entity other than **SBC-13STATE**. Upon reimbursement for damages, **SBC-13STATE** will cooperate with CLEC in prosecuting a claim against the person causing such damage. CLEC shall be subrogated to the right of recovery by **SBC-13STATE** for the damages to the extent of such payment.

14.7 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 Appendix DSL and/or the applicable commission-ordered tariff, as appropriate) to be deployed or used in connection with or on **SBC-13STATE** 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.

14.8 Indemnification Procedures

14.8.1 Whenever a claim shall arise for indemnification under this Section 14, 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.

14.8.2 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.

14.8.3 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.

14.8.4 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.

14.8.5 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.

14.8.6 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.

14.8.7 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.

14.8.8 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.

14.8.9 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 20.

15. PERFORMANCE MEASURES

15.1 Attachment Performance Measures provides monetary payments for failure to meet specified performance standards. The provisions of that Attachment constitute the sole obligation of **SBC-13STATE** to pay damages or financial penalties for failure to meet specified performance standards identified in such Attachment and all other Attachments to this Agreement.

16. INTELLECTUAL PROPERTY

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

17. NOTICES

17.1 Subject to Section 17.2, notices given by one Party to the other Party 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

17.1.1 delivered personally;

17.1.2 delivered by express overnight delivery service;

17.1.3 mailed, via certified mail or first class U.S. Postal Service, with postage prepaid, and a return receipt requested; or

17.1.4 delivered by facsimile; provided that a paper copy is also sent by a method described in sections 17.1.1, 17.1.2, or 17.1.3.

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

17.1.5.1 the date of actual receipt,

17.1.5.2 the next Business Day when sent via express overnight delivery service,

17.1.5.3 five (5) calendar days after mailing in the case of first class or certified U.S. Postal Service, or

17.1.5.4 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.

17.1.6 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	**CLEC CONTACT**	**SBC-13STATE CONTACT**
NAME/TITLE	Adela Ardelean President	Contract Management ATTN: Notices Manager
STREET ADDRESS	617 Birchtree Court	311 S. Akard, 9th Floor Four SBC Plaza
CITY, STATE, ZIP CODE	Rochester Hills, MI 48306	Dallas, TX 75202-5398
FACSIMILE NUMBER	248-608-8377	214-464-2006

17.1.7 Either Party may unilaterally change its designated contact, address, telephone number and/or facsimile number for the receipt of notices by giving written notice to the other Party in compliance with this Section. Any notice to change the designated contact, address, telephone and/or facsimile number for the receipt of notices shall be deemed effective ten (10) calendar days following receipt by the other Party.

17.2 **SBC-13STATE** communicates official information to CLECs via its Accessible Letter notification process. This process covers a variety of subjects, including updates on products/services promotions; deployment of new products/services; modifications and price changes to existing products/services; cancellation or retirement of existing products/services; and operational issues.

17.3 In the **SBC-13STATE**'s Accessible Letter notification will be via electronic mail **("e-mail")** distribution. Accessible Letter notification via e-mail will be deemed given as of the date set forth on the e-mail message.

17.4 In **SBC-13STATE** CLEC may designate up to a maximum of ten (10) recipients for Accessible Letter notification via e-mail.

17.5 In **SBC-13STATE**, CLEC shall submit a completed Accessible Letter Recipient Change Request Form to the individual specified on that form to designate in writing each individual's e-mail address to whom CLEC requests Accessible Letter notification be sent. CLEC shall submit a completed Accessible Letter Recipient Change Request Form to add, remove or change recipient information for any CLEC recipient of Accessible Letters. Any completed Accessible Letter Recipient Change Request Form shall be deemed effective ten (10) calendar days following receipt by **SBC-13STATE**. **SBC-13STATE** may, at its discretion, change the process by which the CLEC provides Accessible Letter recipient information. Changes to this process will be developed through the CLEC User Forum process and will be implemented only with the concurrence of the CLEC User Forum Global Issues group.

17.6 **SBC SOUTHWEST REGION 5-STATE only:**

17.6.1 **SBC SOUTHWEST REGION 5-STATE** shall provide a toll free facsimile number to CLEC for the submission of requests for Resale Services and Unbundled Network Elements under this Agreement; CLEC shall provide **SBC SOUTHWEST REGION 5-STATE** with a toll free facsimile number for notices from **SBC SOUTHWEST REGION 5-STATE** relating to requests for Resale Services and Unbundled Network Elements under this Agreement.

18. PUBLICITY AND USE OF TRADEMARKS OR SERVICE MARKS

18.1 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. Nothing herein, however, shall be construed as preventing either Party from publicly stating the fact that it has executed this Agreement with the other Party.

18.2 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.

19. NO LICENSE

19.1 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.

20. CONFIDENTIALITY

20.1 Both Parties agree to treat Proprietary Information received from the other in accordance with the provisions of Section 222 of the Act.

20.2 Unless otherwise agreed, the obligations of confidentiality and non-use do not apply to such Proprietary Information that:

20.2.1 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

20.2.2 Is, or becomes publicly known through no wrongful act of the Receiving Party; or

20.2.3 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

20.2.4 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

20.2.5 Is disclosed to a Third Party by the Disclosing Party without similar restrictions on such Third Party's rights; or

20.2.6 Is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization granted; or

20.2.7 Is required to be made public or disclosed by the Receiving Party pursuant to Applicable Law or regulation or court order or lawful process.

21. INTERVENING LAW

21.1 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), including, without limitation, its intervening law rights relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: the United States Supreme Court's opinion in Verizon v. FCC, et al, 535 U.S. 467 (2002); the D.C. Circuit's decision in United States Telecom Association, et. al ("USTA") v. FCC, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, the D.C. Circuit's March 2, 2004 decision in USTA v. FCC, Case No. 00-1012 (D.C. Cir. 2004); the FCC's Triennial Review Order, released on August 21, 2003, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147 (FCC 03-36) and the FCC's Biennial Review Proceeding which the FCC announced, in its Triennial Review Order, is scheduled to commence in 2004; the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in WorldCom, Inc. v. FCC, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking on the topic of Intercarrier Compensation generally, issued In the Matter of Developing a Unified Intercarrier Compensation Regime, in CC Docket 01-92 (Order No. 01-132), on April 27, 2001 (collectively "Government Actions"). Notwithstanding anything to the contrary in this Agreement (including any amendments to this Agreement), **SBC-13STATE** shall have no obligation to provide UNEs, combinations of UNEs, combinations of UNE(s) and CLEC's own elements or UNEs in commingled arrangements beyond those required by the Act, including the lawful and effective FCC rules and associated FCC and judicial orders. Except to the extent that **SBC-13STATE** has adopted the FCC ISP terminating compensation plan ("FCC Plan") in an **SBC-13STATE** state in which this Agreement is effective, and the Parties have incorporated rates, terms and conditions associated with the FCC Plan into this Agreement, these rights also include but are not limited to **SBC-13STATE**'s right to exercise its option at any time to adopt on a date specified by **SBC-13STATE** the FCC Plan, after which date ISP-bound traffic will be subject to the FCC Plan's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. 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 that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and/or otherwise affects the rights or obligations of either Party that are addressed by this Agreement, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party ("Written Notice"). With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

22. GOVERNING LAW

22.1 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, Resale Services, Unbundled Network Elements, functions, facilities, products and services at issue are furnished or sought shall apply, without regard to that state's conflict of laws principles. The Parties submit to personal jurisdiction in Little Rock, Arkansas; San Francisco, California; New Haven, Connecticut; Chicago, Illinois; Indianapolis, Indiana; Topeka, Kansas; Detroit, Michigan; St. Louis, Missouri; Reno, Nevada;

Columbus, Ohio; Oklahoma City, Oklahoma, Dallas, Texas and Milwaukee, Wisconsin, and waive any and all objection to any such venue.

23. REGULATORY APPROVAL

23.1 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.

24. CHANGES IN END USER LOCAL EXCHANGE SERVICE PROVIDER SELECTION

24.1 Applies to **SBC-12STATE only**

24.1.1 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 deliver to the other Party a representation of authorization that applies to all orders submitted by a Party under this Agreement requiring a LEC change. A Party's representation of authorization shall be delivered to the other Party prior to the first order submitted to the other Party. 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.

24.1.2 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 the applicable Appendix OSS restricting access to CPNI in order to immediately provide service to such End User.

24.1.3 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), **SBC-12STATE** is free to reclaim the UNE facilities for use by another End User and is free to issue service orders required to reclaim such facilities.

24.1.4 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.

24.2 Applies to **SBC CONNECTICUT** only

24.2.1 The Parties agree that CLEC will not submit a Local Exchange Carrier order for an End User to the Local Service Provider currently serving that End User without proper authorization from that End User, as required by the FCC in Subpart K, Part 64 rules and regulations and by the DPUC in its applicable rules and regulations. **SBC CONNECTICUT**'s wholesale tariff, Section 18, further documents requirements for Local Exchange Carrier changes and required End User authorizations.

24.2.2 The Parties agree to the re-use of existing network facilities when an End User changes its provider of local exchange service and the network facilities are provided by the same network provider.

25. COMPLIANCE AND CERTIFICATION

25.1 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.

25.2 Each Party warrants that it has obtained all necessary state certification required in each state covered by this Agreement prior to ordering any Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and services from the other Party pursuant to this Agreement. Upon request, each Party shall provide proof of certification.

25.3 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.

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

26. LAW ENFORCEMENT

26.1 **SBC-12 STATE** and CLEC shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

26.1.1 Intercept Devices:

26.1.1.1 Local and federal law enforcement agencies periodically request information or assistance from local telephone service providers. When either Party receives a request associated with an End User of the other Party, it shall refer such request to the Party that serves such End User, unless the request directs the receiving Party to attach a pen register, trap-and-trace or form of intercept on the Party's facilities, in which case that Party shall comply with any valid request.

26.1.2 Subpoenas:

26.1.2.1 If a Party receives a subpoena for information concerning an End User the Party knows to be an End User of the other Party, it shall refer the subpoena to the Requesting Party with an indication that the other Party is the responsible company, unless the subpoena requests records for a period of time during which the receiving Party was the End User's service provider, in which case that Party will respond to any valid request.

26.1.3 Emergencies:

26.1.3.1 If a 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 for an End User of the other Party, that Receiving Party will comply with a valid emergency request. However, neither Party shall be held liable for any claims or Losses 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.

26.2 **SBC CONNECTICUT** and CLEC shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

26.2.1 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, the Telecommunications Services and related information provided by each of the Parties in Connecticut.

27. RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR

27.1 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.

27.2 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.

28. NO THIRD PARTY BENEFICIARIES; DISCLAIMER OF AGENCY

28.1 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.

29. INTENTIONALLY LEFT BLANK

30. SUBCONTRACTING

30.1 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.

30.2 Each Party will be solely responsible for payments due that Party's subcontractors.

30.3 No subcontractor will be deemed a Third Party beneficiary for any purposes under this Agreement.

30.4 No contract, subcontract or other agreement entered into by either Party with any Third Party in connection with the provision of Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and 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.

30.5 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.

31. RESPONSIBILITY FOR ENVIRONMENTAL CONTAMINATION

31.1 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.

31.2 Notwithstanding anything to the contrary in this Agreement and to the fullest extent permitted by Applicable Law, **SBC-13STATE** 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: () the removal or disposal from the work location of a Hazardous Substance by **SBC-13STATE** or any person acting on behalf of **SBC-13STATE**, 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 **SBC-13STATE** or any person acting on behalf of **SBC-13STATE**, or (iii) the presence at the work location of an Environmental Hazard for which **SBC-13STATE** is responsible under Applicable Law or a Hazardous Substance introduced into the work location by **SBC-13STATE** or any person acting on behalf of **SBC-13STATE**.

31.3 Notwithstanding anything to the contrary in this Agreement and to the fullest extent permitted by Applicable Law, CLEC shall, at **SBC-13STATE**'s request, indemnify, defend, and hold harmless **SBC-13STATE**, 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.

31.4 For the purposes of this agreement, "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.

31.5 For the purposes of this agreement, "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.

31.6 For the purposes of this agreement, "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposal, or other movement into i) the work location, or ii) other environmental media, including but not limited to, the air, ground or surface water, or soil.

32. FORCE MAJEURE

32.1 No Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make money payments) resulting from acts or occurrences beyond the reasonable

control of such Party, 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, 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 or collectively, a **"Force Majeure Event"**) or any Delaying Event caused by the other Party or any other circumstances beyond the Party's reasonable control. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other Party of such Force Majeure 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.

33. TAXES

33.1 Each Party purchasing Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and services under this Agreement shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, municipal fees, transfer, transaction or similar taxes, fees, or surcharges (hereinafter "Tax") imposed on, or with respect to, the Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and services under this Agreement provided by or to such Party, except for (a) any Tax on either party's corporate existence, status, or income or (b) any corporate franchise Taxes. Whenever possible, Taxes shall be billed as a separate item on the invoice.

33.2 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 Texas Public Utility Commission, 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.

33.3 With respect to any purchase of Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and services under this Agreement if any Tax is required or permitted by Applicable Law to be collected from the purchasing Party by the providing Party, then: (i) the providing Party shall bill the purchasing Party for such Tax; (ii) the purchasing Party shall remit such Tax to the providing Party; and (iii) the providing Party shall remit such collected Tax to the applicable taxing authority. 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 taxing authority prior to the time: (i) it bills the purchasing Party for such Tax, or (ii) it collects the Tax from the purchasing Party. Notwithstanding anything in this Agreement to the contrary, the purchasing Party shall be liable for and the providing Party may collect Taxes which were assessed by or paid to an appropriate taxing authority within the statute of limitations period but not included on an invoice within four (4) years after the Tax otherwise was owed or due.

33.4 With respect to any purchase hereunder of Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and services under this Agreement that are resold to a third party, if any Tax is imposed by Applicable Law on the End User in connection with any such purchase, then: (i) the purchasing Party shall be required to impose and/or collect such Tax from the End User;

and (ii) the purchasing Party shall remit such Tax to the applicable taxing authority. The purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing Party to pay or collect and remit such tax to such authority.

33.5 If the providing Party fails to bill or to collect any Tax as required herein, then, as between the providing Party and the purchasing Party: (i) the purchasing Party shall remain liable for such uncollected Tax; and (ii) the providing Party shall be liable for any penalty and interest assessed with respect to such uncollected Tax by such authority. However, if the purchasing Party fails to pay any Taxes properly billed, then, as between the providing Party and the purchasing Party, the purchasing Party will be solely responsible for payment of the Taxes, penalty and interest.

33.6 If the purchasing Party fails to impose and/or collect any Tax from End Users as required herein, then, as between the providing Party and the purchasing Party, the purchasing Party shall remain liable for such uncollected Tax and any interest and penalty assessed thereon with respect to the uncollected Tax by the applicable taxing authority. With respect to any Tax that the purchasing Party has agreed to pay or impose on and/or collect from End Users, the purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing Party to pay or collect and remit such Tax to such authority.

33.7 If either Party is audited by a taxing authority or other Governmental Authority, the other Party agrees to reasonably cooperate with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.

33.8 To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party for any period prior to the date that the purchasing Party presents a valid certificate. If Applicable Law excludes or exempts a purchase of Interconnection, Resale Services, Unbundled Network Elements, functions, facilities, products and services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party (a) furnishes the providing Party with a letter signed by an officer of the purchasing Party claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate; and (b) supplies 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 expense with respect to forbearing to collect such Tax.

33.9 With respect to any Tax or Tax controversy covered by this Section 34, the purchasing Party is entitled to contest with the imposing jurisdiction, pursuant to Applicable Law and at its own expense, any Tax that it is ultimately obligated to pay or collect. The purchasing Party will ensure that no lien is attached to any asset of the providing Party as a result of any contest. The purchasing Party shall be entitled to the benefit of any refund or recovery of amounts that it had previously paid resulting from such a contest. Amounts previously paid by the providing Party shall be refunded to the providing Party. The providing Party will cooperate in any such contest.

33.10 All notices, affidavits, exemption certificates or other communications required or permitted to be given by either Party to the other under this Section 34 shall be sent in accordance with Section 17 hereof.

34. NON-WAIVER

34.1 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.

35. NETWORK MAINTENANCE AND MANAGEMENT

35.1 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.

35.2 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 24-hour contact number for Network Traffic Management issues to the other's surveillance management center.

35.3 Each Party maintains the right to implement protective network traffic management controls, such as "cancel to", "call gapping" or 7-digit and 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.

35.4 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.

35.5 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.

35.6 Neither Party shall use any Interconnection, Resale Service, Unbundled Network Element, function, facility, product or 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 **SBC-13STATE**, 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.

36. SIGNALING

36.1 **SBC-12STATE** will provide SS7 signaling on interswitch calls originating from an ULS port pursuant to Appendix UNE, Section 12 Shared Transport. All other use of SS7 signaling is pursuant to the access tariff.

37. TRANSMISSION OF TRAFFIC TO THIRD PARTIES

37.1 CLEC will not send to **SBC-13STATE** local traffic that is destined for the network of a Third Party unless CLEC has the authority to exchange traffic with that Third Party.

38. CUSTOMER INQUIRIES

38.1 Except as otherwise required by Section 24.1, 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.

38.2 Except as otherwise required by Section 24.1, each Party will ensure that all of its representatives who receive inquiries regarding the other Party's services:

38.2.1 Provide the number described in Section 38.1 to callers who inquire about the other Party's services or products; and

38.2.2 Do not in any way disparage or discriminate against the other Party or its products or services.

38.3 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.

38.4 CLEC acknowledges that **SBC-13STATE** may, upon End User request, provide services directly to such End User similar to those offered to CLEC under this Agreement.

39. EXPENSES

39.1 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.

39.2 **SBC-12STATE** 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. Prior to the filing of this Agreement in the State of Nevada, CLEC will submit a check in the amount of $200.00, payable to **Public Utilities Commission of Nevada,** to cover its portion of the expenses incurred with filing this Agreement. Prior to the filing of each and every Amendment filed in connection with this Agreement in the State of Nevada, CLEC will submit a check in the amount of $200.00, payable to **Public Utilities Commission of Nevada,** to cover its portion of the expenses incurred with filing of each amendment filed in connection with this Agreement. Upon receipt of CLEC's check, the Agreement will be processed for filing with the Commission.

40. CONFLICT OF INTEREST

40.1 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.

41. SURVIVAL

41.1 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 5.5; Section 5.6, Section 7.3; Section 8.1; Section 8.4; Section 8.5; Section 8.6; Section 8.7; Section 8.8; Section 10, Section 11; Section 13; Section 14; Section 15; Section 16.1; Section 18; Section 19; Section 20; Section 22; Section 25.4; Section 26.1.3; Section 32; Section 34 and Section 42.

42. SCOPE OF AGREEMENT

42.1 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 the products and services described in Section 251 of the Act and obtain approval of such arrangement under Section 252 of the Act. 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.

42.2 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.

43. AMENDMENTS AND MODIFICATIONS

43.1 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. The rates, terms and conditions contained in the amendment shall become effective upon approval of such amendment by the appropriate Commissions; and such amendment will not require refunds, true-up or retroactive crediting or debiting prior to the approval of the Amendment. **SBC-12STATE** and CLEC shall each be responsible for its share of the publication expense (i.e. filing fees, delivery and reproduction expense, and newspaper notification fees), to the extent publication is required for filing of an amendment by a specific state.

43.2 Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

44. APPENDICES INCORPORATED BY REFERENCE

44.1 ACCESS TO RIGHTS-OF-WAY -- SECTION 251(b)(4)

44.1.1 **SBC-13STATE** shall provide to CLEC access to Poles, Conduits and Rights of Ways pursuant to the applicable Appendix ROW, which is/are attached hereto and incorporated herein by reference.

44.2 COLLOCATION -- SECTION 251(c)(6)

44.2.1 Collocation will be provided pursuant to the applicable Appendix Collocation, which is attached hereto and incorporated herein by reference.

44.3 DATABASE ACCESS

44.3.1 **SBC13STATE** shall provide to CLEC nondiscriminatory access to databases and associated signaling necessary for call routing and completion pursuant to the applicable Appendix UNE, which is/are attached hereto and incorporated herein by reference.

44.4 DIALING PARITY -- SECTION 251(b)(3)

44.4.1 The Parties shall provide Local Dialing Parity to each other as required under Section 251(b)(3) of the Act.

44.4.2 **SBC12STATE** shall provide IntraLATA Dialing Parity in accordance with Section 271(e)(2) of the Act.

44.5 INTERCONNECTION PURSUANT TO SECTION 251(c)(2)(A),(B),(C); 47 CFR § 51.305(a)(1)

44.5.1 **SBC-13STATE** shall provide to CLEC Interconnection of the Parties' facilities and equipment for the transmission and routing of Telephone Exchange Service traffic and Exchange Access traffic pursuant to the applicable Appendix ITR, which is/are attached hereto and incorporated herein by reference. Methods for Interconnection and Physical Architecture shall be as defined in the applicable Appendix NIM, which is/are attached hereto and incorporated herein by reference.

44.6 NUMBER PORTABILITY -- SECTIONS 251(b)(2)

44.6.1 The Parties shall provide to each other Permanent Number Portability (**PNP**) on a reciprocal basis as outlined in the applicable Appendix Number Portability, which is/are attached hereto and incorporated herein by reference.

44.7 OTHER SERVICES

44.7.1 911 and E911 Services

44.7.1.1 **SBC-13STATE** will make nondiscriminatory access to 911 and E911 services available under the terms and conditions of the applicable Appendix 911, which is/are attached hereto and incorporated herein by reference.

44.7.1.2 The Parties agree that for "data only" providers the following rules concerning 911 requirements apply:

44.7.1.2.1 The Parties agree that CLEC will not have to establish 911 trunking or interconnection to Ameritech's 911 Selective Routers, and therefore **SBC-13STATE** shall not provide 911 services for those information service applications in which CLEC does not offer its end users the ability to place outgoing voice calls provided that; and

44.7.1.2.2 CLEC understands and agrees that, should it decide to provide voice service, it is required to meet all applicable Commission 911 service requirements; and

44.7.1.2.3 CLEC agrees to begin implementing access to 911 sufficiently in advance of the planned implementation of voice service to meet its 911 requirements. CLEC understands that the steps it must take to fulfill its 911 obligation include, but are not limited to, obtaining NXX(s) from NECA for the exchange area(s) CLEC plans to serve, submission of the appropriate form(s) to **SBC-13STATE**, and, following **SBC-13STATE**'s processing of such form(s), obtaining approval from the appropriate PSAP(s) for the CLEC's 911 service architecture. CLEC further understands that PSAP approval may include testing 911 trunks with appropriate PSAP(s). CLEC understands that, based on **SBC-13STATE**'s prior experience with CLEC implementation of 911, these steps require a minimum of sixty (60) days.

44.7.1.2.4 CLEC agrees to indemnify and hold **SBC-13STATE** harmless from the consequences of CLEC's decision to not interconnect with **SBC-13STATE**'s 911 Selective Routers. The provisions of General Terms and Conditions Section 14 shall apply to such indemnification.

44.7.3 Directory Assistance (DA)

44.7.3.1 **SBC-13STATE** will provide nondiscriminatory access to Directory Assistance services under the terms and conditions identified in the applicable Appendix DA, which **is/are** attached hereto and incorporated herein by reference.

44.7.4 Hosting

44.7.4.1 At CLEC's request, **SBC-10STATE** shall perform hosting responsibilities for the provision of billable message data and/or access usage data received from CLEC for distribution to the appropriate billing and/or processing location or for delivery to CLEC of such data via **SBC-10STATE**'s internal network or the nationwide CMDS network pursuant to the applicable Appendix HOST, which **is/are** attached hereto and incorporated herein by reference.

44.7.5 Operator Services (OS)

44.7.5.1 **SBC-13STATE** shall provide nondiscriminatory access to Operator Services under the terms and conditions identified in the applicable Appendix OS, which **is/are** attached hereto and incorporated herein by reference.

44.7.6 Publishing and Directory

44.7.6.1 **SBC-13STATE** will make nondiscriminatory access to Publishing and Directory service available under the terms and conditions of the applicable Appendix White Pages, which **is/are** attached hereto and incorporated herein by reference.

44.7.7 RESALE--SECTIONS 251(b)(1)

44.7.7.1 **SBC-13STATE** shall provide to CLEC Telecommunications Services for resale at wholesale rates pursuant to the applicable Appendix Resale, which **is/are** attached hereto and incorporated herein by reference.

44.7.8 TRANSMISSION AND ROUTING OF SWITCHED ACCESS TRAFFIC PURSUANT TO 251(c)(2)

44.7.8.1 **SBC-13STATE** shall provide to CLEC certain trunk groups (Meet Point Trunks) under certain parameters pursuant to the applicable Appendix ITR, which **is/are** attached hereto and incorporated herein by reference.

44.7.9 TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE TRAFFIC PURSUANT TO SECTION 251(c)(2)(D); 252(d)(1) and (2); 47 CFR § 51.305(a)(5).

44.7.9.1 The applicable Appendix Compensation, which **is/are** attached hereto and incorporated herein by reference, prescribe traffic routing parameters for Local Interconnection Trunk Group(s) the Parties shall establish over the Interconnections specified in the applicable Appendix ITR, which **is/are** attached hereto and incorporated herein by reference.

44.7.10 UNBUNDLED NETWORK ELEMENTS -- SECTIONS 251(c)(3)

44.7.10.1 Pursuant to the applicable Appendix UNE, which **is/are** attached hereto and incorporated herein by reference, **SBC-13STATE** will provide CLEC access to UNEs for the provision of Telecommunications Service as required by Sections 251 and 252 of the Act and in the Appendices hereto. CLEC agrees to provide access to its Network Elements to **SBC-13STATE** under the same terms, conditions and prices contained herein and in the applicable Appendices hereto.

45. AUTHORITY

45.1 Each of the SBC-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 SBC-owned ILEC(s) for which this Agreement is executed represents and warrants that SBC Telecommunications, Inc. has full power and authority to execute and deliver this Agreement as agent for that SBC-owned ILEC. Each of the SBC-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 corporation duly organized, validly existing and in good standing under the laws of the State of Michigan 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 appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

46. COUNTERPARTS

46.1 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. ENTIRE AGREEMENT

47.1 **SBC-12STATE**

47.1.1 The terms contained in this Agreement and any Appendices, 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 **SBC CONNECTICUT**

47.2.1 The rates, terms and conditions contained in this Agreement and any Appendices, Attachments, Exhibits, Schedules, Addenda, Commission approved tariffs and other documents or instruments referred to herein and incorporated into this Agreement by reference 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 pre-dating the execution of this Agreement; provided, however, that none of the rates, terms or conditions of this Agreement shall be construed to apply in any manner to any period prior to the termination and/or expiration date of any agreement that this Agreement replaces. 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.

48. SELECTION OF BILLING OPTIONS

48.1 This Agreement contains an Appendix A to the General Terms and Conditions wherein the CLEC will select certain options available under this Agreement.

SBC-13STATE Agreement
Signatures

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

CLEC's STATE-SPECIFIC:

FACILITIES-BASED OCN # _____

RESALE OCN # _____

ACNA _____

Primo Communications, Inc.

Signature: [signature]

Name: Adela Ardelean
(Print or Type)

Title: President
(Print or Type)

Date: 3-10-04

Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, and Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC Telecommunications, Inc., its authorized agent

Signature: [signature]

Name: **Mike Auinbauh**
(Print or Type)

Title: For/ President - Industry Markets

Date: MAR 17 2004

APPENDIX OSS - RESALE & UNE

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APPENDIX OSS
(ACCESS TO OPERATIONS SUPPORT SYSTEMS FUNCTIONS)

1. INTRODUCTION

1.1 This Appendix 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 the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC). With respect to all matters covered by this Appendix, the Parties will comply with the final SBC/AMERITECH POR for Uniform and Enhanced OSS (Uniform POR) as approved by FCC on September 22, 2000.

1.2 **SBC Communications Inc**. **(SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, SBC NEVADA Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, SBC CALIFORNIA Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.

1.3 **SBC-2STATE** - As used herein, **SBC-2STATE** means **SBC CALIFORNIA** and **SBC NEVADA**, the applicable SBC-owned ILEC(s) doing business in California and Nevada.

1.4 **SBC-4STATE** - As used herein, **SBC-4STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, and SBC Oklahoma the applicable SBC-owned ILEC(s) doing business in Arkansas, Kansas, Missouri and Oklahoma.

1.5 **SBC-7STATE** - As used herein, **SBC-7STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC CALIFORNIA** and **SBC NEVADA**, the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.

1.6 **SBC-8STATE** - As used herein, **SBC-8STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC CALIFORNIA**, **SBC NEVADA** and **SBC CONNECTICUT**, the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.

1.7 **SBC-10STATE** - As used herein, **SBC-10STATE** means **SBC SOUTHWEST REGION 5-STATE** and **SBC MIDWEST REGION 5-STATE** an the applicable SBC-owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas, and Wisconsin.

1.8 **SBC-12STATE** - As used herein, **SBC-12STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC MIDWEST REGION 5-STATE** and **SBC-2STATE** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, SBC NEVADA, Ohio, Oklahoma, Texas, and Wisconsin.

1.9 **SBC-13STATE** - As used herein, **SBC-13STATE** means **SBC SOUTHWEST REGION 5-STATE**, **SBC MIDWEST REGION 5-STATE**, **SBC-2STATE** and **SBC CONNECTICUT** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

1.10 **SBC ARKANSAS** - As used herein, **SBC ARKANSAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, the applicable SBC-owned ILEC doing business in Arkansas.

1.11 **SBC CALIFORNIA** – As used herein, **SBC CALIFORNIA** means Pacific Bell Telephone Company d/b/a SBC California, the applicable SBC-owned ILEC doing business in California.

1.12 **SBC CONNECTICUT** - As used herein, **SBC CONNECTICUT** means The Southern New England Telephone Company d/b/a SBC Connecticut, the applicable above listed ILEC doing business in Connecticut.

1.13 **SBC KANSAS** - As used herein, **SBC KANSAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Kansas, the applicable SBC-owned ILEC doing business in Kansas.

1.14 **SBC ILLINOIS -** As used herein, **SBC ILLINOIS** means Illinois Bell Telephone Company d/b/a SBC Illinois, the applicable SBC-owned ILEC doing business in Illinois.

1.15 **SBC INDIANA -** As used herein, **SBC INDIANA** means Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, the applicable SBC-owned ILEC doing business in Indiana.

1.16 **SBC MICHIGAN -** As used herein, **SBC MICHIGAN** means Michigan Bell Telephone Company d/b/a SBC Michigan, the applicable SBC-owned doing business in Michigan.

1.17 **SBC MIDWEST REGION 5-STATE** - As used herein, **SBC MIDWEST REGION 5-STATE** means Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

1.18 **SBC MISSOURI -** As used herein, **SBC MISSOURI** means Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, the applicable SBC-owned ILEC doing business in Missouri.

1.19 **SBC NEVADA -** As used herein, **SBC NEVADA** means Nevada Bell Telephone Company d/b/a SBC Nevada, the applicable SBC-owned ILEC doing business in Nevada.

1.20 **SBC OHIO -** As used herein, **SBC OHIO** means The Ohio Bell Telephone Company d/b/a SBC Ohio, the applicable SBC-owned ILEC doing business in Ohio.

1.21 **SBC OKLAHOMA -** As used herein, **SBC OKLAHOMA** means Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma, the applicable SBC-owned ILEC doing business in Oklahoma.

1.22 **SBC SOUTHWEST REGION 5-STATE** - As used herein, **SBC SOUTHWEST REGION 5-STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.

1.23 **SBC TEXAS** – As used herein, **SBC TEXAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Texas, the applicable SBC-owned ILEC doing business in Texas.

1.24 **SBC WISCONSIN -** As used herein, **SBC WISCONSIN** means Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC doing business in Wisconsin.

1.25 **SBC-13STATE** has established performance measurements to illustrate non-discriminatory access. These measurements are represented in Appendix Performance Measurements.

2. DEFINITIONS

2.1 **"LSC"** means (i) the Local Service Center (LSC) for **SBC-12STATE**; (ii) Local Exchange Carrier Center (LECC) for **SBC CONNECTICUT**.

2.2 **"LOC"** means (i) the Local Operations Center (LOC) for **SBC-8STATE**; and (ii) the Customer Response Unit (CRU) for **SBC MIDWEST REGION 5-STATE**.

2.3 **"Service Bureau Provider"** - For purposes of this Agreement, Service Bureau Provider (SBP) is a company which has been engaged by a CLEC to act on its behalf for purposes of accessing **SBC-13STATE**'s OSS application-to-application interfaces via a dedicated connection over which multiple CLECs' local service transactions are transported.

3. GENERAL CONDITIONS

3.1 Resale and Unbundled Network Elements (UNE) functions will be accessible via electronic interface(s), as described herein, where such functions are available. The Parties agree that electronic order processing is

more efficient than manual order processing. During implementation the Parties will negotiate a threshold volume of orders after which electronic ordering is required. Once CLEC is submitting more than the agreed to threshold amount, but not later than twelve (12) months from the Effective Date of this Agreement, CLEC will no longer submit orders manually (and **SBC-13STATE** shall not be required to accept and process manual orders) except when the electronic order processing is unavailable for a substantial period of time, or where a given order cannot be processed electronically. Provided however, in **SBC SOUTHWEST REGION 5-STATE** where a flat rate monthly OSS access and connectivity charge exists, a CLEC who has been using OSS electronic interfaces and decides to revert to manual for all purposes, to avoid such flat rate OSS system access and connectivity charges, may do so upon written notice to their Local Account Manager , or when CLEC elects to remain manual and not to use OSS in order to avoid **SBC SOUTHWEST REGION 5-STATE**'s flat rate monthly OSS charges.

3.2 Proper Use of OSS interfaces:

3.2.1 For **SBC-13STATE**, CLEC agrees to utilize **SBC-13STATE** electronic interfaces, as described herein, only for the purposes of establishing and maintaining Resale Services or UNEs through **SBC-13STATE**. In addition, CLEC agrees that such use will comply with **SBC-13STATE**'s Data Connection Security Requirements as identified in Section 9 of this Appendix. Failure to comply with such security guidelines may result in forfeiture of electronic access to OSS functionality. In addition, CLEC shall be responsible for and indemnifies **SBC-13STATE** against any cost, expense or liability relating to any unauthorized entry or access into, or use or manipulation of **SBC-13STATE**'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 **SBC-13STATE** for any and all damages caused by such unauthorized entry.

3.3 Within **SBC-13STATE** regions, CLEC's access to pre-order functions described in 4.2.2 will only be utilized to view Customer Proprietary Network Information (CPNI) of another carrier's End User where CLEC has obtained an authorization for release of CPNI from the End User and has obtained an authorization to become the End User's Local Service Provider.

3.3.1 In **SBC-13STATE** regions, CLEC must maintain records of individual customers' authorizations for change in local exchange service and release of CPNI which adhere to all requirements of state and federal law, as applicable.

3.3.2 This section applies to **SBC CALIFORNIA** ONLY. For consumer End Users, prior to accessing such information, CLEC shall, on its own behalf and on behalf of **SBC CALIFORNIA**, comply with all applicable requirements of Section 2891 of the California Public Utilities Code and 47 USC 222 (and implementing FCC decisions thereunder), and, where accessing such information via an electronic interface, CLEC shall have obtained an authorization to become the End User's local service provider. Accessing such information by CLEC shall constitute certification that CLEC is in compliance with applicable requirements of Section 2891 and Section 222 (and implementing FCC decisions thereunder) and has complied with the prior sentence. CLEC shall receive and retain such information in conformance with the requirements of 47 USC 222 (and implementing FCC decisions thereunder). CLEC agrees to indemnify, defend and hold harmless **SBC CALIFORNIA** against any claim made by a consumer End User or governmental entity against **SBC CALIFORNIA** or CLEC under Section 2891 or Section 222 (and implementing FCC decisions thereunder) or for any breach by CLEC of this section.

3.3.3 Throughout **SBC-13STATE** region, CLEC is solely responsible for determining whether proper authorization has been obtained and holds **SBC-13STATE** harmless from any loss on account of CLEC's failure to obtain proper CPNI consent from an End User.

3.4 By utilizing electronic interfaces to access OSS functions, CLEC agrees to perform accurate and correct ordering including Resale and UNE services, rates, and charges, subject to the terms of this Agreement and applicable tariffs dependent on region of operation. CLEC is also responsible for all actions of its employees using any of **SBC-13STATE**'s OSS systems. As such, CLEC agrees to accept and pay all

reasonable costs or expenses, including labor costs, incurred by **SBC-13STATE** caused by any and all inaccurate ordering or usage of the OSS, if such costs are not already recovered through other charges assessed by **SBC-13STATE** to CLEC. In addition, CLEC agrees to indemnify and hold **SBC-13STATE** harmless against any claim made by an End User of CLEC or other third parties against **SBC-13STATE** caused by or related to CLEC's use of any **SBC-13STATE** OSS.

3.5 In the event **SBC-13STATE** has good cause to believe that CLEC has used **SBC-13STATE** OSS in a way that conflicts with this Agreement or Applicable Law, SBC-owned ILEC in whose territory CLEC is doing business 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 shall be provided to **SBC-13STATE** 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.

3.6 In the event CLEC does not agree that the CLEC's use of **SBC-13STATE** OSS is inconsistent with this Agreement or Applicable Law, then the parties agree to the following steps:

3.6.1 If such misuse involves improper access of pre-order applications to obtain CPNI in violation of this Agreement, Applicable Law, 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 **SBC-13STATE** to be improper, until CLEC has implemented a mutually agreeable remedy to the alleged misuse.

3.6.2 To remedy the misuse for the balance of the agreement, Parties will work together as necessary to mutually determine a permanent resolution for the balance of the term of the agreement.

3.7 In order to determine whether CLEC has engaged in the alleged misuse described in the Notice of Misuse, and for good cause shown, **SBC-13STATE** shall have the right to conduct an audit of CLEC's use of the **SBC-13STATE** OSS. Such audit shall be limited to auditing those aspects of CLEC's use of the **SBC-13STATE** OSS that relate to the allegation of misuse as set forth in the Notice of Misuse. **SBC-13STATE** shall give ten (10) calendar days advance written notice of its intent to audit CLEC ("Audit Notice") under this Section 3.7, 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 notice (unless otherwise agreed by the Parties), CLEC shall provide **SBC-13STATE** 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 **SBC-13STATE**'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. **SBC-13STATE** 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 **SBC-13STATE**.

3.8 When Resale Service and UNE order functions are not available via an electronic interface for the pre-order, ordering and provisioning processes, **SBC-13STATE** and CLEC will use manual processes. Should **SBC-13STATE** develop electronic interfaces for these functions for itself, **SBC-13STATE** will make electronic access available to CLEC within the specific operating region.

3.9 The Information Services (I.S.) Call Center for the **SBC-13STATE** region provides for technical support function of electronic OSS interfaces. CLEC will also provide a single point of contact for technical issues related to the CLEC's electronic interfaces.

3.10 The Parties will follow the final adopted guidelines of "SBC Competitive Local Exchange Carrier (CLEC) 13-State Interface Change Management Process", developed in collaboration with CLECs. This plan may be modified from time to time in accordance with the Change Management principles.

3.11 **SBC-13STATE** will and CLEC may participate in the Order and Billing Forum (OBF) and the Telecommunications Industry Forum (TCIF) to establish and conform to uniform industry guidelines for

electronic interfaces for pre-order, ordering, and provisioning. Neither Party waives its rights as participants in such forums or in the implementation of the guidelines. To achieve system functionality as quickly as possible, the Parties acknowledge that **SBC-13STATE** may deploy interfaces with requirements developed in advance of industry guidelines. Thus, subsequent modifications may be necessary to comply with emerging guidelines. CLEC and **SBC-13STATE** are individually responsible for evaluating the risk of developing their respective systems in advance of guidelines and agree to support their own system modifications to comply with new requirements. In addition, **SBC-13STATE** has the right to define Local Service Request (LSR) Usage requirements according to the General Section 1.0, paragraph 1.4 of the practices in the OBF Local Service Ordering Guidelines (LSOG), which states: "Options described in this practice may not be applicable to individual providers tariffs; therefore, use of either the field or valid entries within the field is based on the providers tariffs/practices."

3.12 Due to enhancements and on-going development of access to **SBC-13STATE**'s OSS functions, certain interfaces described in this Appendix may be modified, temporarily unavailable or may be phased out after execution of this Appendix. **SBC-13STATE** shall provide proper notice of interface phase-out as required by the Change Management process.

3.13 CLEC is responsible for obtaining operating system software and hardware to access **SBC-13STATE** OSS functions. All hardware and software requirements are specified in: "CLEC Hardware/Software Requirements for Access of SBC Uniform OSS Applications", or any other documents or interface requirements subsequently generated by **SBC-13STATE** for any of its regions.

4. PRE-ORDERING

4.1 **SBC-13STATE** will provide real time access to pre-order functions to support CLEC ordering of Resale services and UNE. The Parties acknowledge that ordering requirements necessitate the use of current, real time pre-order information to accurately build service orders. The following lists represent pre-order functions that are available to CLEC so that CLEC order requests may be created to comply with **SBC-13STATE** region-specific ordering requirements.

4.2 **Pre-Ordering functions for Resale Services and UNEs include**

4.2.1 Feature/Service Availability

Feature Inquiry provides **SBC-13STATE** with feature and service availability by WTN, NPA/NXX, and CLLI Code (as applicable).

4.2.1.2 PIC/LPIC Inquiry provides **SBC-13STATE** Primary Interexchange Carrier (PIC) options for intraLATA toll and interLATA toll.

4.2.2 Customer Service Information - CSI Inquiry

Access to **SBC-13STATE** retail or resold CPNI and account information for pre-ordering will include: billing name, service address, billing address, service and feature subscription, directory listing information, and long distance carrier identity. CLEC agrees that CLEC's representatives will not access the information specified in this subsection until after the End User requests that his or her Local Service Provider be changed to CLEC, and an End User authorization for release of CPNI complies with conditions as described in section 3.2 of this Appendix.

4.2.3 Telephone Number Inquiry

SBC-13STATE provides a Telephone Number Reservation Inquiry and a Cancel Reservation function. With the rollout of the Uniform Pre-Order Interfaces, **SBC MIDWEST REGION 5-STATE** also provides a Telephone Number Confirmation Inquiry function.

4.2.4 Scheduling Inquiry/Availability

4.2.4.1 Due Date Inquiry provides next available dates for the End User (where available).

4.2.4.2 Dispatch Inquiry provides information to indicate whether dispatch is required.

4.2.5 Address Validation Inquiry

SBC-13STATE provides address validation function.

4.3 **The following are Pre-Order functions specific to UNEs**

4.3.1 Loop Pre-Qualification and Loop Qualification Inquiry

SBC-13STATE provides pre-order loop qualification information specific to DSL capable and Line Shared UNE loops consistent with the XDSL and Advanced Services OSS Plan of Record filed 4/3/00 and approved by FCC on 12/22/00.

4.3.2 Common Language Location Indicator (CLLI) Inquiry

SBC-13STATE provides CLLI code inquiry function.

4.3.3 Connecting Facility Assignment (CFA) Inquiry

SBC-13STATE provides a CFA inquiry function.

4.3.4 Network Channel/Network Channel Interface (NC/NCI) Inquiry

SBC-13STATE provides a NC/NCI inquiry function.

4.4 **Electronic Access to Pre-Order Functions**

4.4.1 **Resale and UNE Pre-order Interface Availability**

4.4.1.1 Enhanced Verigate is the 13-state uniform pre-order GUI interface available in **SBC-13STATE** to provide the pre-ordering functions listed in section 4.2. Enhanced Verigate is accessible via a web-based Toolbar.

4.4.1.2 An industry standard EDI/CORBA Pre-ordering Gateway is provided by **SBC-13STATE**. This pre-ordering gateway supports two structural protocols, EDI and CORBA, as recommended by the technical industry committees. EDI/CORBA, is the 13-state uniform pre-order application-to-application interface that can be integrated with the CLEC's own negotiation system and that supports both Resale services and UNEs.

4.4.1.3 DataGate is a transaction-based data query system through which **SBC-7STATE** provides CLEC access to pre-ordering functions. This gateway shall be a Transmission Control Protocol/Internet Protocol (TCP/IP) gateway and will, once CLEC has developed its own interface, allow CLEC to access the pre-order functions for Resale services and UNE. DataGate follows industry guidelines, but is based on **SBC-7STATE**'s proprietary pre-ordering functionality.

4.4.1.4 Consumer Easy Access Sales Environment (C-EASE): C-EASE is an ordering entry system through which **SBC SOUTHWEST REGION 5-STATE** provides CLEC access to the functions of pre-ordering to order **SBC SOUTHWEST REGION 5-STATE** consumer Resale services.

4.4.1.5 Business Easy Access Sales Environment (B-EASE): B-EASE is an ordering entry system through which **SBC SOUTHWEST REGION 5-STATE** provides CLEC access to the functions of pre-ordering to order **SBC SOUTHWEST REGION 5-STATE** business Resale services.

4.4.1.6 Service Order Retrieval and Distribution (SORD) is available for the pre-order function of viewing the CPNI, when SORD is used to order **SBC CALIFORNIA** Resale service.

4.4.1.7 **Intentionally left blank**

4.4.1.8 **SBC CONNECTICUT** provides CLEC access to the following Resale preorder applications through its proprietary (GUI) Graphical User Interface called W-CIWin. This platform of preorder applications, currently grandfathered per CMP, is being retired via CMP, in March 2004. W-CIWin has been replaced with the Uniform GUI – Enhanced Verigate.

4.4.1.8.1 CCTOOLS is a toolbar that provides icons for accessing pre-order GUI applications. This application, currently grandfathered per CMP, until its retirement is being retired in March 2004 and has been replaced with the Uniform GUI – Web-based Toolbar.

4.4.1.9 **SBC CONNECTICUT** also provides the following preorder functionality (SAG and CSI Inquiry,) via Custom CCTOOLS. This application, currently grandfathered per CMP, is being retired in March 2004 and has been replaced with the Uniform GUI - Enhanced Verigate.

4.5 **Other Pre-order Function Availability**

4.5.1 Where pre-ordering functions are not available electronically, CLEC will manually request this information from the LSC, dependent on operating region, for inclusion on the service order request.

4.5.2 Data Validation Files are available for the purpose of providing requesting CLECs with an alternate method of acquiring pre-ordering information that is considered relatively static. Upon request, **SBC-13STATE** will provide CLECs with any of the following Data Validation Files via Connect: Direct, CD-ROM, or downloadable via the pre-order GUI – Enhanced Verigate. Due to its size, the Street Address Guide (SAG) will be available only via Connect:Direct, and CD-ROM.

Data Validation Files:

SAG (Street Address Guide)
Feature/Service Availability by Switch
Directory Names
Class of Service Codes
USOC (Universal Service Order Codes)
Community Names
Yellow Page Headings
PIC/LPIC (InterLATA/IntraLATA)

5. ORDERING/PROVISIONING

5.1 **SBC-13STATE** provides access to ordering functions (as measured from the time **SBC-13STATE** receives accurate service requests from the interface) to support CLEC provisioning of Resale services and UNE via one or more electronic interfaces. To order Resale services and UNEs, CLEC will format the service request to identify what features, services, or elements it wishes **SBC-13STATE** to provision in accordance with applicable **SBC-13STATE** ordering requirements. **SBC-13STATE** will provide CLEC access to one or more of the following systems or interfaces:

5.2 **Service Order Request System Availability**

5.2.1 **SBC-13STATE** makes available to CLEC an Electronic Data Interchange (EDI) application to application interface for transmission of Local Service Requests (LSR) as defined by the OBF, consistent with **SBC-13STATE** Local Service Order Requirements (LSOR), and via EDI mapping as defined by TCIF. In ordering and provisioning of Resale Services or UNEs, CLEC and **SBC-13STATE** will utilize industry guidelines developed by OBF and TCIF EDI to transmit data based upon **SBC-13STATE**'s Resale Service and UNE ordering requirements, dependent on operating region. In addition, Local Number Portability (LNP) will be ordered consistent with the OBF LSR and EDI process.

5.2.2 For **SBC-13STATE**, web-based LEX is the new 13-state uniform ordering GUI interface that provides access to the uniform ordering functions for Resale Services and UNEs. Web-based LEX is accessible via a web-based Toolbar.

5.2.3 For **SBC SOUTHWEST REGION 5-STATE** region, C-EASE is available for the ordering of consumer Resale services.

5.2.4 For **SBC SOUTHWEST REGION 5-STATE** region, B-EASE is available for the ordering of business Resale services.

5.2.5 For **SBC SOUTHWEST REGION 5-STATE** and **SBC CALIFORNIA** regions, SORD interface provides CLECs with the ability to create Resale and UNE orders as well as certain complex Resale and UNE orders that cannot be ordered through Easy Access Sales Environment (EASE), Electronic Data Interchange (EDI) or Local Exchange (LEX).

5.2.5.1 For **SBC SOUTHWEST REGION 5-STATE** region, SORD interface supports CLEC initiated modification of service orders submitted electronically by CLEC via the following **SBC SOUTHWEST REGION 5-STATE** OSS applications: Business EASE, Consumer EASE or SORD (via DOES-Direct Order Entry System). CLEC should not use SORD to modify service orders issued electronically via LEX/EDI. In addition, CLEC should not use SORD to modify orders submitted manually to the LSC. The Parties agree that the following conditions are applicable to EASE and SORD generated service orders with errors corrected via SORD. If CLEC chooses to use SORD to issue orders and/or modify EASE generated orders, then CLEC becomes responsible for correction of all EASE and SORD service order errors that occur between order application and order completion. CLEC may need to call the LSC to obtain additional information. For terms and conditions for service order error correction within SORD, see section 5.3.3.

5.2.5.2 In **SBC CALIFORNIA** region, any service order errors will be corrected by the LSC. CLEC will be given a list generated by the LSC of CLEC order errors, and CLEC will be responsible for contacting their customer when necessary to clear an error. With CLEC being the point of contact for their customer, the CLEC agrees to respond timely to the LSC with correct information in order for LSC to complete the correction of the error and subsequent completion of the order. For terms and conditions for service order error correction within SORD, see section 5.3.3.

5.2.6 In **SBC CONNECTICUT**, Resale ordering is supported by W-CIWin (**SBC CONNECTICUT**'s proprietary GUI interface). This platform of ordering applications, currently grandfathered per CMP, is being retired in March 2004, and has been replaced with the Uniform GUI – Web-based LEX.

5.2.6.1 Order Negotiation (as part of CCTOOLS) is made available for the ordering of complex Resale products and services. This application, currently grandfathered per CMP, is being retired in March 2004. This ordering function has been replaced with the Uniform GUI Interface – Web-based LEX.

5.2.7 In ordering and provisioning Unbundled Dedicated Transport and local interconnection trunks, CLEC and **SBC-13STATE** will utilize industry ASR guidelines developed by OBF based upon **SBC-13STATE** ordering requirements.

5.3 **Provisioning for Resale Services and UNE in SBC-13STATE**

SBC-13STATE will provision Resale services and UNE as detailed in CLEC order requests. Access to status on such orders will be provided via the following electronic interfaces:

5.3.1 For **SBC-13STATE**, Order Status and Provisioning Order Status functionality is provided through the Enhanced Verigate interface which will allow CLEC to check service order status. In addition, in **SBC SOUTHWEST REGION 5-STATE** pending orders can be viewed in SORD.

5.3.2 For EDI ordering, **SBC-13STATE** will provide, and CLEC shall use, an EDI interface for transferring and receiving orders, Firm Order Confirmation (FOC), service completion, and, as available, other provisioning data and information.

5.3.3 For **SBC SOUTHWEST REGION 5-STATE** and **SBC CALIFORNIA** regions, as detailed in section 5.2.3, the Parties agree that the following timelines are applicable to electronically generated service orders with errors corrected via SORD:

5.3.3.1 Errors occurring between application and distribution must be corrected within five (5) business hours for a simple order and within twenty four (24) hours for a complex order;

5.3.3.2 Error Service Order Image (ESOI) errors must be corrected within three (3) business hours.

5.3.3.3 Service orders will be excluded from calculation of the results for all related performance measurements, described in Appendix Performance Measurements, if CLEC fails to correct service order errors within the timeframes specified in this Section 5.3.3.

5.3.3.4 Additionally, service orders with errors that occur after order generation, but prior to distribution will not qualify for an **SBC-13STATE** issued FOC.

6. MAINTENANCE/REPAIR

6.1 Two electronic interfaces are accessible in each region to place, and check the status of, trouble reports for both Resale services and UNEs. Upon request, CLEC may access these functions via the following methods:

6.1.1 In **SBC-13STATE**, Electronic Bonding for Trouble Administration - Graphical User Interface (EBTA-GUI) is the 13 state uniform GUI interface that allows CLEC to perform MLT, issue trouble tickets, view status, and view trouble history on-line.

6.1.2 In **SBC-13STATE**, Electronic Bonding Trouble Administration (EBTA) is the 13 state uniform application to application interface that is available for trouble report submission and status updates. EBTA conforms to ANSI guidelines T1:227:1995, T1.228:1995 and T1.262:1998, Electronic Communications Implementation Committee (ECIC) Trouble Report Format Definition (TFRD) Number 1 as defined in ECIC document ECIC/TRA/95-003, and all guidelines referenced within those documents, as mutually agreed upon by CLEC and **SBC-13STATE**. Functions currently implemented include Enter Trouble, Request Trouble Report Status, Add Trouble Information, Modify Trouble Report Attributes, Trouble Report Attribute Value Change Notification, and Cancel Trouble Report, as explained in 6 and 9 of ANSI T1.228:1995. CLEC and **SBC-13STATE** will exchange requests over a mutually agreeable X.25-based network.

6.1.3 In **SBC-7STATE**, Trouble Administration (TA) system access provides CLEC with **SBC-7STATE** software that allows CLEC to submit trouble reports and subsequently check status on trouble reports for CLEC End-Users. TA will provide the ability to review the maintenance history of a converted Resale CLEC account. TA is accessible via **SBC-7STATE** Classic Toolbar.

6.1.4 In **SBC CONNECTICUT** for Resale products and services, trouble history and trouble status functions are available via CCTOOLS. This application, currently grandfathered per CMP, is being retired via CMP in Sept 2003 and has been replaced with the Uniform GUI interface – EBTA-GUI.

7. BILLING

7.1 **SBC-13STATE** will bill CLEC for Resold services and UNEs. **SBC-13STATE** will send associated billing information to CLEC as necessary to allow CLEC to perform billing functions. At minimum **SBC-13STATE** will provide CLEC billing information in a paper format, or via 18-track magnetic tape, as agreed to between CLEC and **SBC-13STATE**. Such alternate bill media will be made available to CLEC consistent with the individual state tariff provisions.

7.2 Electronic access to billing information for Resale services will also be available via the following interfaces:

7.2.1 In **SBC-13STATE**, CLEC may receive a mechanized bill format via the EDI 811 transaction set.

7.2.2 For Resale Services in **SBC SOUTHWEST REGION 5-STATE**, CLEC may receive Bill Plus™, an electronic version of its bill, as described in, and in accordance with, **SBC SOUTHWEST REGION 5-STATE**'s Local Exchange Tariff.

7.2.3 For Resale Services in **SBC CALIFORNIA**, CLEC may elect to receive Custom Billing Disk/ CD Bill. Custom Billing Disk/ CD Bill provides an electronic bill with the same information as a paper bill along with various reporting options.

7.2.4 For Resale Services in **SBC MIDWEST REGION 5-STATE**, CLEC may elect to receive its bill on CD.

7.2.5 For Resale Services in **SBC SOUTHWEST REGION 5-STATE**, CLEC may also view billing information through the Bill Information interface. Bill Information will be accessible via **SBC SOUTHWEST REGION 5-STATE** Classic Toolbar.

7.2.6 In **SBC-13STATE**, CLEC may receive electronically a Daily Usage Extract. On a daily basis, this feed provides information on the usage billed to its accounts for Resale services in the industry standardized EMI format.

7.2.7 **SBC-13STATE** will provide Loss Notifications. This notification alerts CLECs that a change requested by another telecommunications provider has been completed and, as a result, the Local Service Provider associated with a given telephone number has been changed. It will be provided via the uniform ordering application to application interface using the EDI 836 transaction, and will also be available via the uniform ordering GUI interface, WebLEX. The current loss notification processes via CARE record format and the "Local Disconnect Report", where applicable in the **SBC-8STATE** region, will remain in effect until full implementation and testing of the new Loss Notification processes is completed.

7.2.8 In **SBC CONNECTICUT**, CLEC may receive a Billing Detail File on 18-track magnetic tape.

7.2.9 In **SBC MIDWEST REGION 5-STATE**, CLEC may receive a mechanized bill for Resale Services via the **SBC MIDWEST REGION 5-STATE** Electronic Billing System (AEBS) transaction set.

7.3 Electronic access to billing information for UNE will also be available via the following interfaces:

7.3.1 **SBC-13STATE** makes available to CLECs a local Bill Data Tape to receive data in an electronic format from its CABS database. The local Bill Data Tape contains the same information that would appear on CLEC's paper bill.

7.3.2 In **SBC SOUTHWEST REGION 5-STATE**, CLEC may also view billing information through the Bill Information interface. Bill Information will be accessible via **SBC SOUTHWEST REGION 5-STATE** Classic Toolbar.

7.3.3 In **SBC-13STATE**, CLECs will receive a Daily Usage Extract electronically, on a daily basis, with information on the usage billed to its accounts for UNEs in the industry standardized Exchange Message Interface (EMI) format.

7.3.4 **SBC-13STATE**, CLEC may receive a uniform loss notification via EDI 836 transaction or via the uniform GUI interface, WebLEX. For UNEs this loss notification indicates when CLEC's End Users, utilizing **SBC-13STATE** ports, change their Competitive Local Exchange Carrier. The current loss notification processes via CARE record format (in the **SBC-8STATE** region) will remain in effect until full implementation and testing of the new Loss Notification processes is completed.

8. REMOTE ACCESS FACILITY

8.1 CLEC must access OSS interfaces via a CLEC Remote Access Facility. For the **SBC SOUTHWEST REGION 5-STATE** region, the LRAF located in Dallas, TX will be used. The PRAF in Fairfield, CA handles the **SBC-2STATE** region. The ARAF, located in Chicago, IL, serves **SBC MIDWEST REGION 5-STATE** and the SRAF in New Haven, CT, handles the **SBC CONNECTICUT** region. Each of these four xRAFs will provide CLECs dedicated access to the uniform application to application and Graphical User Interfaces. Connection to these remote access facilities will be established via a "port" either through dial-up or direct connection as described in Section 8.2. CLEC may utilize a port to access **SBC-13STATE** OSS interfaces to perform the supported functions in any **SBC-13STATE** where CLEC has executed an Appendix OSS. OSS applications that are accessible through the Internet will also go through a secured Remote Access Facility.

8.2 For **SBC-13STATE**, CLEC may use three types of access: Switched, Private Line, and Frame Relay. For Private Line and Frame Relay "Direct Connections," CLEC shall provide its own router, circuit, and two Channel Service Units/Data Service Units (CSU/DSU). The demarcation point shall be the router interface at the LRAF, PRAF, ARAF, or SRAF. Switched Access "Dial-up Connections" require CLEC to provide its

own modems and connection to the **SBC SOUTHWEST REGION 5-STATE** LRAF, **SBC CALIFORNIA** PRAF, **SBC MIDWEST REGION 5-STATE** ARAF, and **SBC CONNECTICUT** SRAF. CLEC shall pay the cost of the call if Switched Access is used. Connections via the Public Internet require CLEC to connect to an ISP of their choice and use one of the HTTPS URLs associated with access to **SBC-13STATE** OSS via the public internet.

8.3 For **SBC-13STATE**, CLEC shall use TCP/IP to access **SBC-13STATE** OSS via the LRAF, ARAF, SRAF, and the PRAF. In addition, each CLEC shall have one valid Internet Protocol (IP) network address per region. CLEC shall maintain a user-id / password unique to each individual for accessing a **SBC-13STATE** OSS on CLEC's behalf. CLEC shall provide estimates regarding its volume of transactions, number of concurrent users, desired number of private line or dial-up (switched) connections, and length of a typical session.

8.4 For **SBC-13STATE**, CLEC shall attend and participate in implementation meetings to discuss CLEC LRAF/PRAF/ARAF/SRAF access plans in detail and schedule testing of such connections.

9. DATA CONNECTION SECURITY REQUIREMENTS

9.1 CLEC agrees that interconnection of CLEC data facilities with **SBC-13STATE** data facilities for access to OSS will be in compliance with **SBC-13STATE**'s "Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures" document current at the time of initial connection to a RAF. The following additional terms in this Section 9 govern direct and dial up connections between CLEC and the PRAF, LRAF, ARAF and SRAF for access to OSS Interfaces.

9.2 **Joint Security Requirements**

9.2.1 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.).

9.2.2 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.

9.2.3 CLEC shall immediately notify the ISCC when a employee userid is no longer valid (e.g. employee termination or movement to another department).

9.2.4 Both 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.

9.2.5 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 or **SBC-13STATE** 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.

9.2.6 Both 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.

9.3 **Additional Responsibilities of Both Parties**

9.3.1 Modem/DSU Maintenance And Use Policy: To the extent the access provided hereunder involves the support and maintenance of CLEC equipment on **SBC-13STATE**'s premises, such maintenance will be provided under the terms of the Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures document cited above.

9.3.2 Monitoring: 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.

9.3.3 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.

9.3.4 In the event that one 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.

9.3.5 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.

9.3.6 All network-related problems will be managed to resolution by the respective organizations, CLEC or **SBC-13STATE**, as appropriate to the ownership of a failed component. As necessary, CLEC and **SBC-13STATE** will work together to resolve problems where the responsibility of either Party is not easily identified.

9.4 **Information Security Policies And Guidelines For Access To Computers, Networks and Information By Non-Employee Personnel**

9.4.1 Information security policies and guidelines are designed to protect the integrity, confidentiality and availability of computer, networks and information resources. Section 9.5 - 9.11 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 **SBC-13STATE**, respectively, as the providers of the computer, network or information in question.

9.4.2 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.

9.5 **General Policies**

9.5.1 Each Party's resources are for approved business purposes only.

9.5.2 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.

9.5.3 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.

9.5.4 Authorized users must not develop, copy or use any program or code which circumvents or bypasses system security or privilege mechanism or distorts accountability or audit mechanisms.

9.5.5 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.

9.6 **User Identification**

9.6.1 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.

9.6.2 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.

9.6.3 User ids will be revalidated on a monthly basis.

9.7 **User Authentication**

9.7.1 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.

9.7.2 Passwords must not be stored in script files.

9.7.3 Passwords must be entered by the user.

9.7.4 Passwords must be at least 6-8 characters in length, not blank or a repeat of the user id; contain at least one letter, and at least one number or special character must be in a position other than the first or last one. 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.

9.7.5 Systems will require users to change their passwords regularly (usually every 31 days).

9.7.6 Systems are to be configured to prevent users from reusing the same password for 6 changes/months.

9.7.7 Personal passwords must not be shared. A user who has shared his password is responsible for any use made of the password.

9.8 **Access and Session Control**

9.8.1 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.

9.8.2 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.

9.9 **User Authorization**

9.9.1 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.

9.10 **Software and Data Integrity**

9.10.1 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.

9.10.2 Untrusted 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.

9.10.3 Unauthorized use of copyrighted software is prohibited on each Party's corporate systems that can be access through the direct connection or dial up access to OSS Interfaces.

9.10.4 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.

9.11 **Monitoring and Audit**

9.11.1 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 (**SBC-13STATE** 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."*

9.11.2 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. OPERATIONAL READINESS TEST (ORT) FOR ORDERING/PROVISIONING AND REPAIR/ MAINTENANCE INTERFACES

10.1 Prior to live access to interface functionality, the Parties must conduct Operational Readiness Testing (ORT), which will allow for the testing of the systems, interfaces, and processes for the OSS functions. ORT will be completed in conformance with agreed upon processes and implementation dates.

11. OSS TRAINING COURSES

11.1 Prior to live system usage, CLEC must complete user education classes for **SBC-13STATE**-provided interfaces that affect the **SBC-13STATE** network. Course descriptions for all available classes by region are posted on the CLEC website in the Customer Education section. CLEC Training schedules by region are also available on the CLEC website and are subject to change, with class lengths varying. Classes are train-the-trainer format to enable CLEC to devise its own course work for its own employees. Charges as specified below will apply for each class:

Training Rates	5 day class	4.5 day class	4 day class	3.5 day class	3 day class	2.5 day class	2 day class	1.5 day class	1 day class	1/2 day class
1 to 5 students	$4,050	$3,650	$3,240	$2,835	$2,430	$2,025	$1,620	$1,215	$810	$405
6 students	$4,860	$4,380	$3,890	$3,402	$2,915	$2,430	$1,945	$1,455	$970	$490
7 students	$5,670	$5,100	$4,535	$3,969	$3,400	$2,835	$2,270	$1,705	$1,135	$570
8 students	$6,480	$5,830	$5,185	$4,536	$3,890	$3,240	$2,590	$1,950	$1,300	$650
9 students	$7,290	$6,570	$5,830	$5,103	$4,375	$3,645	$2,915	$2,190	$1,460	$730
10 students	$8,100	$7,300	$6,480	$5,670	$4,860	$4,050	$3,240	$2,430	$1,620	$810
11 students	$8,910	$8,030	$7,130	$6,237	$5,345	$4,455	$3,565	$2,670	$1,780	$890
12 students	$9,720	$8,760	$7,780	$6,804	$5,830	$4,860	$3,890	$2,920	$1,945	$970

11.2 A separate agreement will be required as a commitment to pay for a specific number of CLEC students in each class. CLEC agrees that charges will be billed by **SBC-13STATE** and CLEC payment is due thirty (30) days following the bill date. CLEC agrees that personnel from other competitive Local Service Providers may be scheduled into any class to fill any seats for which the CLEC has not contracted. Class

availability is first-come, first served with priority given to CLECs who have not yet attended the specific class.

11.3 Class dates will be based upon **SBC-13STATE** availability and will be coordinated among CLEC, the CLEC's **SBC-13STATE** Account Manager, and **SBC-13STATE** Industry Markets CLEC Training Product Management.

11.4 CLEC agrees to pay the cancellation fee of the full price noted in the separate agreement if CLEC cancels scheduled classes less than two (2) weeks prior to the scheduled start date. CLEC agrees to provide to **SBC-13STATE** completed registration forms for each student no later than one week prior to the scheduled training class.

11.5 CLEC agrees that CLEC personnel attending classes are to utilize only training databases and training presented to them in class. Attempts to access any other **SBC-13STATE** system are strictly prohibited.

11.6 CLEC further agrees that training material, manuals and instructor guides can be duplicated only for internal use for the purpose of training employees to utilize the capabilities of **SBC-13STATE**'s OSS in accordance with this Appendix and shall be deemed "Proprietary Information" and subject to the terms, conditions and limitations of Section 20 of the General Terms and Conditions.

12. OSS CHARGES FOR SYSTEM ACCESS AND CONNECTIVITY

12.1 To the extent **SBC-13STATE** seeks to recover costs associated with OSS System Access and Connectivity, **SBC-13STATE** shall not be foreclosed from seeking recovery of such costs via negotiation, arbitration, or generic proceeding during the term of this agreement.

13. MISCELLANEOUS CHARGES

13.1 For **SBC SOUTHWEST REGION 5-STATE** region only, CLEC requesting the Bill Plus™, as described in 7.2.2, agrees to pay applicable tariffed rate, less Resale discount.

13.2 For **SBC-7STATE**, CLEC requesting the billing function for the Daily Usage Extract which contains the usage billable records, as described in 7.2.7 and 7.3.3, agrees to pay established rates pursuant to Appendix Pricing.

13.3 For **SBC-7STATE**, CLEC requesting the Local Disconnect Report, as described in 7.2.8 and 7.3.4, agrees to pay established rates pursuant to Appendix Pricing.

13.4 For **SBC-13STATE**, should CLEC request custom development of an exclusive interface to support OSS functions, such development will be considered by **SBC-13STATE** on an Individual Case Basis (ICB) and priced as such.

13.5 **SBC CONNECTICUT** will charge for the Billing Detail File, Daily Usage Extract, and Loss Notification File at rates filed and approved by DPUC.

14. SERVICE BUREAU PROVIDER ARRANGEMENTS FOR SHARED ACCESS TO OSS

14.1 **SBC-13STATE** shall allow CLEC to access its OSS via a Service Bureau Provider under the following terms and conditions:

14.2 Notwithstanding any language in this Agreement regarding access to OSS to the contrary, CLEC shall be permitted to access **SBC-13STATE** OSS via a Service Bureau Provider as follows:

14.2.1 CLEC shall be permitted to access **SBC-13STATE** 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 **SBC-13STATE** to Allow Service Bureau Provider to establish access to and use of **SBC-13STATE**'s OSS.

14.2.2 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.

14.2.3 It shall be the obligation of CLEC to provide notice in accordance with the notice provisions of the Terms and Conditions of this Agreement whenever it established an agency relationship with a Service Bureau Provider or terminates such a relationship. **SBC-13STATE** shall have a reasonable transition time to establish a connection to a Service Bureau Provider once CLEC provides notice. Additionally, **SBC-13STATE** 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.

14.3 Notwithstanding any language in this Agreement regarding Performance Measures to the contrary, **SBC-13STATE** 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 **SBC-13STATE**'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 **SBC-13STATE**'s OSS) which could not be avoided by **B-13STATE** 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.

15. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

15.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. 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 be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

SBC WISCONSIN

PERFORMANCE REMEDY PLAN

DESCRIPTION

This Performance Remedy Plan sets forth the terms and conditions under which **SBC WISCONSIN** will report performance to Primo Communications, Inc. ("CLEC") and compare that performance to **SBC WISCONSIN**'s own performance ("parity"), benchmark criteria, or both, whichever is applicable. This document further provides for enforcement through liquidated damages and assessments.

1.0 **SBC WISCONSIN** agrees to provide CLEC a monthly report of performance for the performance measures listed in Appendix 1 – **SBC WISCONSIN** Performance Measurement User Guide. **SBC WISCONSIN** will collect, analyze, and report performance data for these measures in accordance with the business rules defined in Appendix 1, as approved by the Commission. Both the performance measures and the business rules in Appendix 1 are subject to modification in accordance with section 6.4 below regarding six-month reviews. **SBC WISCONSIN** further agrees to use the two-tiered enforcement structure for performance measurements provided for in this document. The Commission-approved performance measurements shown in Appendix 1 hereto identify the measurements that belong to Tier 1 (payable to CLECs) and/or Tier 2 (payable to the State) categories.

1.1 **SBC WISCONSIN** will not levy a separate charge for provision of the data to CLEC called for under this document. Upon CLEC's request, data files of CLEC's raw data, or any subset thereof, will be transmitted to CLEC. If CLEC's request is transmitted to **SBC WISCONSIN** on or before the last day of the month for which data is sought, **SBC WISCONSIN** shall provide the data to CLEC on or before the last day of the following month pursuant to mutually acceptable format, protocol, and transmission media. If CLEC's request is transmitted to **SBC WISCONSIN** after the last day of the month for which data is sought, **SBC WISCONSIN** shall provide the data to CLEC within 30 days of receipt pursuant to mutually acceptable format, protocol, and transmission media. Notwithstanding other provisions of this Agreement, the Parties agree that such records will be deemed Proprietary Information.

2.0 **SBC WISCONSIN** will use a statistical test, namely the modified "Z-test," for evaluating the difference between two means (**SBC WISCONSIN** retail or its affiliate – whichever is better, provided the number of affiliate data points equal or exceed 30 – and CLEC) or percentages, or the difference between two ratios for purposes of this document. **SBC WISCONSIN** agrees to use the modified Z-tests as outlined below as the statistical tests for the determination of parity when the results for **SBC WISCONSIN** retail or its affiliate (whichever is better, provided the number of affiliate data points equal or exceed 30) and the CLEC are compared. This statistical test will compare the CLEC performance to the **SBC WISCONSIN** retail performance or the affiliate performance (whichever is better). If the affiliate data has fewer than 30 observations, the comparison will be to **SBC WISCONSIN**'s retail performance. The modified Z-tests are applicable if the number of data points are greater than or equal to 30 for a given disaggregation category. In cases where benchmarks are established, the determination of compliance is through a comparison to the applicable Commission-approved benchmark. For testing compliance for measures for which the number of data points is 29 or less, the use of permutation tests as outlined below may be used.

3.0 For purposes of this document, performance for the CLEC on a particular sub-measure (disaggregated level) will be considered in compliance with the parity requirement when the measured results in a single month (whether in the form of means, percents, or ratios) for the same sub-measurement, at equivalent disaggregation, for both **SBC WISCONSIN** and/or its affiliate (whichever is better, provided the number of affiliate data points are equal to or exceeds 30) and CLEC are used to calculate a Z-test statistic and the resulting value is no greater than Critical-Z value that would maintain 95% confidence that the difference in results reflects disparity. That Critical-Z value is 1.645.

Z-Test:

SBC WISCONSIN will utilize the following formulae for determining parity using Z-Test:

For Measurement results that are expressed as Averages or Means:

$$Z = (DIFF) / \sigma_{DIFF}$$

Where: $DIFF = M_{ILEC} - M_{CLEC}$
M_{ILEC} = ILEC Average
M_{CLEC} = CLEC Average
$\sigma_{DIFF} = SQRT [\sigma^2_{ILEC} (1 / n_{CLEC} + 1 / n_{ILEC})]$
σ^2_{ILEC} = Calculated variance for ILEC
n_{ILEC} = number of observations or samples used in ILEC measurement
n_{CLEC} = number of observations or samples used in CLEC measurement

For Measurement results that are expressed as Percentages or Proportions:

Step 1:

$$\rho = \frac{(n_{ILEC} P_{ILEC} + n_{CLEC} P_{CLEC})}{n_{ILEC} + n_{CLEC}}$$

Step 2:

$$\sigma_{PILEC-PCLEC} = SQRT \{ [\rho(1 - \rho)] / n_{ILEC} + [\rho(1 - \rho)] / n_{CLEC} \}$$

Step 3:

$$Z = (P_{ILEC} - P_{CLEC}) / \sigma_{PILEC-PCLEC}$$

Where: n = number of observations
P = Percentage or Proportion

For Measurement results that are expressed as Rates or Ratios:

$$Z = (DIFF) / \sigma_{DIFF}$$

Where: $DIFF = R_{ILEC} - R_{CLEC}$

$R_{ILEC} = num_{ILEC} / denom_{ILEC}$
$R_{CLEC} = num_{CLEC} / denom_{CLEC}$
$\sigma_{DIFF} = SQRT \{[(num_{CLEC} + num_{ILEC}) \div (denom_{CLEC} + denom_{ILEC})] * (1 / denom_{CLEC} + 1 / denom_{ILEC})\}$

4.0 Qualifications to use Z-Test:

4.1 The proposed Z-tests are applicable to reported measurements that contain 30 or more data points. The Z-test is not applied to measures with benchmark standards.

4.2 The minimum sample size for Tier 2 is 10 observations for the aggregate of all CLECs. Sub-measures in Tier 2 with fewer than 10 observations do not have statistical tests conducted on them.

4.3 In calculating the difference between the performances, the formulas defined above apply when a larger CLEC value indicates a higher quality of performance. In cases where a smaller CLEC value indicates a higher quality of performance the order of subtraction should be reversed (i.e., $M_{ILEC} - M_{CLEC}$, $P_{ILEC} - P_{CLEC}$, $R_{ILEC} - R_{CLEC}$).

4.4 For measurements where the performance delivered to the CLEC is compared to **SBC WISCONSIN** performance and for which the number of data points are 29 or less for either the CLEC or **SBC WISCONSIN**, **SBC WISCONSIN** will apply the following alternatives for compliance.

4.4.1 Alternative 1 (used only in the following situations: 1) for a measure where results for both the CLEC and **SBC WISCONSIN** Retail or affiliate (whichever is used) both show perfect compliance (no failures), and 2) where the individual transaction detail required to conduct permutation testing is not available):

SBC WISCONSIN applies the Z-Test as described in section 3.0.

4.4.2 Alternative 2 (used in all situations except those defined above for Alternative 1):

For Percentages, the Fisher Exact Permutation Test will be used.

For Averages and Ratios, the following Permutation analysis will be applied to calculate the Z-statistic using the following logic:

(1) Choose a sufficiently large number T.
(2) Pool and mix the CLEC and ILEC data sets.
(3) Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set (n_{CLEC}) and one reflecting the remaining data points, (which is equal to the size of the original ILEC data set, or n_{ILEC}).
(4) Compute and store the Z-test score (Z_S) for this sample.
(5) Repeat steps 3 and 4 for the remaining T-1 sample pairs to be analyzed. (If the number of possibilities is less than 1 million, include a programmatic check to prevent drawing the same pair of samples more than once).
(6) Order the Z_S results computed and stored in step 4 from lowest to highest.
(7) Compute the Z-test score for the original two data sets and find its rank in the ordering determined in step 6.
(8) To calculate P, divide the rank of the Z-test score as determined in step 7 by the number of total runs executed. (P = rank / T).
(9) Using a cumulative standard normal distribution table, find the value Z_A such that the probability (or cumulative area under the standard normal curve) is equal to P calculated in step 8.

Compare Z_A with the Critical Z-value. If Z_A > the Critical Z-value, then the performance is non-compliant.

4.5 **SBC WISCONSIN** and CLECs will provide software and technical support as needed by Commission Staff for purposes of statistical analysis. Any CLEC who opts into this plan agrees to share in providing such support to Commission Staff.

5.0 Overview of Enforcement Structure

SBC WISCONSIN agrees with the following methodology for developing the liquidated damages and penalty assessment structure for Tier 1 liquidated damages and Tier 2 assessments:

5.1 **SBC WISCONSIN** will pay Liquidated Damages to the CLEC according to the terms set forth in this document.

5.2 Liquidated damages apply to Tier 1 measurements identified as “Remedied” in the Measurement Type section of the performance measurement business rules documented in Appendix 2.

5.3 Assessments are applicable to Tier 2 measures identified as “Remedied” in the Measurement Type section of the performance measurement business rules documented in Appendix 2, and are payable to the State Fund designated by the Commission.

5.4 **SBC WISCONSIN** will not be liable for the payment of Tier 1 damages until 10 days after receipt by **SBC WISCONSIN** of an executed (by CLEC) Interconnection Agreement amendment, terms of which have been agreed to by both CLEC and **SBC WISCONSIN**, referencing this plan; or if CLEC interconnects by tariff, 10 days after receipt by **SBC WISCONSIN** of the self-identification form posted on the CLEC OnLine website (https://clec.sbc.com/clec). Tier 1 damages will be accrued, but not paid, effective with the first full month of

performance results after that date, and will be payable from and after the date that the Interconnection Agreement Amendment is approved by the Commission. **SBC WISCONSIN** will not unnecessarily delay filing of the Interconnection Agreement or amendment once both CLEC and **SBC WISCONSIN** have signed.

5.5 **SBC WISCONSIN** will be liable for the payment of Tier 2 assessments upon formal approval of this plan by the Commission in either a generic proceeding or by approving an Interconnection Agreement amendment referencing this plan. Tier 2 assessments will be paid on the aggregate performance for all CLECs that are operating in Wisconsin. To the extent that there are one or more other remedy plans in effect that call for payments to be made to the State (as opposed to, or in addition to, payments to a CLEC or CLECs), **SBC WISCONSIN** will be liable only for the greater of payments to the State under that plan or the Tier 2 assessments payable under this plan.

5.6 In order to receive payment by check CLEC must complete the CLEC Identification and Liquidated Damages Information Form located on the CLEC OnLine website (https://clec.sbc.com/clec). Otherwise, remedy payment will be made via bill credit.

6.0 Procedural Safeguards and Exclusions

6.1 **SBC WISCONSIN** agrees that the application of the assessments and damages provided for herein is not intended to foreclose other non-contractual legal and regulatory claims and remedies that may be available to a CLEC. By incorporating these liquidated damages terms into an interconnection agreement and tariff, **SBC WISCONSIN** and CLEC agree that proof of damages from any "noncompliant" performance measure would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damage resulting from a non-compliant performance measure. **SBC WISCONSIN** and CLEC further agree that liquidated damages payable under this provision are not intended to be a penalty.

6.2 **SBC WISCONSIN**'s agreement to implement these enforcement terms, and specifically its agreement to pay any "liquidated damages" or "assessments" hereunder, 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. **SBC WISCONSIN** and CLEC agree that CLEC may not use: (1) the existence of this enforcement plan; or (2) **SBC WISCONSIN**'s payment of Tier 1 "liquidated damages" or Tier 2 "assessments" as evidence that **SBC WISCONSIN** 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. **SBC WISCONSIN**'s conduct underlying its performance measures, and the performance data provided under the performance measures, however, are not made inadmissible by these terms. Any CLEC accepting this performance remedy plan agrees that **SBC WISCONSIN**'s performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. Further, any liquidated damages payment by **SBC WISCONSIN** under these provisions is not hereby made inadmissible in any proceeding relating to the same conduct where **SBC WISCONSIN** seeks to offset the payment against any other damages a CLEC might recover. Whether or not the nature of damages sought by the CLEC is such that an offset is appropriate will be determined in the related proceeding. The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether **SBC WISCONSIN** has met or continues to meet the requirements of section 271 of the Act.

6.3 **SBC WISCONSIN** shall not be liable for Tier 2 "assessments" under this remedy plan to the extent they are duplicative of any other assessments or sanctions under the Commission's service quality rules relating to the same performance. This section does not limit the Commission's ability to assess remedies, penalties or fines regarding such performance consistent with their lawful authority.

6.4 Every six months, CLEC may participate with **SBC WISCONSIN**, other CLECs, and Commission representatives to review the performance measures to determine (a) whether measurements should be added, deleted, or modified; (b) whether the applicable benchmark standards should be modified or replaced by parity standards, or vice versa; and (c) whether to move a classification of a measure, either Tier 1, Tier 2 or both, from Remedied to Diagnostic, or vice versa. Criteria for review of performance

measures, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. Any changes to existing performance measures and this remedy plan shall be by mutual agreement of the parties and approval of the Commission. Should disputes occur regarding changes, additions and/or deletions to the performance measurements, the dispute shall be referred to the Commission for resolution. The current measurements and benchmarks will be in effect until modified hereunder through this review process or expiration of the interconnection agreement.

6.5 CLEC and **SBC WISCONSIN** will consult with one another and attempt in good faith to resolve any issues regarding the accuracy or integrity of data collected, generated, and reported pursuant to this document. In the event that CLEC requests such consultation and the issues raised by CLEC have not been resolved within 45 days after CLEC's request for consultation, then **SBC WISCONSIN** will allow CLEC to have an independent audit conducted, at CLEC's expense, of **SBC WISCONSIN**'s performance measurement data collection, computing, and reporting processes. In the event the subsequent audit affirms the problem identified by the CLEC, or if any new problem is identified, **SBC WISCONSIN** shall reimburse the CLEC any expense incurred by the CLEC for such audit. CLEC may not request more than one audit per four calendar months under this section, and may not request an audit of the same performance measurement more than once in a twelve calendar month period. This section does not modify CLEC's audit rights under other provisions of this Agreement or any applicable Commission Order. **SBC WISCONSIN** agrees to inform all CLECs via Accessible Letter of any problem identified during an audit initiated by any CLEC.

6.6 **SBC WISCONSIN** agrees to periodic, regional (five-state) audit of the performance measurement data collection, retention, transformation, result and remedy calculation, and result publication processes and systems. The first regional audit shall commence the later of eighteen months after this plan becomes effective or eighteen months after completion of the performance measurement audit of the OSS Third Party Test conducted by KPMG under Docket No. 6720-TI-160. Subsequent to that initial audit, additional periodic audits will be scheduled as deemed necessary by the Commission. CLECs and the Commission will have input into the design and schedule of the audit. An independent, third party auditor chosen by **SBC WISCONSIN** and approved by the Commission will conduct these audits at **SBC WISCONSIN**'s expense.

7.0 Exclusions Limited

7.1 **SBC WISCONSIN** will not be excused from payment of liquidated damages or assessments on specific grounds (e.g. Force Majeure, third party systems or equipment problems), unless **SBC WISCONSIN** prevails in a waiver of liability filed with the Commission seeking expedited resolution. **SBC WISCONSIN** bears the burden of proof and must pay the remedies in advance of the expedited hearing, subject to refund, including interest, if it prevails. **SBC WISCONSIN** will not be excused from payment of liquidated damages or assessments on any other grounds except as addressed in Section 7.2 or by application of the procedural threshold provided for below. Neither party will be required to pay attorneys fees to the prevailing party. If an event which is the subject of a waiver of liability only suspends **SBC WISCONSIN**'s ability to timely perform an activity subject to performance measurement, the applicable time frame in which **SBC WISCONSIN**'s compliance with the parity or benchmark criterion is measured will be extended on an hour for hour or day for day basis, as applicable, equal to the duration of the excusing event.

7.2 In addition to the provisions set forth herein, **SBC WISCONSIN** shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measure to the extent that such noncompliance was the result of an act or omission by a CLEC that is contrary to any of the CLEC's obligations under its interconnection agreement with **SBC WISCONSIN** or under the Act or Wisconsin law or tariff. An example of a potential act or omission could include, inter alia, unreasonably holding orders and/or applications and "dumping" such orders or applications in unreasonably large batches, at or near the close of a business day, on a Friday evening or prior to a holiday.

7.3 In any event where **SBC WISCONSIN** believes there has been an act or omission by a CLEC that is contrary to any of the CLEC's obligations under its interconnection agreement with **SBC WISCONSIN** or under the Act or Wisconsin law or tariff and that has caused noncompliance with a performance

measurement, and a dispute occurs, **SBC WISCONSIN** shall pay one-half of the Tier 1 remedies to the CLEC while disputes are referred to the Commission for resolution, subject to refund, including interest, if **SBC WISCONSIN** prevails. If **SBC WISCONSIN** does not prevail, the remaining one-half of the Tier 1 remedies will be paid, with interest, within 30 days of a final, non-appealable resolution by the Commission. **SBC WISCONSIN** shall pay Tier 2 remedies to the State Fund designated by the Commission after the disputes are resolved. **SBC WISCONSIN** will have the burden in any such proceeding to demonstrate that its noncompliance with the performance measurement is due to such acts or omissions by a CLEC.

7.4 **SBC WISCONSIN** and CLEC agree that a procedural annual threshold will apply to the aggregate total of any Tier 1 liquidated damages (including any such damages paid pursuant to this Agreement or to any other Wisconsin interconnection agreement with a CLEC) and Tier 2 assessments or voluntary payments made by **SBC WISCONSIN** pursuant to any Wisconsin interconnection agreement or tariff with a performance remedy plan for the calendar year. The annual threshold amounts will be determined by **SBC WISCONSIN**, based on the formula of 36% of Net Return as set forth at ¶ 436 and footnote 1332 of the FCC's December 22, 1999 Memorandum Opinion and Order in CC Docket No. 99-295. The annual threshold shall be re-calculated on the first business day of the calendar year when updated ARMIS data is made publicly available. For purposes of applying the threshold, the calendar year shall apply. Once the annual threshold is established, a maximum monthly threshold will be determined by dividing the amount of the annual threshold by twelve. CLEC further acknowledges that a maximum monthly threshold of one-twelfth of the annual threshold for Tier 1 liquidated damages and Tier 2 assessments will apply to all performance payments made by **SBC WISCONSIN** under all **SBC WISCONSIN** interconnection agreements and tariff. To the extent in any given month the monthly threshold is not reached, the subsequent month's total threshold will be increased by an amount equal to the unpaid portion of the previous month's threshold. At the end of the year, if the aggregate total of Tier 1 liquidated damages and Tier 2 assessments under all **SBC WISCONSIN** interconnection agreements and Performance Measurements and Remedy Plan tariff equals or exceeds the annual threshold, but **SBC WISCONSIN** has paid less than that amount due to the monthly threshold, **SBC WISCONSIN** shall be required to pay an amount equal to the difference between the annual threshold and the amount paid. In such event, Tier 1 liquidated damages shall be paid first on a pro rata basis to CLECs, and any remainder within the annual threshold shall be paid as a Tier 2 assessment. In the event the total calculated amount of damages and assessments for the year is less than the annual threshold, **SBC WISCONSIN** shall be obligated to pay ONLY the actual calculated amount of damages and assessments.

7.5 Whenever **SBC WISCONSIN** Tier 1 payments to an individual CLEC in a given month exceed 12.5% of the monthly threshold amount, or the Tier 1 payments to all CLECs in a given month exceed the monthly threshold, then **SBC WISCONSIN** may request a hearing before the Commission. Upon timely commencement of this proceeding, **SBC WISCONSIN** must pay one-half of the damages owed to the individual CLEC (subject to refund, including interest, if it prevails), and the balance of damages owed into escrow to be held by a third party pending the outcome of the hearing. To invoke these escrow provisions, **SBC WISCONSIN** must file with the Commission, not later than the due date of the affected damages payments, an application to show cause why it should not be required to pay any amount in excess of the threshold amount. **SBC WISCONSIN**'s application will be processed in an expedited manner to the extent authorized by Wis. Stat. section 196.199. **SBC WISCONSIN** will have the burden of proof to demonstrate why, under the circumstances, it should not be required to pay liquidated damages in excess of the applicable threshold amount. If **SBC WISCONSIN** reports non-compliant performance to the CLEC for three consecutive months on 20% or more of the measures reported to the CLEC, but **SBC WISCONSIN** has incurred no more than 4.2% of the monthly threshold amount in liquidated damages obligations to the CLEC for that period under the enforcement terms set out here, then the CLEC may commence an expedited dispute resolution under this paragraph to the extent authorized by Wis. Stat. section 196.199 to request that **SBC WISCONSIN** should have to pay an amount of damages in excess of the amount calculated under these enforcement terms. In any such proceeding the CLEC will have the burden of proof to demonstrate why **SBC WISCONSIN** should have to pay any amount of damages in excess of the amount calculated under these enforcement terms.

7.6 **SBC WISCONSIN**'s Tier 1 remedy liability to any individual CLEC in any month will not exceed (will be capped at) the total billed revenue due **SBC WISCONSIN** for services provided to the CLEC in the same month for which the remedy liability was incurred.

7.7 **SBC WISCONSIN** will post on its Internet website the aggregate payments of any liquidated damages or assessments paid during the current calendar year.

7.8 With respect to any interconnection agreement, **SBC WISCONSIN** or any CLEC may request an expedited dispute resolution proceeding before the Commission pursuant to sections 7.4 and 7.5 above.

8.0 Tier 1 Damages Payable to CLECs:

8.1 Tier 1 liquidated damages apply to measures designated in Appendix 2 as Remedied when **SBC WISCONSIN** delivers "non-compliant" performance as defined in Section 3 above.

8.2 Liquidated damages in the amount specified in TABLE 1: Per Occurrence Liquidated Damage Amount Index Table below apply to all "non-compliant" sub-measures subject to remedies. Liquidated damages apply on a per occurrence basis, using the amount per occurrence taken from the table below, based on the number of consecutive months for which **SBC WISCONSIN** has reported noncompliance for the sub-measure and on the overall percentage of sub-measures subject to remedies for which **SBC WISCONSIN** met or exceeded the performance standard. For those measures listed in Appendix 3 as "Measurements That Are Subject to Per Occurrence Damages or Assessments With a Cap," the amount of liquidated damages in a single month for a disaggregation category shall not exceed the amount listed in TABLE 2: Per Measure/Cap Liquidated Damage Amount Index Table. For those measures listed in Appendix 3 as "Measurements That Are Subject to Per Measure Damages or Assessments," liquidated damages will apply on a per disaggregation category basis, at the amounts set forth in the TABLE 2: Per Measure/Cap Liquidated Damage Amount Index Table below. The methodology for determining the number of occurrences is addressed in "Methods of Calculating Liquidated Damages and Assessment Amounts," below.

8.3 TABLE 1 and TABLE 2 utilize an Index Value ("IV") that establishes the single level of liquidated damages assessment amount to be paid to all CLECs participating in the Plan in the case of a failure to meet or exceed a performance standard. This Index Value is uniquely established for each month's results based on the overall performance **SBC WISCONSIN** provided to the CLECs as a whole on remedied sub-measures. The IV is calculated by (1) determining the number of reported sub-measure results subject to remedies for which performance met or exceeded the standard of comparison; (2) determining the total number of reported sub-measures subject to remedies; and (3) dividing (1) by (2) and multiplying by 100. The number of sub-measures is intended to reflect all CLEC activity within the state that is subject to remedy as defined in the performance measurement user guide. More specifically, a sub-measure is defined as a fully disaggregated (e.g. by product, by geography, by CLEC) performance measurement result. For determining the IV, the denominator is the total number of sub-measures reported, across all CLECs with activity, that are subject to liquidated damages remedy payments payable to CLECs or assessments payable to the State are included. This formula is provided below.

$$IV = (RSM_{passed} \div RSM_{total}) \times 100$$

Where

RSM_{passed} = Total number of Remedied Sub-Measure results where performance met or exceeded the standard of comparison

RSM_{total} = Total count of Remedied Sub-Measure results

8.4 Upon completion of each twelve-month period of performance reporting under this plan beginning October 2002, performance for the previous twelve months in total shall be calculated in the same fashion as defined in Section 8.3. Should the IV result calculated for that entire twelve-month period, by averaging the individual month's IV values, not meet or exceed 92%, the liquidated damages remedy amounts applicable in Tables 1 and 2 will step back to the previous level for the next twelve months, unless the level of

payments is already at the highest payment schedule whereby it would remain at that level for the next twelve months.

8.5 For measures identified in Attachment A and defined in Appendix 1 as subject to a Tier 1 remedy, liquidated damages apply as indicated in Section 8.2 whenever the following occurs:

- Performance is below the ceiling performance level and equal to or above the floor performance level and not in parity; or
- Performance is below the floor performance level, whether or not in parity.

Performance above the ceiling performance standard is deemed to have met the performance standard regardless of the result of a parity comparison.

When performance for the CLEC is below the floor, liquidated damages will be calculated against the better of the floor level of performance or the parity comparison performance.

Should the Commission order the implementation of retail performance standards applicable to all carriers providing retail local exchange services, or order changes to existing retail performance standards applicable to all carriers providing retail local exchange service, the parties will negotiate whether or not to create new, or modify existing, floor and ceiling performance standards.

8.6 Following at least two consecutive months of non-compliance for a given sub-measure, liquidated damages will be subject to a "proof of compliance" period for that individual metric. This process will require **SBC WISCONSIN** to return to compliance for a specified number of months, based on the number of consecutive months non-compliant performance, before the liquidated damages amount is reduced to the lowest, or single month of non-compliance, level. For example, if **SBC WISCONSIN** was out of compliance for four consecutive months for a given performance measurement reported for a specific CLEC, **SBC WISCONSIN** will have to provide this CLEC three consecutive months of compliant performance for this same submeasure before it can begin paying the "Month 1" liquidated damage amount.

8.7 During this "proof of compliance" period, **SBC WISCONSIN** will make liquidated damages payments *only* for those months during which the performance result for a specific sub-measure is determined to be "non-compliant" for a CLEC. This remedy payment amount will return to the lowest level of payment when **SBC WISCONSIN** provides "compliant" performance for the number of consecutive months identified in TABLE 4: "Step-Down" Table Of Liquidated Damages For Tier 1 Measures where the payment amount is "Month One Amount". Until the performance result has met or exceeded the standard of comparison for three consecutive months, liquidated damages amounts will be determined using the number of months defined in Table 4.

8.8 **SBC WISCONSIN** is obligated to correctly and completely report performance results for CLEC and the aggregate of all CLECs. On occasion, it may be necessary for **SBC WISCONSIN** to restate previously published performance results to comply with this obligation where the originally published results were materially different from actual performance. **SBC WISCONSIN** will provide notice, via the CLEC OnLine web site, to CLEC and the Commission of each restatement, indicating the performance measurements restated, which months' performance the measurements were restated for, and why the restatement was necessary.

8.9 In the event that performance measurement results need to be restated, **SBC WISCONSIN** will restate those results as soon as possible for a period not to exceed the three months prior to the month for which results have most recently been reported at time of the restatement. In a case where restatement is required to address an audit finding, the restatement will be applied for the period of time necessary to resolve the finding.

8.10 If it is determined through restatement of performance results or other means that **SBC WISCONSIN** underpaid liquidated damages due a CLEC, or assessments due the State, **SBC WISCONSIN** will make additional payment/bill credit to the CLEC and/or payments to the State to the extent that it underpaid. All underpayments will be credited with interest. Beginning October 1, 2003, in the event that determination is

made through restatement of performance results or other means that **SBC WISCONSIN** overpaid, current and/or future monthly liquidated damages remedy payments/bill credits to CLEC and/or assessments to the State will be offset by the amount of overage.

8.11 **SBC WISCONSIN** shall be able to apply any liquidated damages remedy payments duetoward those charges that the CLEC owes **SBC WISCONSIN** for services rendered (or facilities provided) so long as such charges are undisputed and are past due for not less than 90 days.

8.12 If performance for any sub-measure fails to meet the standard of performance (parity or benchmark) defined in Appendix One for three consecutive months, **SBC WISCONSIN** will, at request of the CLEC, initiate a "gap closure" effort. For a measure to which a floor applies, "gap closure" can be initiated when performance is below the floor for two consecutive months. The "gap closure" effort will (1) identify the root cause for the failure to meet the performance standard, and (2) develop an action plan to improve performance to a level where it is meeting the standard of performance. Documentation of the root cause and the action plan to address it will be provided to the CLEC requesting "gap closure" within 30 days of CLEC request. If requesting CLEC assesses the action plan as inadequate, the issue will be escalated to senior management responsible for the CLEC account and the operational area(s) impacted. A response will be provided to CLEC senior management within 10 business days of receipt of the escalation from the CLEC.

TABLE 1: Per Occurrence Liquidated Damage Amount Index Table						
Index Value ("IV")	**Consecutive Months Missed**					
	One	**Two**	**Three**	**Four**	**Five**	**Six or More**
Effective Beginning With The First Month's Results Reported Under This Plan Through The Twelfth Month's Results Reported Under This Plan						
IV >= 92.0%	$35	$50	$100	$200	$300	$400
86.0% <= IV < 92.0%	$50	$70	$125	$250	$350	$450
80.0% <= IV < 86.0%	$75	$90	$150	$300	$400	$500
74.0% <= IV < 80.0%	$100	$125	$250	$500	$600	$700
IV < 74%	$150	$175	$350	$700	$800	$900
Effective Beginning With The Thirteenth Month's Results Reported Under This Plan Through The Twenty-Fourth Month's Results Reported Under This Plan						
IV >= 92.0%	$30	$55	$100	$200	$300	$400
86.0% <= IV < 92.0%	$40	$65	$125	$250	$350	$450
80.0% <= IV < 86.0%	$50	$80	$150	$300	$400	$500
74.0% <= IV < 80.0%	$100	$125	$250	$500	$600	$700
IV < 74%	$150	$175	$350	$700	$800	$900
Effective Beginning With The Twenty-Fifth Month's Results Reported Under This Plan						
IV >= 92.0%	$25	$50	$100	$200	$300	$400
86.0% <= IV < 92.0%	$35	$60	$125	$250	$350	$450
80.0% <= IV < 86.0%	$50	$75	$150	$300	$400	$500
74.0% <= IV < 80.0%	$100	$125	$250	$500	$600	$700
IV < 74%	$150	$175	$350	$700	$800	$900

TABLE 2: Per Measure/Cap Liquidated Damage Amount Index Table						
Index Value ("IV")	**Consecutive Months Missed**					
	One	**Two**	**Three**	**Four**	**Five**	**Six or More**
Effective Beginning With The First Month's Results Reported Under This Plan Through The Twelfth Month's Results Reported Under This Plan						
IV >= 92.0%	$9,000	$15,000	$15,000	$20,000	$25,000	$30,000
86.0% <= IV < 92.0%	$12,500	$20,000	$22,500	$30,000	$37,500	$45,000
80.0% <= IV < 86.0%	$15,000	$25,000	$30,000	$40,000	$50,000	$60,000
74.0% <= IV < 80.0%	$20,000	$30,000	$45,000	$60,000	$75,000	$90,000
IV < 74%	$25,000	$50,000	$75,000	$100,000	$125,000	$150,000

Effective Beginning With The Thirteenth Month's Results Reported Under This Plan Through The Twenty-Fourth Month's Results Reported Under This Plan						
IV >= 92.0%	$7,500	$12,500	$15,000	$20,000	$25,000	$30,000
86.0% <= IV < 92.0%	$10,000	$17,500	$22,500	$30,000	$37,500	$45,000
80.0% <= IV < 86.0%	$15,000	$20,000	$30,000	$40,000	$50,000	$60,000
74.0% <= IV < 80.0%	$20,000	$30,000	$45,000	$60,000	$75,000	$90,000
IV < 74%	$25,000	$50,000	$75,000	$100,000	$125,000	$150,000
Effective Beginning With The Twenty-Fifth Month's Results Reported Under This Plan						
IV >= 92.0%	$5,000	$10,000	$15,000	$20,000	$25,000	$30,000
86.0% <= IV < 92.0%	$7,500	$15,000	$22,500	$30,000	$37,500	$45,000
80.0% <= IV < 86.0%	$10,000	$20,000	$30,000	$40,000	$50,000	$60,000
74.0% <= IV < 80.0%	$15,000	$30,000	$45,000	$60,000	$75,000	$90,000
IV < 74%	$25,000	$50,000	$75,000	$100,000	$125,000	$150,000

TABLE 3: Assessment Amounts For Tier 2 Measures	
Per Occurrence	$200
Per Measure / Cap*	$20,000

TABLE 4: "Step-Down" Table Of Liquidated Damages For Tier 1 Measures				
	Consecutive Months Non-Compliant Performance Prior to First Month of Compliant Performance			
Consecutive Months Compliant Performance Before Subsequent Non-Compliant Month	**Three Months**	**Four Months**	**Five Months**	**Six Months or More**
Per Occurrence and Per Measure/Cap				
One Month	Month Two Amount	Month Three Amount	Month Four Amount	Month Five Amount
Two Months	Month One Amount	Month Two Amount	Month Two Amount	Month Three Amount
Three Months or More	Month One Amount	Month One Amount	Month One Amount	Month One Amount

8.13 Example Application of "Step-Down" Table

Assume a measurement result is deemed non-compliant for four consecutive months. Performance is then deemed compliant with the measurement standard in the fifth month. Further assume that in the sixth month performance is again deemed non-compliant, resulting in four consecutive months missed, followed by one month (month five) met and the next month (month six) missed. Using Table 4 above, remedies for performance in month six would be at the level of three consecutive months missed. This can be confirmed by looking at the column for "Consecutive Months Non-Compliant Performance Prior to First Month of Complaint Performance", or the "Four Months" column in this example, then looking at the row for "Consecutive Months Complaint Performance Before Subsequent Non-Compliant Month", or the "One Month" row in this example. The intersecting cell indicates that remedies would be paid at the "Month Three Amount", or the level corresponding to three consecutive months misses for the measure from Table 1 or Table 2 (as applicable to the specific measure).

9.0 Tier 2 Assessments to the State:

9.1 Assessments payable to the State Fund designated by the Commission apply to the Tier 2 measures designated in Appendix 2 as "Remedied" when **SBC WISCONSIN** and/or its affiliate (whichever is better, provided the affiliate data points equal or exceed 30) performance is out of parity or does not meet the

benchmarks for the aggregate of all CLEC data. Specifically, if the Z-test value is greater than the Critical Z, the performance for the reporting category is out of parity or below standard. Assessments will be paid when the aggregate of all CLECs has at least 10 observations.

9.2 For those measurements where a per occurrence assessment applies, an assessment as specified in TABLE 3: Assessment Amounts for Tier 2 Measures shown above for each occurrence is payable to the State Fund designated by the Commission for each sub-measure that exceeds the Critical Z-value for three consecutive months. For those measurements listed in Appendix 3 as measurements subject to per occurrence with a cap, an assessment as shown in TABLE 3: Assessment Amounts for Tier 2 Measures shown above for each occurrence within the applicable cap is payable to the State Fund designated by the Commission for each sub-measure that exceeds the Critical Z-value for three consecutive months. For those Tier 2 measurements listed in Appendix 3 as subject to a per measurement assessment, an assessment amount as shown in TABLE 3: Assessment Amounts for Tier 2 Measures shown above is payable to the State Fund designated by the Commission for each sub-measure that exceeds the Critical Z-value for three consecutive months.

10.0 Posting of Results and Provision of Liquidated Damages and Assessment Payments:

10.1 If **SBC WISCONSIN** fails to submit performance reports by the last business day of the month following actual performance, the following assessments payable to the State Fund designated by the Commission apply unless excused for good cause by the Commission:

- If no reports are filed, $5,000 per day past due;
- If incomplete reports are filed, $1,000 per day for each performance measurement listed in the User Guide for which results are not posted, but not to exceed $5,000 per day past due.

10.2 If **SBC WISCONSIN** alters previously reported data for a CLEC, and after discussions with **SBC WISCONSIN** the CLEC disputes such alterations, then the CLEC may ask the Commission to review the submissions and the Commission may take appropriate action. This does not apply to the limitation stated under the section titled "Exclusions Limited."

10.3 When **SBC WISCONSIN** performance creates an obligation to pay liquidated damages to a CLEC or an assessment to the State under the terms set forth herein, **SBC WISCONSIN** shall make payment by check, bill credit or other direct payment method in the required amount on or before the last business day of the month following the due date of the performance measurement report for the month in which the obligation arose (e.g., if **SBC WISCONSIN** performance through March is such that **SBC WISCONSIN** owes liquidated damages to CLECs for March performance, or assessments to the State for January – March performance, then those payments will be due the last business day of May, the last business day of the month following the month (April) in which results were posted). (In order to receive payment by check CLEC must complete the CLEC identification and liquidated damages Information Form located on the CLEC website.) For each day after the due date that **SBC WISCONSIN** fails to pay the required amount, **SBC WISCONSIN** will pay interest to the CLEC at the maximum rate permitted by law for a past due liquidated damages obligation and will pay an additional $3,000 per day to the State Fund designated by the Commission for a past due assessment.

10.4 **SBC WISCONSIN** may not withhold payment of liquidated damages to a CLEC unless **SBC WISCONSIN** has commenced a Commission arbitration proceeding on or before the payment due date, asserting that noncompliance was the result of an act or omission by a CLEC as more fully described in Section 7.2 and 7.3.

10.5 CLEC will have access to monthly reports on performance measures and business rules through an Internet website that includes performance results for individual CLECs, the aggregate of all CLECs, and **SBC WISCONSIN**.

10.6 The thresholds more fully described in Section 7.4. do not apply to assessments under Section 10 of this document.

11.0 Methods of Calculating Liquidated Damages and Assessment Amounts

The following methods apply in calculating per occurrence liquidated damage and assessments:

11.1 Calculating Tier 1 Liquidated Damages

11.1.1 Measures for Which the Reporting Dimensions are Averages or Means

Step 1: Calculate the average or the mean for the sub-measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the percentage difference between the actual average and the calculated average. For benchmark measures or floors (for measures that have floors and the floor applies to the result), calculate the percentage difference between the actual average and the benchmark. This percentage is capped at 100%.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and round this number up to the next integer. Then multiply the result by the per occurrence dollar amount taken from the Liquidated Damages Table for Tier 1 Measures to determine the applicable liquidated damages for the given month for that sub-measure.

11.1.2 Measures for Which the Reporting Dimensions are Percentages

Step 1: Calculate the percentage for the sub-measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage. For benchmark measures or floors (for measures that have floors and the floor applies to the result), calculate the difference between the actual percentage and the benchmark.

Step 3: Multiply the total number of data points by the difference in percentage calculated in the previous step and then round this number up to the next integer. Then multiply the result by the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that sub-measure.

11.1.3 Measures for Which the Reporting Dimensions are Ratios or Rates

Step 1: Calculate the ratio for the sub-measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual ratio for the CLEC and the calculated ratio. For benchmark measures or floors (for measures that have floors and the floor applies to the result) calculate the difference between the actual ratio and the benchmark. This difference is capped at 100%.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and then round this number up to the nearest integer. Then multiply the result by the per occurrence dollar amount taken from the Liquidated Damages Table for Tier 1 Measures to determine the applicable liquidated damages for the given month for that sub-measure.

11.2 Calculating Tier 2 Assessments

11.2.1 Determine the Tier 2 measurement results that are non-compliant for three consecutive months for the aggregate of all CLECs. If the non-compliant classification continues for three consecutive months, an additional assessment will apply in the third month and in each succeeding month as calculated below, until **SBC WISCONSIN** reports performance that meets the applicable criterion.

That is, Tier 2 assessments will apply on a "rolling three month" basis, one assessment for the average number of occurrences for months 1-3, one assessment for the average number of occurrences for months 2-4, one assessment for the average number of occurrences for months 3-5, and so forth, until satisfactory performance is established.

11.2.2 Measures for Which the Reporting Dimensions are Averages or Means

Step 1: Calculate the average or the mean for the sub-measure for the CLECs that would yield the Critical Z-value for each of the three non-compliant months. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the percentage difference between the actual average and the calculated average for each of the three non-compliant months. For benchmark measures, calculate the percentage difference between the actual average and the benchmark for each of the three non-compliant months. This percentage is capped at 100%.

Step 3: Multiply the total number of data points for each month by the percentage calculated in the previous step. Calculate the average for three months of these numbers rounding up the result to the next highest integer. Then multiply the result by the per occurrence dollar amount specified in the Assessment Table for Tier 2 Measures to determine the applicable assessment payable to the State Fund designated by the Commission for that sub-measure.

11.2.3 Measures for Which the Reporting Dimensions are Percentages

Step 1: Calculate the percentage for the sub-measure for the CLECs that would yield the Critical Z-value for each of the three non-compliant months. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual percentage for the CLECs and the calculated percentage for each of the three non-compliant months. For benchmark measures, calculate the difference between the actual percentage and the benchmark for the three non-compliant months.

Step 3: Multiply the total number of data points for each month by the difference in percentage calculated in the previous step. Calculate the average for three months of these numbers rounding up the result to the next highest integer. Then multiply the result by the per occurrence dollar amount specified in the Assessment Table for Tier 2 Measures to determine the applicable assessment payable to the State Fund designated by the Commission for that sub-measure.

11.2.4 Measures for Which the Reporting Dimensions are Ratios or Rates

Step 1: Calculate the ratio for the sub-measure for the CLECs that would yield the Critical Z-value for each of the three non-compliant months. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual ratio for the CLECs and the calculated ratio for each month of the non-compliant three-month period. For benchmark measures calculate the difference between the actual ratio and the benchmark for the three non-compliant months. This difference is capped at 100%.

Step 3: Multiply the total number of service orders by the percentage calculated in the previous step for each month. Calculate the average for three months of these numbers rounding up the result to the next highest integer. Then multiply the result by the per occurrence dollar amount specified in the Assessment Table for Tier 2 Measures to determine the

applicable assessment payable to the State Fund designated by the Commission for that sub-measure.

The parties will propose as part of the PM six-month review collaborative that section 12 be moved to Appendix 1 – **SBC WISCONSIN** Performance Measurement User Guide as an attachment so that it can be updated through the six-month review process as needed.

12.0 Advanced and Nascent Services:

12.1 In order to ensure parity and benchmark performance where CLECs order low volumes of advanced and nascent services, **SBC WISCONSIN** will make increased voluntary payments to the State Fund designated by the Commission on those measurements listed in section 12.3 below (the "Qualifying Measurements"). Such increased voluntary payments will only apply when there are more than 10 and less than 100 observations for a Qualifying Measurement on average statewide for a three-month period with respect to the following order categories:

12.2 The following are the qualifying sub-measures (if within a qualifying measurement):

- UNE loop and port combinations;
- resold ISDN;
- ISDN UNE loop and port combinations;
- BRI loop with test access; and
- DSL loops.

12.3 The Qualifying Measurements are as follows:

Provisioning Measurements:

- PMs 29, 45, 58 – Percent **SBC WISCONSIN** Caused Missed Due Dates
- PMs 35, 46, 59 – Installation Trouble Reports Within "X" Days
- PMs 27, 43, 56 – Mean Installation Interval
- PMs 32, 49, 62 – Average Delay Days for **SBC WISCONSIN** Caused Missed Due Dates
- PM 55.1 – Average Installation Interval – DSL
- PM 1.1 – Average Response Time for Loop Qualification Information

Maintenance Measurements:

- PMs 38, 66 – % Missed Repair Commitments
- PMs 41, 53, 69 – % Repeat Reports
- PMs 39, 52, 67 – Mean Time to Restore
- PMs 37.1, 54.1, 65.1 – Trouble Report Rate

12.4 The increased voluntary payments referenced in section 12.1 will be made only if **SBC WISCONSIN** fails to provide parity or benchmark service for the above measurements as determined by the use (where appropriate) of the Modified Z-test and a Critical Z-value for either:

- 3 consecutive months; or
- 6 months or more in a calendar year.

12.5 The increased voluntary payments will only be calculated on the rolling average of occurrences or measurements, as appropriate, where **SBC WISCONSIN** has failed to provide parity or benchmark performance for 3 consecutive months. If **SBC WISCONSIN** fails to provide parity or benchmark performance in Wisconsin for 6 or more months in a calendar year, the increased voluntary payments will be calculated as if all such months were missed consecutively.

12.6 If, for the three months that are utilized to calculate the rolling average, there were 100 observations or more on average for the qualifying measurement or sub-measurement, then no increased voluntary payments will be made to the State Fund designated by the Commission . However, if during this same

time frame there either is (i) an average of more than 10 but less than 100 observations for a qualifying sub-measure on a statewide basis or (ii) an average of more than 10 but less than 100 for a non-qualifying sub-measure within a qualifying measure where the measure's average is more than 10 but less than 100 observations, then **SBC WISCONSIN** shall calculate the payments to be made in addition to the normal payment to the State Fund designated by the Commission by first applying the normal Tier 2 assessment calculation methodology to that qualifying measurement, and then doubling (multiplying by 2) that amount. The effect of this calculation results in total payment being made at three times the normal amount alone.

12.7 Any payments made hereunder shall be subject to the annual threshold set forth in Section 7.4.

13.0 The following documents are incorporated herein by reference:

Appendix 1: **SBC WISCONSIN** Performance Measurement User Guide (a document available from CLEC Account Managers or found on the **SBC WISCONSIN** Performance Measurement website)

Appendix 2: Performance Measures Subject to Tier 1 and Tier 2 Damages

Appendix 3: Measurements Subject to Per Occurrence Damages or Assessments With a Cap and Measurements Subject to Per Measure Damages or Assessments

In the event of any inconsistency between Appendices 1, 2 and/or 3 and this performance remedy plan, this performance remedy plan shall supercede and control. In addition, Appendix 1 shall be supplemented by Attachment A hereto.

The parties will propose as part of the PM six-month review collaborative that Appendix 2 and Appendix 3 be moved to attachments to Appendix 1 – **SBC WISCONSIN** Performance Measurement User Guide so that they can be updated through the six-month review process as needed.

ATTACHMENT A

Minimum Levels of Service:

The following table represents "Maximum level of service (Ceilings)" and "Minimum level of service (Floors)" for each respective measure/sub-measure. Without regard to parity, **SBC WISCONSIN** will not pay remedies to a CLEC if the result for that CLEC meets or exceeds the ceilings and **SBC WISCONSIN** will pay remedies to a CLEC if the result for that CLEC does not meet the floor. Parity applies when the result for that CLEC falls between the ceiling and the floor.

Measure #:	Measure:	Sub-measure:	Ceiling:	Floor:
PM #12	Mechanized Provisioning Accuracy	Each	≥ 97%	< 90%
PM #27	Mean Installation Interval	POTS-Res/Bus-NFW UNE-P-Res/Bus-NFW CIA-Centrex NFW	1 day or less on NFW	> 5 Business Days
PM #27	Mean Installation Interval	POTS-Res/Bus FW, UNE-P-Res/Bus FW and CIA Centrex FW	2 days or less on FW	> 5 Business Days
PM #28	Percent Installations Completed within CRDD	Each	≥ 98%	< 90%
PM #30	Percent SBC Caused Missed Due Dates Due to Lack of Facilities	Each	≤ 2%	> 10%
PM #35	Percent of Trouble Reports within 30 Days of Installation	Each	≤ 4%	> 20%
PM #37.1	Trouble Report Rate net Installation and Repeat Reports	Each	≤ 4%	> 20%
PM #38	Percent Missed Repair Commitments	Each	≤ 5%	> 15%
PM #39	Receipt To Clear Duration	OS	≤ 8 hours	> 30 hours
PM #39	Receipt To Clear Duration	AS	≤ 8 hours	> 60 hours
PM #40	Percent Out of Service Intervals < 24 Hours	Each	≥ 96%	< 85%
PM #41	Percent Repeat Trouble Reports	Each	≤ 4%	> 20%
PM #55	Average Installation Interval	Analog (1-10), Digital (1-10), DS1 including PRI, Dedicated Transport DS1 (1-10), Dedicated Transport DS3 (1-10)	≤ 2 days	> 5 Business Days
PM #55	Average Installation Interval	Analog (11-20)	≤ 2 days	> 10 Business Days
PM #55	Average Installation Interval	Analog (20+)	≤ 2 days	> 15 Business Days
PM #56	Percent Installations Completed within CRDD	Each	≥ 98%	< 90%
PM #59	Percent of Trouble Reports within X Days of Installation	Each	≤ 4%	> 20%
PM #60	Percent SBC caused Missed Due Dates Due to Lack of Facilities	Each	≤ 2%	> 10%
PM #65.1	Trouble Report Rate net Installation and Repeat Reports	Each	≤ 4%	> 20%
PM #66	Percent Missed Repair Commitments	Each	≤ 5%	> 15%
PM #67	Mean Time To Restore	All except for Dedicated Transport & DS1 Loop	≤ 8 hours	> 36 hours
PM #67	Mean Time To Restore	Dedicated Transport & DS1 Loop	≤ 4 hours	> 10 hours
PM #68	Percent Out of Service Intervals < 24 Hours	Each	≥ 96%	< 85%
PM #69	Percent Repeat Trouble Reports	Each	≤ 4%	> 20%

I understand that the Wisconsin Public Service Commission will not accept an interconnection agreement for approval pursuant to 47 USC 252 unless the competitive provider has been certified by the Commission, or is a wireless provider. The undersigned hereby warrants that it has received any necessary Wisconsin certification and also consents to Wisconsin Bell, Inc. d/b/a SBC Wisconsin requesting approval of the interconnection agreement on behalf of both parties.

Signature

Adela Ardelean
Name

President
Position

248-650-7901
Telephone Number

248-608-8377
Fax Number

WISCONSIN BELL, INC.
d/b/a SBC WISCONSIN
Rates
March 17, 2003

			RESALE DISCOUNTS		
RESALE			RECURRING		NON-RECURRIN
	BUSINESS				
	LOCAL EXCHANGE SERVICE				
	Business 1 Party		17.50%		27.50%
	Business - Measured		17.50%		27.50%
	Customer Operated Pay Telephone (COPT)		17.50%		27.50%
	EXPANDED LOCAL CALLING				
	Extended Area Service		20.00%		20.00%
	VERTICAL SERVICES				
	Anonymous Call Rejection		25.00%		25.00%
	Repeat Dialing (Auto Redial)		25.00%		25.00%
	Repeat Dialing-Per Use (Auto Redial - Usage Sensitive)		25.00%		25.00%
	Call Blocker		25.00%		25.00%
	Call Forwarding		25.00%		25.00%
	Call Forwarding - Busy Line		25.00%		25.00%
	Call Forwarding - Busy Line/Don't Answer		25.00%		25.00%
	Call Forwarding - Don't Answer		25.00%		25.00%
	Automatic CallBack (Call Return)		25.00%		25.00%
	Automatic CallBack-Per Use (Call Return - Usage Sensitive)		25.00%		25.00%
	Call Trace		25.00%		25.00%
	Call Waiting		25.00%		25.00%
	Caller ID WithName (Calling Name)		25.00%		25.00%
	Caller ID (Calling Number)		25.00%		25.00%
	MultiRing Service -1 (Personalized Ring -1 Dependent Number)		25.00%		25.00%
	MultiRing Service -2 (Personalized Ring - 2 Dependent Numbers)		25.00%		25.00%
	Remote Access to Call Forwarding (Grandfathered)		0.00%		0.00%
	Selective Call Forwarding		0.00%		0.00%
	Multi-Path Call Forwarding (Simultaneous Call Forwarding)		25.00%		25.00%
	Remote Call Forwarding-Per Feature		25.00%		25.00%
	RCF, Interstate, Interexchange		25.00%		25.00%
	RCF, Intrastate		25.00%		25.00%
	RCF, Interstate, International		25.00%		25.00%
	RCF, Intrastate, Interexchange		25.00%		25.00%
	RCF to 800		25.00%		25.00%
	RCF Additional		25.00%		25.00%
	Speed Calling 8		25.00%		25.00%
	Speed Calling 30		25.00%		25.00%
	Three Way Calling		25.00%		25.00%
	Call Screening		25.00%		25.00%
	Busy Line Transfer		25.00%		25.00%
	Alternate Answer		25.00%		25.00%
	Message Waiting - Tone		25.00%		25.00%
	Easy Call		25.00%		25.00%
	Prime Number Service		25.00%		25.00%
	SBC WISCONSIN Privacy Manager		25.00%		25.00%
	Name and Number Delivery Service		25.00%		25.00%
	DID				
	DID		15.00%		15.00%
	TRUNKS				
	Trunk		17.50%		17.50%
	AIN				
	Area Wide Networking		25.00%		25.00%
	SBC WISCONSIN Switch Alternate Routing (ANSAR)		25.00%		25.00%
	SBC WISCONSIN Customer Location Alternate Routing (ACLAR)		25.00%		25.00%
	OTHER				
	Grandfathered Services		0.00%		0.00%
	Promotions (Greater than 90 days)		25.00%		25.00%
	TouchTone (Business)		25.00%		25.00%
	TouchTone (Trunk)		25.00%		25.00%
	900/976 Call Blocking (900/976 Call Restriction)		0%		0%
	976 (976 Information Delivery Service)		0%		0%

TBD -To be determined
NRO -Nonrecurring only
ICB -Individual Case Basis
NA -Not Applicable

	Access Services (See Access Tariff)	0%		0%
	Additional Directory Listings	15.00%		15.00%
	Carrier Disconnect Service (Company Initiated Suspension Service)	0%		0%
	Connection Services	25.00%		25.00%
	Premise Services/Line Backer (Maintenance of Service Charges)	0%		0%
	Shared Tenant Service	0%		0%
	Data Services			
	Gigabit Ethernet Metropolitan Area Network (GigaMAN)	8.00%		8.00%
	PBX Trunks	8.00%		8.00%
	Mulit-Service Optical Network (MON)	8.00%		8.00%
	OCn-PTP	8.00%		8.00%
	ADTS-E	8.00%		8.00%
	DS0	8.00%		8.00%
	DS1	8.00%		8.00%
	DS3	8.00%		8.00%
	ISDN			
	ISDN	9.70%		9.70%
	DIRECTORY ASSISTANCE SERVICES			
	Directory Assistance Services	15.00%		15.00%
	Local Operator Assistance Service	15.00%		15.00%
	TOLL			
	TOLL	25.00%		25.00%
	OPTIONAL TOLL CALLING PLANS			
	Optional Toll Calling Plans	25.00%		25.00%
	CENTREX (PLEXAR)			
	SBC WISCONSIN Centrex Service ACS	25.00%		25.00%
	SBC WISCONSIN Centrex Network Manager	0.00%		0.00%
	PRIVATE LINE			
	Analog Private Lines	8.00%		8.00%
	Private Line Channel Services	8.00%		8.00%
	RESIDENCE		***RESALE DISCOUNTS***	
	LOCAL EXCHANGE SERVICE	RECURRING		NON-RECURRIN
	Life Line	0.00%		0.00%
	Residence 1 Party	14.50%		25.00%
	Residence Measured	14.50%		25.00%
	EXPANDED LOCAL CALLING			
	Extended Area Service	17.50%		17.50%
	VERTICAL SERVICES			
	Anonymous Call Rejection	23.00%		23.00%
	Repeat Dialing (Auto Redial)	23.00%		23.00%
	Repeat Dialing -Per Use (Auto Redial - Usage Sensitive)	23.00%		23.00%
	Call Blocker	23.00%		23.00%
	Call Forwarding	23.00%		23.00%
	Call Forwarding - Busy Line	23.00%		23.00%
	Call Forwarding - Busy Line/Don't Answer	23.00%		23.00%
	Call Forwarding - Don't Answer	23.00%		23.00%
	Automatic Call-Back (Call Return)	23.00%		23.00%
	Automatic Call-Back Per Use (Call Return - Usage Sensitive)	23.00%		23.00%
	Call Trace	23.00%		23.00%
	Call Waiting	23.00%		23.00%
	Caller ID with Name (Calling Name)	23.00%		23.00%
	Caller ID (Calling Number)	23.00%		23.00%
	Multi-Ring Service - 1 (Personalized Ring- 1 dependent number)	23.00%		23.00%
	Multi-Ring Service - 2 (Personalized Ring - 2 dependent numbers - 1st dependent number)	23.00%		23.00%
	Remote Access to Call Forwarding (GF)	0.00%		0.00%
	RCF, Interstate, Interexchange	23.00%		23.00%
	RCF, Intrastate	23.00%		23.00%
	RCF, Interstate, International	23.00%		23.00%
	RCF, Intrastate, Interexchange	23.00%		23.00%

TBD -To be determined
NRO -Nonrecurring only
ICB -Individual Case Basis
NA -Not Applicable

	RCF to 800	23.00%		23.00%
	RCF Additional	23.00%		23.00%
	Selective Call Forwarding	23.00%		23.00%
	Speed Calling 8	23.00%		23.00%
	Three Way Calling	23.00%		23.00%
	Call Screening	23.00%		23.00%
	Busy Line Transfer	23.00%		23.00%
	Alternate Answer	23.00%		23.00%
	Message Waiting - Tone	23.00%		23.00%
	Easy Call	23.00%		23.00%
	SBC WISCONSIN Privacy Manager	23.00%		23.00%
	Name and Number Delivery Service	23.00%		23.00%
	ISDN			
	ISDN	9.70%		9.70%
	DIRECTORY ASSISTANCE SERVICES			
	Directory Assistance Services	15.00%		15.00%
	Local Operator Assistance Service	15.00%		15.00%
	OTHER			
	Grandfathered Services	0.00%		0.00%
	Promotions (Greater than 90 Days)	23.00%		23.00%
	TouchTone	23.00%		23.00%
	Home Services Packages	23.00%		23.00%
	900/976 Call Blocking (900/976 Call Restriction)	0%		0%
	976 (976 Information Delivery Service)	0%		0%
	Access Services (See Access Tariff)	0%		0%
	Additional Directory Listings	15.00%		15.00%
	Carrier Disconnect Service (Company Initiated Suspension Service)	0%		0%
	Connection Services	25.00%		25.00%
	Premise Services/Line Backer (Maintenance of Service Charges)	0%		0%
	Shared Tenant Service	0%		0%
	TOLL			
	Toll	21.50%		21.50%
	Electronic Billing Information Data (daily usage)	$0.00		
	per message			
	Local disconnect Report (LDR)			
	Per WTN	$0.00		
	Line Connection Charge			
	Residence			N/A
	Business			N/A
	Service Order/Service Request Charge			
	Residence			$26.25
	Business			$31.90
	Non-Electronic (Manual) Service Order Charge			
	Residence			$9.02
	Business			$9.02
	The rate elements contained in this Resale Appendix and the more detailed rate elements on file with the applicable state commission in the Wisconsin Bell, Inc., SBC WISCONSIN Tariff, P.S.C. of W. 20 represent the rates applicable to CLEC for the above-listed services. SBC WISCONSIN Wisconsin reserves its rights to change tariffs filed with state commissions as is necessary from time to time as provided by Applicable Law.			

TBD -To be determined
NRO -Nonrecurring only
ICB -Individual Case Basis
NA -Not Applicable

APPENDIX RESALE

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APPENDIX RESALE

1. INTRODUCTION

1.1 This Appendix set forth terms and conditions for Resale Services provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.

1.2 **SBC Communications Inc**. **(SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.

1.3 **SBC-2STATE -** As used herein, **SBC-2STATE** means **SBC CALIFORNIA** and **SBC NEVADA**, the applicable SBC-owned ILEC(s) doing business in California and Nevada.

1.4 **SBC-4STATE -** As used herein, **SBC-4STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, and SBC Oklahoma the applicable SBC-owned ILEC(s) doing business in Arkansas, Kansas, Missouri and Oklahoma.

1.5 **SBC-7STATE -** As used herein, **SBC-7STATE** means **SBC SOUTHWEST REGION 5-STATE, SBC CALIFORNIA** and **SBC NEVADA,** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.

1.6 **SBC-8STATE** - As used herein, **SBC-8STATE** means **SBC SOUTHWEST REGION 5-STATE, SBC CALIFORNIA, SBC NEVADA** and **SBC CONNECTICUT** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.

1.7 **SBC-10STATE** - As used herein, **SBC-10STATE** means **SBC SOUTHWEST REGION 5-STATE** and **SBC MIDWEST REGION 5-STATE** an the applicable SBC-owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas, and Wisconsin.

1.8 **SBC-12STATE** - As used herein, **SBC-12STATE** means **SBC SOUTHWEST REGION 5-STATE, SBC MIDWEST REGION 5-STATE** and **SBC-2STATE** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

1.9 **SBC-13STATE** - As used herein, **SBC-13STATE** means **SBC SOUTHWEST REGION 5-STATE, SBC MIDWEST REGION 5-STATE, SBC-2STATE** and **SBC CONNECTICUT** the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

1.10 **SBC ARKANSAS -** As used herein, **SBC ARKANSAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, the applicable SBC-owned ILEC doing business in Arkansas.

1.11 **SBC CALIFORNIA –** As used herein, **SBC CALIFORNIA** means Pacific Bell Telephone Company d/b/a SBC California, the applicable SBC-owned ILEC doing business in California.

1.12 **SBC CONNECTICUT -** As used herein, **SBC CONNECTICUT** means The Southern New England Telephone Company d/b/a SBC Connecticut, the applicable above listed ILEC doing business in Connecticut.

1.13 **SBC KANSAS** - As used herein, **SBC KANSAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Kansas, the applicable SBC-owned ILEC doing business in Kansas.

1.14 **SBC ILLINOIS -** As used herein, **SBC ILLINOIS** means Illinois Bell Telephone Company d/b/a SBC Illinois, the applicable SBC-owned ILEC doing business in Illinois.

1.15 **SBC INDIANA -** As used herein, **SBC INDIANA** means Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, the applicable SBC-owned ILEC doing business in Indiana.

1.16 **SBC MICHIGAN -** As used herein, **SBC MICHIGAN** means Michigan Bell Telephone Company d/b/a SBC Michigan, the applicable SBC-owned doing business in Michigan.

1.17 **SBC MIDWEST REGION 5-STATE** - As used herein, **SBC MIDWEST REGION 5-STATE** means Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

1.18 **SBC MISSOURI -** As used herein, **SBC MISSOURI** means Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, the applicable SBC-owned ILEC doing business in Missouri.

1.19 **SBC NEVADA -** As used herein, **SBC NEVADA** means Nevada Bell Telephone Company d/b/a SBC Nevada, the applicable SBC-owned ILEC doing business in Nevada.

1.20 **SBC OHIO -** As used herein, **SBC OHIO** means The Ohio Bell Telephone Company d/b/a SBC Ohio, the applicable SBC-owned ILEC doing business in Ohio.

1.21 **SBC OKLAHOMA -** As used herein, **SBC OKLAHOMA** means Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma, the applicable SBC-owned ILEC doing business in Oklahoma.

1.22 **SBC SOUTHWEST REGION 5-STATE** - As used herein, **SBC SOUTHWEST REGION 5-STATE** means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.

1.23 **SBC TEXAS** – As used herein, **SBC TEXAS** means Southwestern Bell Telephone, L.P. d/b/a SBC Texas, the applicable SBC-owned ILEC doing business in Texas.

1.24 **SBC WISCONSIN -** As used herein, **SBC WISCONSIN** means Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC doing business in Wisconsin.

1.25 The prices at which SBC agrees to provide CLEC with Resale Services are contained in the applicable Appendix Pricing and/or the applicable Commission ordered tariff where stated.

2. DESCRIPTION AND CHARGES FOR SERVICES

2.1 Resale services are available in accordance with section 251(C)(4) of the Act and consistent with Section 2.12.1.3 of the General Terms and conditions of the Agreement.

2.2 A list of Telecommunications Services currently available for resale at the wholesale discount rate for each service determined by the appropriate Commission is set forth in Appendix Pricing. Except as otherwise expressed herein, consistent with **SBC-13STATE**'s obligation under Section 251(c)(4)(A) of the Act and any other applicable limitations or restrictions, CLEC may resell other Telecommunications Services offered at retail by **SBC-13STATE** at the discount set forth in Appendix Pricing.

2.2.1 This section applies only to **SBC KANSAS**:

2.2.1.1 CLEC shall select either (1) a uniform rate structure or (2) a three-tier discount structure based on lines, vertical features and toll. The three-tier discount structure will be made available upon written request from CLEC negotiating an interconnection agreement with **SBC KANSAS**.

2.3 **SBC-13STATE** will offer products and services to CLEC for resale pursuant to relevant decisions of the appropriate Commission.

2.4 Telecommunications Services will be offered by **SBC-13STATE** to CLEC for resale on terms and conditions that are reasonable and nondiscriminatory.

2.5 Grandfathered services are available per appropriate state specific tariff to CLEC for resale at the applicable discount only to the same End User, at the existing End User's location, to which **SBC-13STATE** provides the service, either at retail or through resale.

3. TERMS AND CONDITIONS OF SERVICE

3.1 Except as otherwise expressly provided herein, for Telecommunications Services included within this Appendix that are offered by **SBC-13STATE** to **SBC-13STATE**'s End Users through tariff(s), the rules and regulations associated with **SBC-13STATE**'s retail tariff(s) shall apply when the services are resold by CLEC, with the exception of any tariff resale restrictions; provided, however, any tariff restrictions on further resale by the End User shall continue to apply. Use limitations shall be in parity with services offered by **SBC-13STATE** to its End Users.

3.2 CLEC shall only sell Plexar®, Centrex and Centrex-like services to a single End User or multiple End User(s) in accordance with the terms and conditions set forth in the corresponding **SBC-13STATE** retail tariff(s) applicable within that state.

3.3 Except where otherwise explicitly permitted in **SBC-13STATE**'s corresponding retail tariff(s), CLEC shall not permit the sharing of a service by multiple End User(s) or the aggregation of traffic from multiple End User(s) onto a single service.

3.3.1 This section applies only to **SBC TEXAS**:

3.3.1.1 Within the State of Texas, based upon the Texas Commission's arbitration order, **SBC TEXAS** will permit aggregation for purposes of the resale of volume discount offers. Volume discount offers include such items as intraLATA toll, but do not include such items as packages of vertical features.

3.4 CLEC shall only resell services furnished under this Appendix to the same category of End User(s) to whom **SBC-13STATE** offers such services (for example, residence service shall not be resold to business End Users).

3.4.1 **SBC-13STATE** - CLEC may only resell special needs services" as identified in associated state specific tariffs to persons who are eligible for each such service. As used herein, the term "special needs services" means services for the physically disabled where the disability is related to vision, speech, hearing or motion. Further, to the extent CLEC resells services that require certification on the part of the End User, CLEC shall ensure that the End User has obtained proper certification, continues to be eligible for the program(s), and complies with all rules and regulations as established by the appropriate Commission and the state specific **SBC-13STATE** tariffs.

3.4.2 This section applies only to **SBC SOUTHWEST REGION 5-STATE**: **SBC WISCONSIN**, **SBC OHIO and SBC INDIANA**

3.4.2.1 Where available for resale according to associated retail state specific tariffs, CLEC may only resell **SBC SOUTHWEST REGION 5-STATE, SBC WISCONSIN**, **SBC OHIO** and **SBC INDIANA** low income assistance services, (e.g. LifeLine and Link-Up services), to persons who are eligible for each such service. Further, to the extent CLEC resells services that require certification on the part of the End User, CLEC shall ensure that the End User meets all associated tariff eligibility requirements, has obtained proper certification, continues to be eligible for the program(s), and complies with all rules and regulations as established by the appropriate Commission and the state specific **SBC SOUTHWEST REGION 5-STATE**, **SBC WISCONSIN**, **SBC OHIO** and **SBC INDIANA** tariffs.

3.4.3 This section applies only to **SBC CALIFORNIA, SBC CONNECTICUT** and **SBC ILLINOIS:**

3.4.3.1 **SBC CALIFORNIA, SBC CONNECTICUT** and **SBC ILLINOIS** LifeLine and Link-Up services are not available for resale.

3.4.3.2 CLEC is exclusively responsible for all aspects of any similar CLEC-offered program, including ensuring that any similar CLEC-offered program(s) complies with all applicable federal and state requirements, obtaining all necessary End User certifications and re-certifications, submitting written designation that any of CLEC's End User or applicants are eligible to participate in such programs, submitting CLEC's claims for reimbursement to any applicable governmental authority and any other activities required by any applicable governmental authority.

3.4.4 This section applies only to **SBC NEVADA:**

3.4.4.1 **SBC NEVADA** low income assistance services, (e.g., LifeLine and Link-Up services) are available for resale for a maximum period of 90 days from contract approval date. The CLEC has 90 days from the contract approval date to coordinate with the appropriate federal and state government agencies to establish the CLEC's own low income assistance service(s). At the end of the 90 day period, CLEC is responsible for initiating Local Service Requests (LSR) to the ILEC for converting any existing ILEC Customer Service Records (CSR) from low income designated services to normal residential service. CLEC will be responsible for designating it own billing records and establishing and administering its low income assistance services internally.

3.4.4.2 CLEC is exclusively responsible for all aspects of any similar CLEC-offered program, including ensuring that any similar CLEC-offered program(s) complies with all applicable federal and state requirements, obtaining all necessary End User certifications and re-certifications, submitting written designation that any of CLEC's End User or applicants are eligible to participate in such programs, submitting CLEC's claims for reimbursement to any applicable governmental authority and any other activities required by any applicable governmental authority.

3.5 Promotions

3.5.1 Promotions are available for the Telecommunications Services outlined in Appendix Pricing in the "Resale" category and in accordance with state specific Commission requirements.

3.5.2 This section applies only to **SBC NEVADA** and **SBC MISSOURI**:

3.5.2.1 Promotions of eighty-nine (89) days or less are not available to CLEC for resale.

3.5.2.2 Promotions of ninety (90) days or more are available to CLEC for resale at the applicable wholesale discount, state specific.

3.5.3 This section applies only to **SBC CALIFORNIA**, **SBC MIDWEST REGION 5-STATE**, **SBC CONNECTICUT** and **SBC ARKANSAS**

3.5.3.1 Promotions of ninety (90) days or less are not available to CLEC for resale.

3.5.3.2 Promotions of ninety-one (91) days or more are available to CLEC for resale and at the applicable wholesale discount, state specific.

3.5.4 This section applies only to **SBC KANSAS**, **SBC TEXAS** and **SBC OKLAHOMA**:

3.5.4.1 Promotions on Telecommunications Services are available to CLEC for resale. The applicable, state specific, wholesale discount will be applied to those promotions of ninety-one (91) days or more.

3.6 CLEC shall not use a resold service to avoid the rates, terms and conditions of **SBC-13STATE**'s corresponding retail tariff(s).

3.7 CLEC shall not use resold local Telecommunications Services to provide access or interconnection services to itself, interexchange carriers (IXCs), wireless carriers, competitive access providers (CAPs), or other telecommunications providers; provided, however, that CLEC may permit its End Users to use resold local exchange telephone service to access IXCs, wireless carriers, CAPs, or other retail telecommunications providers.

3.8 A Federal End User Common Line charge and any other appropriate Commission-approved charges, as set forth in the appropriate **SBC-13STATE** federal and applicable state tariff(s) will apply to each local exchange line furnished to CLEC under this Appendix for resale.

3.9 To the extent allowable by law, CLEC shall be responsible for Primary Interexchange Carrier (both PIC and LPIC) change charges associated with each local exchange line furnished to CLEC for resale. CLEC shall pay all charges for PIC and LPIC changes at the tariffed rate(s).

3.10 **SBC-13STATE** shall provide the services covered by this Appendix subject to availability of existing facilities and on a nondiscriminatory basis with its other customers. CLEC shall resell the services provided herein only in those service areas in which such resale services or any feature or capability thereof are offered to End Users at retail by **SBC-13STATE** as the incumbent local exchange carrier.

3.11 When an End User converts existing service to CLEC resold service of the same type without any additions or changes, charges for such conversion will apply as set forth in Appendix Pricing in the "OTHER (Resale)" category, listed as "conversion charges," and are applied per billable telephone number.

3.11.1 When an End User(s) subscribes to CLEC resold service, recurring charges for the service shall apply at the wholesale discount set forth in Appendix Pricing. The tariff rates for such resold service shall continue to be subject to orders of the appropriate Commission.

3.11.2 When CLEC converts an End User(s) existing service and additions or changes are made to the service at the time of the conversion, the normal service order charges and/or non-recurring charges associated with said additions and/or changes will be applied in addition to the conversion charge. CLEC will receive a wholesale discount on all non-recurring service order charges for the services listed in Appendix Pricing under the heading "Resale;" no wholesale discount is available for the non-recurring service order charges for those services listed in Appendix Pricing under the heading "OTHER (Resale)."

3.11.3 For the purposes of ordering service furnished under this Appendix, each request for new service (that is, service not currently being provided to the End User on **SBC-13STATE**'s network, without regard to the identity of that End User's non-facilities based local service provider of record) shall be handled as a separate initial request for service and shall be charged per billable telephone number.

3.11.4 Where available, the tariff retail additional line rate for Service Order Charges shall apply only to those requests for additional residential service to be provided at the same End User premises to which a residential line is currently provided on **SBC-13STATE**'s network, without regard to the identity of that End User's non-facilities based local service provider of record.

3.12 If CLEC is in violation of any provision of this Appendix, **SBC-13STATE** will notify CLEC of the violation in writing. Such notice shall refer to the specific provision being violated. CLEC will have thirty (30) calendar days to correct the violation and notify **SBC-13STATE** in writing that the violation has been corrected. **SBC-13STATE** will bill CLEC a sum equal (i) the charges that would have been billed by **SBC-13STATE** to CLEC or any Third Party but for the stated violation and (ii) the actual revenues CLEC billed its End User(s) in connection with the stated violation, whichever is greater. Should CLEC dispute the stated violation, CLEC must notify **SBC-13STATE** in writing of the specific details and reasons for its dispute within fourteen (14) calendar days of receipt of the notice from **SBC-13STATE** and comply with Sections 8.3 through 8.7 of the General Terms and Conditions of the Agreement to which this Appendix is attached. Resolution of any dispute by CLEC of the stated violation shall be conducted in compliance with the Dispute Resolution provisions set forth in the General Terms and Conditions of the Agreement to which this Appendix is attached.

3.13 **SBC-13STATE**'s services are not available at wholesale rates to CLEC for its own use or for the use of any of CLEC's affiliates and/or subsidiaries or the use of CLEC's parent or any affiliate and/or subsidiary of CLEC's parent company, if any.

3.14 This section applies only to **SBC SOUTHWEST REGION 5-STATE**:

3.14.1 CLEC may convert current **SBC SOUTHWEST REGION 5-STATE** End User(s) that have existing term, volume, termination liability or any customer specific pricing contracts (collectively referred to hereinafter as "CSP Contracts") for services offered within the state of Kansas or Texas, and

3.14.2 **SBC SOUTHWEST REGION 5-STATE** and any other reseller of **SBC SOUTHWEST REGION 5-STATE** local service may convert current CLEC End User(s) that have existing CSP Contracts for services offered within the states of Arkansas, Kansas, Texas, Oklahoma or Missouri.

3.14.3 In the event of a conversion under either Section 3.14.1 or 3.14.2, CLEC and **SBC SOUTHWEST REGION 5-STATE** shall comply with all of the terms and conditions set forth in Sections 3.14.4 and 3.14.5.

3.14.4 Responsibilities of CLEC in connection with Assumption of CSP Contract Conversions.

3.14.4.1 CLEC shall sign an "Assumption of Existing Agreement" assuming the balance of the terms, including volume, term and termination liability remaining on any current retail **SBC SOUTHWEST REGION 5-STATE** or resold End User CSP Contract at the time of conversion. CLEC may assume the CSP Contract at the wholesale discount of 5.0% in Arkansas and Kansas and 5.62% in Texas. CLECs may assume tariffed volume and term contracts at the wholesale discount of 8.0% in the states of Arkansas and Kansas and 8.04% in the state of Texas.

3.14.4.2 **SBC OKLAHOMA and SBC MISSOURI** tariffed and Individual Case Basis (ICB) contracts may be assumed, but receive no wholesale discount.

3.14.4.3 CLEC shall not charge CLEC's End User termination liability when an existing CSP contract between CLEC and its End User is converted to **SBC SOUTHWEST REGION 5-STATE** or any other local service provider reselling **SBC SOUTHWEST REGION 5-STATE** local service.

3.14.4.4 If another reseller of **SBC SOUTHWEST REGION 5-STATE** local service converts a current CLEC End User(s) that has an existing CSP Contract, it is CLEC's responsibility to address assumption of the CSP contact and termination liability with the other reseller. CLEC agrees that **SBC SOUTHWEST REGION 5-STATE** has no responsibilities in such a situation, and CLEC further agrees that it will not make any Claim against **SBC SOUTHWEST REGION 5-STATE** in connection with any conversion by another reseller of **SBC SOUTHWEST REGION 5-STATE** local service of any CLEC End User(s) that has an existing CSP contract.

3.14.5 Responsibilities of **SBC SOUTHWEST REGION 5-STATE** in connection with Assumptions of CSP Contract Conversions:

3.14.5.1 **SBC SOUTHWEST REGION 5-STATE** will not charge its retail End User termination liability when an existing CSP contract is converted to CLEC for resale.

3.14.5.2 **SBC SOUTHWEST REGION 5-STATE** will assume in writing the balance of the terms, including volume, term and termination liability remaining on a current CSP contract between CLEC and its End User at the time that CLEC's End User is converted to **SBC SOUTHWEST REGION 5-STATE**.

3.15 This section applies only to **SBC MIDWEST REGION 5-STATE**:

3.15.1 **SBC MIDWEST REGION 5-STATE** retail contracts may be assumed unless expressly prohibited by the contract. Contracts for grandfathered and/or sunsetted services may not be assumed.

3.15.2 Subject to the provisions of Section 3.15.1, the following shall apply:

3.15.2.1 **SBC ILLINOIS** tariffed and Individual Case Basis (ICB) contracts that are assumed receive a wholesale discount of 3.16%.

3.15.2.2 **SBC MICHIGAN** tariffed and Individual Case Basis (ICB) contracts that are assumed receive a wholesale discount of 3.42%.

3.15.2.3 **SBC OHIO**, and **SBC WISCONSIN** tariffed and Individual Case Basis (ICB) contracts may be assumed, but receive no wholesale discount.

3.15.2.4 **SBC INDIANA** tariffed and Individual Case Basis (ICB) contracts that are assumed will receive an interim wholesale discount of 3.39%. Final wholesale discount will be applied on a going forward basis awaiting the outcome of the pending cost study.

3.15.2.5 **SBC MIDWEST REGION 5-STATE** Non-Standard Service contracts may be assumed, but receive no wholesale discount.

3.15.3 If CLEC elects to terminate a **SBC MIDWEST REGION 5-STATE** retail contract which CLEC had previously assumed, CLEC will be assessed the applicable termination charges remaining unless CLEC elects to simultaneously replace the existing contract with a contract of greater term and/or volume at the same discount CLEC receives for the previously assumed but now terminated contract.

4. ANCILLARY SERVICES

4.1 Where available, **SBC-13STATE** will afford CLEC's End Users the ability to make 911 calls. In the areas served by **SBC-8STATE**, CLEC shall be responsible for collecting and remitting all applicable 911 fees and surcharges on a per line basis to the appropriate Public Safety Answering Point (PSAP) or other governmental authority responsible for collection of such fees and surcharges. When requested by **SBC-13STATE**, CLEC shall provide **SBC-13STATE** with accurate and complete information regarding CLEC's End User(s) in a format and time frame prescribed by **SBC-13STATE** for purposes of E911 administration. In the areas served by **SBC MIDWEST REGION 5-STATE**, any 911 fees or surcharges associated with Resale accounts shall be included by **SBC MIDWEST REGION 5-STATE** on CLEC's invoice and CLEC agrees to pay Ameritech all such fees and surcharges. **SBC MIDWEST REGION 5-STATE** shall then be responsible for submitting or retaining such fees and surcharges in accordance with the approriate 911 cost recovery plan applicable to the local jurisdiction.

4.1.1 Should any CLEC End User assert any Claim that relates to access to 911, the limitations of liability set forth in Appendix 911, which is attached to the General Terms and Conditions of the Agreement to which this Appendix is attached, shall govern all Claims that may be asserted against any Party to this Appendix relating to access to 911, whether such assertion is made by the other Party or any Third Party, and such provisions are incorporated herein for all purposes as though set forth herein.

4.2 Subject to **SBC-13STATE**'s practices, as well as the rules and regulations applicable to the provision of White Pages directories, **SBC-13STATE** will include in appropriate White Pages directories the primary alphabetical listings of all CLEC End Users located within the local directory scope. The rules, regulations and **SBC-13STATE** practices are subject to change from time to time.

4.3 Additional Listing services, as set forth in Appendix Pricing, may be purchased by CLEC for its End Users on a per listing basis.

4.4 Liability relating to End User Listings

4.4.1 CLEC hereby releases **SBC-13STATE** from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided to **SBC-13STATE** under this Appendix, and/or CLEC's End User listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, consequential, punitive or incidental damages.

4.4.2 In addition to any other indemnity obligations in this Appendix or the Agreement to which this Appendix is attached, CLEC shall indemnify, protect, save harmless and defend **SBC-13STATE** and **SBC-13STATE**'s officers, employees, agents, representatives and assigns from and against any and all losses, liability, damages and expense arising out of any demand, claim, suit or judgment by a Third Party in any way related to any error or omission in CLEC's End User listing information,

including any error or omission related to non-published or non-listed End User listing information. CLEC shall so indemnify regardless of whether the demand, claim or suit by the third party is brought jointly against CLEC and **SBC-13STATE**, and/or against **SBC-13STATE** alone. However, if such demand, claim or suit specifically alleges that an error or omission appears in CLEC's End User listing information in the White Pages directory, **SBC-13STATE** may, at its option, assume and undertake its own defense, or assist in the defense of the CLEC, in which event the CLEC shall reimburse **SBC-13STATE** for reasonable attorney's fees and other expenses incurred by **SBC-13STATE** in handling and defending such demand, claim and/or suit.

4.5 Each CLEC subscriber will receive one copy per primary End User listing of **SBC-13STATE**'s White Pages directory in the same manner and at the same time that they are delivered to **SBC-13STATE**'s subscribers.

4.5.1 If CLEC's End User already has a current **SBC-13STATE** local White Pages directory, **SBC-13STATE** shall not be required to deliver a directory to that End User until new White Pages directories are published for that End User's location.

4.6 **SBC-8STATE** will provide CLEC with 1/8th page in each directory (where the CLEC has or plans to have local telephone exchange customers) for the CLEC to include CLEC specific-information (i.e., business office, residence office, repair bureau, etc.) in the White Pages directory on an "index-type" informational page. No advertising will be permitted on such informational page. This page will also include specific information pertaining to other CLECs. At its option, CLEC shall provide **SBC-8STATE** with its logo and information in the form of a camera-ready copy, sized at 1/8th of a page. The content of CLEC's camera-ready copy shall be subject to **SBC-8STATE** approval. In those directories in which **SBC-8STATE** includes Spanish Customer Guide Pages, this informational page will also be provided in Spanish at CLEC's request, subject to the guidelines set forth above.

4.7 At its request, CLEC may purchase one one-sided "Informational Page" in the informational section of the White Pages directory covering a geographic area where CLEC provides local telecommunications exchange service. Such page shall be no different in style, size, color and format than **SBC-8STATE** "Informational Page". Sixty (60) calendar days prior to the directory close date, the CLEC shall provide to **SBC-8STATE** the "Informational Page" in the form of camera-ready copy.

4.8 Subject to any blocking that may be ordered by CLEC for its End Users', to the extent Directory Assistance (DA) services are provided to **SBC-13STATE** End Users, **SBC-13STATE** shall provide CLEC's End Users access to **SBC-13STATE** Directory Assistance services. CLEC shall pay **SBC-13STATE** the charges attributable to Directory Assistance services utilized by CLEC's End Users.

4.9 Subject to any blocking that may be ordered by CLEC for its End Users', **SBC-13STATE** will provide access to Operator Services ("OS") to CLEC's End Users to the same extent it provides OS to its own End Users. CLEC shall pay the charges associated with the utilization of OS by CLEC's End Users. Discounts associated with the utilization of OS are set forth in Appendix Pricing.

4.10 **SBC-13STATE** offers CLEC the opportunity to customize route its End Users' OS/DA calls where technically feasible.

4.11 OS/DA Branding

4.11.1 Where technically feasible and/or available, **SBC-13STATE** will brand Operator Services (OS) and/or Directory Assistance (DA) in CLEC's name as outlined below:

4.11.2 Call Branding

4.11.2.1 **SBC-13STATE** will brand OS/DA in CLEC's name based upon the information provided by CLEC and as outlined below:

4.11.3 **SBC-13STATE** – CLEC will provide written specifications of its company name to be used by **SBC-13STATE** to create CLEC specific branding announcements for its OS/DA calls in accordance with the process outlined in the Operator Services OS/DA Questionnaire (OSQ).

4.11.4 CLEC name used in branding calls may be subject to Commission regulations and should match the name in which CLEC is doing business.

4.12 Branding Load Charges:

4.12.1 **SBC SOUTHWEST REGION 5-STATE** – An initial non-recurring charge applies per state, per brand, per Operator assistance switch for the establishment of CLEC specific branding. An additional non-recurring charge applies per state, per brand, per Operator assistance switch for each subsequent change to the branding announcement. In addition, a per call charge applies for every OS/DA call handled by **SBC SOUTHWEST REGION 5-STATE** on behalf of CLEC when multiple brands are required on a single Operator Services trunk. This charge is set forth in Appendix Pricing under the "OTHER (Resale)" category.

4.12.1.1 **SBC MIDWEST REGION 5-STATE –** An initial non-recurring charge applies per brand, per Operator Assistance Switch, per trunk group for the establishment of CLEC specific branding. In addition, a per call charge applies for every OS call handled by **SBC MIDWEST REGION 5-STATE** on behalf of CLEC when such services are provided. An additional non-recurring charge applies per brand, per Operator assistance switch, per trunk group for each subsequent change to the branding announcement.

4.12.1.2 **SBC-2STATE –** An initial non-recurring charge applies per state, per brand, per Operator assistance switch, for the establishment of CLEC specific branding. An additional non-recurring charge applies per state, per brand, per Operator assistance switch for each subsequent change to the branding announcement.

4.12.1.3 **SBC CONNECTICUT** – An initial non-recurring charge applies per brand, per load, per Operator assistance switch for the establishment of CLEC specific branding. An additional non-recurring charge applies per brand, per load, per Operator assistance switch for each subsequent change to the branding announcement.

5. OS/DA RATE/REFERENCE INFORMATION

5.1 When an **SBC-12STATE** Operator receives a rate request from a CLEC End User, where technically feasible and available, **SBC-12STATE** will quote the applicable OS/DA rates as provided by the CLEC.

5.2 **SBC CONNECTICUT** - until technically feasible and/or available, when a **SBC CONNECTICUT** Operator receives a rate request from a CLEC end user, **SBC CONNECTICUT** will quote the surcharge rate only.

5.3 CLEC will furnish OS/DA Rate and Reference Information in accordance with the process outlined in the Operator Services Questionnaire (OSQ). CLEC will furnish to **SBC-13STATE** a completed OSQ thirty (30) calendar days in advance of the date when the DA Services are to be undertaken.

5.4 CLEC will inform **SBC-12STATE**, via the Operator Services Questionnaire (OSQ) of any changes to be made to such Rate/Reference Information fourteen calendar days prior to the effective Rate/Reference change date. CLEC acknowledges that it is responsible to provide **SBC-12STATE** updated Rate/Reference Information in advance of when the Rate/Reference Information is to become effective.

5.5 An initial non-recurring charge will apply per state, per Operator assistance switch for loading of CLEC's OS Reference/Rater information. An additional non-recurring charge will apply per state, per Operator assistance switch for each subsequent change to either the CLEC's OS Reference or Rater information.

5.6 Payphone Services

5.6.1 CLEC may provide certain local Telecommunications Services to payphone service providers ("PSPs") for PSPs' use in providing payphone service. Local Telecommunications Services which PSPs use in providing payphone service that are provided to PSPs by CLEC by means of reselling **SBC-13STATE**'s services offered pursuant to the appropriate payphone section(s) of **SBC-13STATE**'s state specific tariff(s) applicable in each state covered by this Appendix are referred to in this Appendix as "Payphone Lines." In its Common Carrier Docket No. 96-128, the FCC ordered **SBC-13STATE** to compensate PSP customers of CLECs that resell **SBC-13STATE**'s services for

certain calls originated from pay telephones. (Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, FCC Docket No. 96-128, Report and Order, para. 86 (1996)). This compensation is referred to in this Agreement as "Payphone Compensation."

5.6.2 The Parties desire that **SBC-13STATE** satisfy the obligation to pay Payphone Compensation to PSPs that are customers of CLEC by paying the Payphone Compensation to CLEC, who will then forward the Payphone Compensation directly to the PSPs.

5.6.3 **SBC-13STATE** will pay Payphone Compensation due with respect to Payphone Lines in compliance with the current or any future order of the FCC. **SBC-13STATE** will pay Payphone Compensation to CLEC only for:

5.6.3.1 IntraLATA subscriber 800 calls for which **SBC-13STATE** provides the 800 service to the subscriber and carries the call; and

5.6.3.2 IntraLATA calls placed using **SBC-13STATE**'s prepaid calling card platform and carried by **SBC-13STATE**.

5.6.4 **SBC-13STATE** will not be required to pay any Payphone Compensation for non-sent paid calls.

5.6.5 **SBC-13STATE** will pay CLEC the Payphone Compensation due to CLEC's PSP customer(s) within sixty (60) calendar days after the close of the calendar quarter during which the call(s) for which Payphone Compensation is due were made. However, payment may be made later than sixty (60) calendar days if **SBC-13STATE** deems it necessary to investigate a call or calls for possible fraud.

5.6.6 **SBC-13STATE** will make payment of any Payphone Compensation due to CLEC under this Appendix by crediting CLEC's bill for the Payphone Line over which the call that gives rise to the Payphone Compensation was placed. **SBC-13STATE** will not automatically issue a check to CLEC if the credit for Payphone Compensation exceeds the balance due to **SBC-13STATE** on the bill.

5.6.7 Nothing in this Appendix entitles CLEC to receive or obligates **SBC-13STATE** to provide any call detail or other call record for any call that gives rise to Payphone Compensation.

5.6.8 CLEC represents and warrants that the only **SBC-13STATE** services that CLEC will make available to PSPs as Payphone Lines are the payphone services that **SBC-13STATE** offers pursuant to the appropriate payphone section(s) of **SBC-13STATE**'s state specific tariff(s) applicable in each state covered by this Appendix.

5.6.9 Except as provided otherwise in this Section 4.9.9, CLEC shall pay the entire amount of the Payphone Compensation due with respect to each Payphone Line to the PSP that is the CLEC's customer for that Payphone Line. CLEC shall make such payment on or before the last business day of the calendar quarter following the calendar quarter during which the call(s) for which Payphone Compensation is due to the PSP were made. If **SBC-13STATE** pays any Payphone Compensation to CLEC later than sixty (60) calendar days after the close of the calendar quarter during which the call(s) for which Payphone Compensation is due were made, then CLEC shall pay the entire amount of such Payphone Compensation to the PSP that is CLEC's customer for that Payphone Line within ten (10) calendar days after receiving such Payphone Compensation from **SBC-13STATE**.

5.6.10 In addition to any other indemnity obligations in this Appendix or in the Agreement to which this Appendix is attached, CLEC shall indemnify, protect, save harmless and defend **SBC-13STATE** and **SBC-13STATE**'s officers, employees, agents, representatives and assigns from and against any and all losses, costs, liability, damages and expense (including reasonable attorney's fees) arising out of any demand, claim, suit or judgment by any Third Party, including a PSP, in any way relating to or arising from any of the following:

5.6.10.1 CLEC's failure to comply with all the terms and conditions of this Appendix; or

5.6.10.2 Use by a PSP customer of CLEC of any service other than a Payphone Line to provide pay telephone service; or

5.6.10.3 False representation by CLEC.

5.7 Suspension of Service

5.7.1 CLEC may offer to resell Customer Initiated Suspension and Restoral Service to its End Users at the associated state specific retail tariff rates, terms and conditions for suspension of service at the request of the End User.

5.7.2 **SBC-13STATE** will offer CLEC local service provider initiated suspension service for CLEC's purposes at the associated **SBC-13STATE** state specific retail tariff rate for company initiated suspension of service. Service specifics may be obtained in state specific CLEC Handbooks.

5.7.2.1 CLEC shall be exclusively responsible for placing valid orders for the suspension and the subsequent disconnection or restoral of service to each of its End Users.

5.7.2.2 Should CLEC suspend service for one of its End Users and fail to submit a subsequent disconnection order within the maximum number of calendar days permitted for a company initiated suspension pursuant to the state specific retail tariff, CLEC shall be charged and shall be responsible for all appropriate monthly service charges for the End User's service from the suspension date through the disconnection date.

5.7.2.3 Should CLEC suspend service for one of its End Users and subsequently issue a restoral order, CLEC shall be charged the state specific tariff rate for the restoral plus all appropriate monthly service charges for the End User's service from the suspension date through the restoral date.

6. USE OF SBC BRAND

6.1 Except where otherwise required by law, CLEC shall not, without **SBC-13STATE**'s prior written authorization, offer the services covered by this Appendix using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of **SBC-13STATE** or its Affiliates, nor shall CLEC state or imply that there is any joint business association or similar arrangement with **SBC-13STATE** in the provision of Telecommunications Services to CLEC's customers.

7. RESPONSIBILITIES OF SBC-13STATE

7.1 **SBC-13STATE** shall allow CLEC to place service orders and receive phone number assignments (for new lines). These activities shall be accomplished by facsimile or electronic interface. **SBC-13STATE** shall provide interface specifications for electronic access for these functions to CLEC. However, CLEC shall be responsible for modifying and connecting any of its systems with **SBC-13STATE**-provided interfaces, as outlined in Appendix OSS.

7.2 **SBC-13STATE** shall implement CLEC service orders within the same time intervals **SBC-13STATE** uses to implement service orders for similar services for its own End Users.

7.2.1 Methods and procedures for ordering are outlined in the CLEC Handbook, available on-line, as amended by **SBC-13STATE** in its sole discretion from time to time. All Parties agree to abide by the procedures contained therein.

7.3 CLEC will have the ability to report trouble for its End Users to the appropriate **SBC-13STATE** trouble reporting center(s) twenty-four (24) hours a day, seven (7) days a week. CLEC will be assigned customer contact center(s) when initial service agreements are made. CLEC End Users calling **SBC-13STATE** will be referred to CLEC at the number provided by CLEC. Nothing herein shall be interpreted to authorize CLEC to repair, maintain, or in any way touch **SBC-13STATE**'s network facilities, including those on End User premises.

7.3.1 Methods and procedures for trouble reporting are outlined in the CLEC Handbook, available on-line, as amended by **SBC-13STATE** in its sole discretion from time to time. All Parties agree to abide by the procedures contained therein.

7.4 **SBC-13STATE** will provide CLEC with detailed billing information necessary for CLEC to issue bill(s) to its End User(s). CLEC has the option of receiving a daily usage file ("DUF") in accordance with the terms and conditions set forth in Section 8.8 of the General Terms and Conditions of the Agreement to which this Appendix is attached. Should CLEC elect to subscribe to the DUF, CLEC agrees to pay **SBC-13STATE** the charges specified in Appendix Pricing under the "OTHER (Resale)" category listed as "Electronic Billing Information Data (daily usage) (per message)."

7.5 **SBC-13STATE** shall make Telecommunications Services that **SBC-13STATE** provides at retail to subscribers who are not Telecommunications Carriers available for resale consistent with the obligation under Section 251(c)(4)(A) of the Act and other applicable limitations. **SBC-13STATE** will notify CLEC of any changes in the terms and conditions under which **SBC-13STATE** offers Telecommunications Services at retail to subscribers who are not Telecommunications Carriers, including but not limited to, the introduction of any new features, functions, services, promotions, grandfathering or the discontinuance of current features or services at the time a tariff filing is transmitted to the appropriate State Commission, or, in situations where a tariff filing is not so transmitted, within sixty (60) calendar days of the expected effective date of such change.

7.5.1 **SBC-13STATE** currently makes such notification as described in Section 17.2 of the General Terms and Conditions of the Agreement to which this Appendix is attached. Notification of any new service available to CLEC for resale shall advise CLEC of the category in which such new service shall be placed, and the same discount already applicable to CLEC in that category shall apply to the new service.

7.6 CLEC's End User's activation of Call Trace shall be handled by the **SBC-13STATE** operations centers responsible for handling such requests. **SBC-13STATE** shall notify CLEC of requests by its End Users to provide call records to the proper authorities. Subsequent communication and resolution of each case involving one of CLEC's End Users (whether that End User is the victim or the suspect) will be coordinated through CLEC.

7.6.1 CLEC acknowledges that for services where reports are provided to law enforcement agencies (for example, Call Trace) only billing number and address information shall be provided. It shall be CLEC's responsibility to provide additional information necessary for any police investigation.

7.6.1.1 In addition to any other indemnity obligations in this Appendix or the Agreement to which this Appendix is attached, CLEC shall indemnify **SBC-13STATE** against any Claim that insufficient information led to inadequate prosecution.

7.6.2 **SBC-13STATE** shall handle law enforcement requests consistent with the Law Enforcement Section of the General Terms and Conditions of the Agreement to which this Appendix is attached.

7.7 This section applies only to **SBC CALIFORNIA**:

7.7.1 Cooperation on Fraud

7.7.1.1 Traffic Alert Referral Service

7.7.1.1.1 Traffic Alert Referral Service ("TARS") is a service that monitors traffic patterns associated with a CLEC's resold lines. On no less than thirty (30) calendar days written notice, CLEC may order **SBC CALIFORNIA**'s TARS. In providing TARS to CLEC, **SBC CALIFORNIA** notifies the CLEC of traffic abnormalities that indicate the possible occurrence of intraLATA fraud and furnishes to CLEC information on all 1+ alerts. CLEC understands and agrees that **SBC CALIFORNIA** will use electronic mail to provide such information and that such information will only be available via electronic mail at the present time. It is the responsibility of CLEC to provide **SBC CALIFORNIA** with the correct email address. Information will be provided on a per-alert basis and will be priced on a per-alert basis. **SBC CALIFORNIA** grants to CLEC a non-exclusive right to use the information provided by **SBC CALIFORNIA**. LEC will not permit anyone but its duly authorized employees or agents to inspect or use this information.

CLEC agrees to pay **SBC CALIFORNIA** a recurring usage rate as set forth in Appendix Pricing in the "OTHER (Resale)" category listed as "Traffic Alert Referral Service."

7.7.1.2 CLEC shall be liable for all fraud associated with any resale service to which it subscribes. **SBC CALIFORNIA** takes no responsibility, will not investigate, and will make no adjustments to CLEC's account(s) in cases of fraud or any other related End User dispute.

7.7.1.3 In addition to any other indemnity obligations in this Appendix or in the Agreement to which this Appendix is attached, **SBC CALIFORNIA** shall not be liable for any damages to CLEC or to any other person or entity for **SBC CALIFORNIA**'s actions or the conduct of its employees in providing TARS to CLEC. CLEC shall indemnify, defend, and hold **SBC CALIFORNIA** harmless from any and all claims, lawsuits, costs, damages, liabilities, losses, and expenses, including reasonable attorney fees, resulting from or in connection with CLEC's use of **SBC CALIFORNIA**'s TARS, except when such claims, lawsuits, costs, damages, liabilities, losses, or expenses are proximately caused by the willful misconduct or gross negligence of **SBC CALIFORNIA** or its employees.

7.8 This section applies only to **SBC CALIFORNIA**:

7.8.1 **SBC CALIFORNIA** will make available to CLEC an optional service, Repair Transfer Service ("RTS"). In the event a CLEC's End User dials 611 (811-8081 for Priority Business customers) for repair, **SBC CALIFORNIA** will provide a recorded announcement of the CLEC name and number and **SBC CALIFORNIA** will automatically transfer the caller to the CLEC designated 800/888 number for repair service. CLEC must provide written notification to **SBC CALIFORNIA** at least thirty (30) calendar days prior to the implementation of RTS. Written notification must include the CLEC name and 800/888 numbers for RTS to the CLEC repair bureau and business office. There will be no charges associated with the initial set-up for RTS, however, charges will apply to any subsequent changes to the recorded name announcement and telephone number. Rates for subsequent changes are set forth in the Appendix Pricing in the "OTHER (Resale)" category listed as "Repair Transfer Service." Subsequent charges include: Recorded Name Announcement, 800/888 Telephone Number and Name Announcement & Telephone Number.

8. RESPONSIBILITIES OF CLEC

8.1 Prior to submitting an order under this Appendix, CLEC shall obtain End User authorization as required by applicable federal and state laws and regulations, and assumes responsibility for applicable charges as specified in Section 258(b) of the Act. **SBC-13STATE** shall abide by the same applicable laws and regulations.

8.2 Only an End User can initiate a challenge to a change in its local service provider. If an End User notifies **SBC-13STATE** or CLEC that the End User requests local exchange service, the Party receiving such request shall be free to provide service to such End User, except in those instances where the End User's account is local PIC protected. It is the responsibility of the End User to provide authorization in a FCC approved format to the current provider of record to remove local service provider protection before any changes in local service provider are processed.

8.2.1 **SBC-13STATE** shall be free to connect an End User to any competitive local exchange carrier based upon that competitive local exchange carrier's request and that competitive local exchange carrier's assurance that proper End User authorization has been obtained. CLEC shall make any such authorization it has obtained available to **SBC-13STATE** upon request and at no charge.

8.2.1.1 The following applies to **SBC MICHIGAN** only: The Parties will adhere to the requirements adopted by the Commission in its Case No. U-11900 with respect to the selection of primary local exchange carriers and primary interexchange carriers.

8.3 When an End User changes or withdraws authorization, each Party shall release customer-specific facilities in accordance with the End User's direction or the direction of the End User's authorized agent. Further,

when an End User abandons its premise, **SBC-13STATE** is free to reclaim the facilities for use by another customer and is free to issue service orders required to reclaim such facilities.

8.4 Neither Party shall be obligated by this Appendix to investigate any allegations of unauthorized changes in local exchange service (slamming) on behalf of the other Party or a Third Party. If **SBC-13STATE**, on behalf of CLEC, agrees to investigate an alleged incidence of slamming, **SBC-13STATE** shall charge CLEC an investigation fee as set forth in Appendix Pricing in the "OTHER (Resale)" category, listed as "Slamming Investigation Fee."

8.5 Should **SBC-13STATE** receive an order from CLEC for services under this Appendix, and **SBC-13STATE** is currently providing the same services to another local service provider for the same End User, CLEC agrees that **SBC-13STATE** may notify the local service provider from whom the End User is being converted of CLEC's order coincident with or following processing CLEC's order. It shall then be the responsibility of the former local service provider of record and CLEC to resolve any issues related to the End User. This Section 8.5 shall not apply to new or additional lines and services purchased by the End User from multiple CLECs or from **SBC-13STATE**.

8.5.1 If **SBC-13STATE** receives an order from another local service provider to convert services for an End User for whom CLEC is the current local service provider of record, and if CLEC already subscribes to the Local Disconnect Report ("LDR"), covered in Section 8.5.2, then **SBC-13STATE** shall notify CLEC of such order coincident with or following processing such order. It shall be the responsibility of CLEC and the other local service provider to resolve any issues related to the End User. This Section 8.5.1 shall not apply to new or additional lines and services purchased by an End User from multiple CLECs or from **SBC-13STATE**.

8.5.2 On no less than sixty (60) calendar days advance written notice, CLEC may, at its option, subscribe to the LDR. **SBC-13STATE** will furnish the following information via the LDR: the Billing Telephone Number ("BTN"), Working Telephone Number "WTN"), and terminal number of all End Users who have disconnected CLEC's service. Information furnished electronically will be provided daily on a per WTN basis and priced on a per WTN basis. CLEC shall pay **SBC-13STATE** for the LDR per WTN plus any applicable transmission charges for the LDR; current WTN prices are as set forth in Appendix Pricing in the "OTHER (Resale)" category, listed as "Local Disconnect Report." CLEC agrees that **SBC-13STATE** may change the per WTN charge, at **SBC-13STATE**'s sole discretion, so long as **SBC-13STATE** provides CLEC no less than thirty (30) calendar days notice prior to any change in the per WTN charge. **SBC-13STATE** grants to CLEC a non-exclusive right to use the LDR information provided by **SBC-13STATE**. CLEC will not permit anyone but its duly authorized employees or agents to inspect or use this information.

8.6 CLEC is solely responsible for the payment of all charges for all services furnished under this Appendix, including but not limited to, calls originated or accepted at CLEC's location and its End Users' service locations; provided, however, CLEC shall not be responsible for payment of charges for any retail services furnished by **SBC-13STATE** directly to End Users and billed by **SBC-13STATE** directly to End Users.

8.6.1 Interexchange carried traffic (for example, sent-paid, information services and alternate operator services messages) received by **SBC-13STATE** for billing to resold End User accounts will be returned as unbillable and will not be passed to CLEC for billing. An unbillable code will be returned with those messages to the carrier indicating that the messages originated from a resold account and will not be billed by **SBC-13STATE**.

8.7 **SBC-13STATE** shall not be responsible for the manner in which utilization of resold services or the associated charges are allocated to End Users or others by CLEC. All applicable rates and charges for services provided to CLEC under this Appendix will be billed directly to CLEC and shall be the responsibility of CLEC; provided, however, that CLEC shall not be responsible for payment of charges for any retail services furnished by **SBC-13STATE** directly to End Users and billed by **SBC-13STATE** directly to End Users.

8.7.1 Charges billed to CLEC for all services provided under this Appendix shall be paid by CLEC regardless of CLEC's ability or inability to collect from its End Users for such services.

8.8 If CLEC does not wish to be responsible for payment of charges for collect, third number billed, toll and information services (for example, 900) calls, it must order the appropriate blocking for lines provided under this Appendix and pay any applicable charges. It is the responsibility of CLEC to order the appropriate toll restriction or blocking on lines resold to End Users. CLEC acknowledges that blocking is not available for certain types of calls, including 800, 888, 411 and Directory Assistance Express Call Completion. Depending on the origination point, for example, calls originating from correctional facilities, some calls may bypass blocking systems. CLEC acknowledges all such limitations and accepts all responsibility for any charges associated with calls for which blocking is not available and any charges associated with calls that bypass blocking systems.

8.9 CLEC shall be responsible for modifying and connecting any of its systems with **SBC-13STATE**-provided interfaces as described in this Appendix and Appendix OSS.

8.10 CLEC shall be responsible for providing to its End Users and to **SBC-13STATE** a telephone number or numbers that CLEC's End Users may use to contact CLEC in the event that the End User desires a repair/service call.

8.10.1 In the event that CLEC's End Users contact **SBC-13STATE** with regard to repair requests, **SBC-13STATE** shall inform such End Users to call CLEC and may provide CLEC's contact number.

8.11 CLEC acknowledges and agrees that, in the event CLEC makes any "CLEC Change" as that term is defined in Section 4.10 of the General Terms and Conditions of the Agreement to which this Appendix is attached, CLEC shall comply with the provisions set forth in Section 4.10 of the General Terms and Conditions of the Agreement to which this Appendix is attached as though set forth herein.

8.12 CLEC will provide forecasts to **SBC-13STATE** every January and July using the **SBC-13STATE** network information form, or a format mutually agreed to by the Parties. These written forecasts will be based on CLEC's best estimates and will include all resale products CLEC will be ordering within the forecast period.

9. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

9.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. 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 be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

SBC MIDWEST REGION 5-STATE – Compromise Plan Performance Measurements
CLEC Identification and Liquidated Damages Information Form

To ensure proper processing of any Remedy Payments under SBC MIDWEST REGION 5-STATE Compromise Performance Remedy Plan Appendix, this form is required to be submitted. According to section 5.6 of the plan, remedy payments will be made via a bill credit unless otherwise noted on this form. Please refer to the CLEC Website for more information on the Compromise Plan and Performance Measurements. Submission of this form neither proves nor guarantees that Remedy Payments or liquidated damages are due to the CLEC.

A. Activity (Check One Box Below)

New	Change

B. State (Check Appropriate Box(s))

IL	IN	MI	OH	WI

C. CLEC Information (Please provide the following payment information)
You are entitled to payment as a bill credit unless otherwise noted below.

(Check One Box Below)

Bill Credit	Check

D. Identifying Information (Please complete all fields)

CLEC Legal Name	
Name in which the CLEC does business	
ACNA Code (s)	
OCN Code (s) (LNP only)	

E. CLEC Contact and Payee Information (Please Complete all fields)

Federal Tax ID	
Payee Name	
Street Address (Mail to)	
City/State/Zip	
Contact Name	
Contact Phone	

Fax or mail the completed form to the following location:
SBC - Long Distance Compliance,
13075 Manchester Road
Room 200
Des Peres, MO 63131

Fax – (314)957-2595

The person signing this form represents and warrants that the information provided on this form is complete and accurate and that he/she is authorized by the CLEC identified on the form to provide such information.

Signed by: _____ Date_____
Printed Name: _____
Title: _____