AMENDMENT TO INTERCONNECTION AGREEMENT BETWEEN WISCONSIN BELL, INC. d/b/a SBC WISCONSIN AND TIME WARNER TELECOM OF WISCONSIN, L.P.

This UNE Conforming Amendment and Term Extension is to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Amendment") by and between Wisconsin Bell, Inc. d/b/a SBC Wisconsin ("SBC Wisconsin") and Time Warner Telecom of Wisconsin, L.P ("TWTC").

WHEREAS, the Federal Communications Commission ("FCC") released on August 21, 2003 a "Report and Order on Remand and Further Notice of Proposed Rulemaking" in CC Docket Nos. 01-338, 96-98 and 98-147, 18 FCC Rcd 16978 (as corrected by the Errata, 18 FCC Rcd 19020, and as modified by Order on Reconsideration (rel. August 9, 2004) (the "*Triennial Review Order*" or "*TRO*"), which became effective as of October 2, 2003; and

WHEREAS, by its *TRO*, the FCC ruled that certain network elements were not required to be provided as unbundled network elements under Section 251(c)(3) of the Telecommunications Act of 1996 ("Act 251(c); and

WHEREAS, the U.S. Circuit Court of Appeals, District of Columbia Circuit released its decision in *United States Telecom Ass'n v. F.C.C.*, 359 F3d 554 (D.C. Cir. 2004) ("*USTA II*") on March 2, 2004 and its associated mandate on June 16, 2004; and

WHEREAS, the *USTA II* decision vacated certain of the FCC rules and parts of the *TRO* requiring the provision of certain unbundled network elements under Section 251(c)(3) of the Act;

WHEREAS, having agreed to incorporate change in the law as specified herein, the Parties have agreed to extend the term of their interconnection agreement(s),

NOW, THEREFORE, in consideration of the foregoing, and the promises and mutual agreements set forth in the Agreement and in this Amendment, the Agreement is hereby amended, as follows, to ensure that the terms and conditions of the Agreement related to specific network elements made available hereunder on an unbundled basis under Sections 252(c)(3) and (d)(2) are conformed so as to be consistent with applicable federal law:

1.1 Pursuant to the *TRO* and to the decision in *USTA II*, ***except as provided in Paragraph 2.1***, nothing in the Agreement requires **SBC Wisconsin** to provide to TWTC any of the following items, either alone or in combination (whether new, existing, or pre-existing) with any other element, service or functionality:

> (i) entrance facilities; (ii) dedicated transport, at any level, including but not limited to DSO, OCn, DS1, DS3, or dark fiber transport; (iii) local circuit switching [or any other form of circuit switching]; (iv) OCn loops, DS1 or DS3 loops, or dark fiber loops; (v) the feeder portion of the loop; (vi) the "high frequency portion of the loop" (including as used in line sharing); (vii) any call-related database (other than the 911 and E911 databases), that is not provisioned in connection with TWTC's use of SBC Wisconsin's unbundled local circuit switching (as local circuit switching is no longer, or is no longer to be, provided under this

Agreement on an unbundled basis, SBC Wisconsin is not obligated to provide, and TWTC shall not request such call-related databases, other than the 911 and E911 databases, under this Agreement); (viii) SS7 signaling that is not provisioned in connection with TWTC's use of SBC Wisconsin's unbundled local circuit switching (as local circuit switching is no longer, or is no longer to be, provided under this Agreement on an unbundled basis, SBC Wisconsin is not obligated to provide, and TWTC shall not request, SS7 signaling under this Agreement); (ix) packet switching, including routers and DSLAMs; (x) the packetized bandwidth, features, functions, capabilities, electronics and other equipment used to transmit packetized information over hybrid loops (as defined in 47 C.F.R. § 51.319(a)(2)), including without limitation, xDSL-capable line cards installed in digital loop carrier ("DLC") systems or equipment used to provide passive optical networking ("PON") capabilities; (xi) fiber-to-the-home Loops (as defined in 47 C.F.R. § 51.319(a)(3)) ("FTTH Loops"), except to the extent that SBC Wisconsin has deployed such fiber in parallel to, or in replacement of, an existing copper loop facility and elects to retire the copper loop, in which case SBC Wisconsin will provide nondiscriminatory access to a transmission path capable of voice grade service over the FTTH loop on an unbundled basis to the extent required by terms and conditions in the Agreement.

1.2 For purposes of this Amendment, the following elements shall be referred to as the "**USTA II Elements**":

1.2.1 local circuit switching for "mass market" customers (as used in the *TRO*) (per vacatur of 47 C.F.R. § 51.319(d)(2),(5));

1.2.2 DS1 and DS3 dedicated transport (per vacatur of 47 C.F.R. § 51.319(e)); and

1.2.3 DS1 and DS3 loops (per vacatur of 47 C.F.R. § 51.319(a)(4),(5),(7)), and dark fiber loops and transport (per vacatur of 47 C.F.R. § 51.319(e) and 47 C.F.R. § 51.319(a)(6)).

2.1 **USTA II Elements.** SBC Wisconsin shall provide under this Agreement, on an unbundled basis, the **USTA II Elements** until the earlier of **(a)** the effective date of final unbundling rules promulgated by the FCC; or **(b)** the date that is six (6) months after Federal Register publication of the Order and Notice of Proposed Rulemaking, *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, FCC 04-179 (rel. Aug. 20, 2004) ("*Interim Order*"), that date being through March 14, 2005 , except to the extent that the rates, terms and conditions are or have been superseded by (1) voluntarily negotiated agreements between SBC Wisconsin and TWTC, (2) an intervening FCC order affecting specific unbundling obligations (*e.g.*, an order addressing a pending petition for reconsideration), or (3) (with respect to rates only) a state public utility commission order raising the rates for network elements. In the event the *Interim Order* is withdrawn, vacated or stayed, or is otherwise determined to be invalid ("*Interim Order Exclusion*") prior to March 15, 2005, the Parties agree to negotiate an amendment to the Agreement consistent with the *Interim Order Exclusion*.

2.1.1 To the extent the Agreement is still in effect following the occurrence of the earlier of **(a) or (b),** above, the following shall occur:

2.1.1.1 If **(a)** -- The **Interim Order Exclusion** shall expire, and the general rule of Paragraph 1.1 shall become fully applicable and effective as to each of the **USTA II Elements** (subject to the Notice and Transition set forth in Section 3.1, below); provided, however,

that any **USTA II Element** for which the FCC has adopted a rule(s) requiring that such **USTA II Element** must be made available under Section 251(c)(3) shall continue to be provided by SBC Wisconsin in accordance with rates, terms and conditions of the Agreement related to those **USTA II Element(s)** that were in effect prior to the Effective Date of the Amendment, to the extent they are consistent with the new FCC rule(s), all subject to any subsequent amendments permitted by the *Interim Order*. In any event, the Parties shall incorporate rates, terms and conditions that fully reflect the new FCC rule(s) for any such **USTA II Element** into the Agreement by an amendment, approved by the Commission.

2.1.1.2 If **(b)** -- The **Interim Order Exclusion** shall expire, and the general rule of Paragraph 1.1 shall become fully applicable and effective as to the **USTA II Elements** (subject to the Notice and Transition set forth in Section 3.1, below).

2.1.1.3 If **(c)** – The **Interim Order Exclusion** shall expire, and the general rule of Paragraph 1.1 shall become fully applicable and effective as to the **USTA II Elements** as of January 1, 2005 (subject to the Notice and Transition set forth in Section 3.1, below).

2.1.2 Nothing in this Paragraph 2.1 shall affect the application of Paragraph 1.1 to elements that are *not* **USTA II Elements**.

3.1 **Notice and Transition**. In addition, if the Interim Order Exclusion ends because Section 2.1**(a)** occurs, and the FCC determines that one or more additional network elements are no longer required to be unbundled under Section 251(c)(3), then SBC Wisconsin is not required to provide the element(s) on an unbundled basis, either alone or in combination (whether new, existing, or pre-existing) with any other element, service or functionality, to TWTC under the Agreement, and the following notice and transition procedure shall apply:

3.1.1 SBC Wisconsin will provide written notice to TWTC of the fact that the network element(s) and/or the combination or other arrangement in which the network element(s) had been previously provided on an unbundled basis is no longer required to be provided. During a transitional period of sixty (60) days from the date of such notice, SBC Wisconsin agrees to continue providing such network element(s) under the terms of the Agreement.

3.1.1.1 Upon receipt of such written notice, TWTC will cease new orders for such network element(s) that are identified in the SBC Wisconsin notice letter. SBC Wisconsin reserves the right to monitor, review, and/or reject TWTC orders transmitted to SBC Wisconsin and, to the extent that the TWTC has submitted orders and such orders are provisioned after this sixty (60) day transitional period, such network elements are still subject to this Paragraph 3.1, including the TWTC options set forth in subparagraph 3.1.1.2 below, and SBC Wisconsin's right of conversion in the event the TWTC options are not accomplished by the end of the sixty (60) day transitional period.

3.1.1.2 During such sixty (60) day transitional period, the following options are available to TWTC with regard to the network element(s) identified in the SBC Wisconsin notice, including the combination or other arrangement in which the network element(s) were previously provided:

(i) TWTC may issue an LSR or ASR, as applicable, to seek disconnection or other discontinuance of the network element(s) and/or the combination or other arrangement in which the element(s) were previously provided; or

(ii) SBC Wisconsin and TWTC may agree upon another service arrangement (e.g. via a separate agreement at market-based rates or resale), or may agree that an analogous resale service or access product or service may be substituted, if available.

Notwithstanding anything to the contrary in the Agreement, including any amendments to the Agreement , at the end of the sixty (60) day transitional period, unless TWTC has submitted a disconnect/discontinuance LSR or ASR, as applicable, under subparagraph 3.1.1.2(i), above, and if TWTC and SBC Wisconsin have failed to reach agreement, under subparagraph 3.1.1.2(ii), above, as to a substitute service arrangement or element, then SBC Wisconsin will convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale or access service or arrangement, if available, at rates applicable to such analogous service or arrangement.

4. Except as prohibited or otherwise affected by the *Interim Order*, nothing in this Amendment shall affect the general application and effectiveness of the Agreement's "change of law," "intervening law", "successor rates" and/or any similarly purposed provisions. The rights and obligations set forth in this Amendment apply in addition to any other rights and obligations that may be created by such intervening law, change in law or other substantively similar provision.

5. This Amendment may require that certain sections of the Agreement shall be replaced and/or modified by the provisions set forth in this Amendment. The Parties agree that such replacement and/or modification shall be accomplished without the necessity of physically removing and replacing or modifying such language throughout the Agreement.

6. Nothing in this Amendment shall be deemed to amend or to affect the right of a Party to exercise any right of termination it may have under the Agreement.

7. Upon written request of either Party, the Parties will amend any and all Agreement pricing schedules to accurately reflect the terms and conditions of this Amendment.

8. The Parties agree that the term of their Agreement as specified in Section 5 of the General Terms and Conditions (Effective Date Term and Termination) shall be modified to read December 15, 2006. The remainder of Section 5 shall continue in full force and effect.

9. Notwithstanding any contrary provision in the Agreement, this Amendment, or any SBC Wisconsin tariff, nothing contained in the Agreement, this Amendment, or any SBC Wisconsin tariff shall limit SBC Wisconsin's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Wisconsin Commission, the FCC, any court or any other governmental authority related to, concerning, or that may affect SBC Wisconsin's obligations under the Agreement, this Amendment, any SBC Wisconsin tariff, or Applicable Law.

10 Any performance measures and remedies identified in the Agreement apply solely to UNEs which SBC Wisconsin is obligated to offer under Section 251(c)(3) of the Act. If an element is no longer required to be provided as an unbundled network element under this Agreement by virtue of this Amendment, SBC Wisconsin will have no obligation to report on or pay remedies for any measures associated with such element, notwithstanding any language to the contrary in the Agreement.

11. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or

proceedings and any remands thereof, including, without limitation, the following actions, which the Parties may have not yet fully incorporated into the Agreement or which may be the subject of further government review *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al* v. FCC, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003); 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).

12. Intervening Law: This Amendment is entered into as a result of both private negotiation between the Parties and the incorporation of the results of arbitration by the Commission. If any action of the Wisconsin Commission or the federal government, including regulatory, legislative or judicial action, invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for a provision of the Agreement, the affected provision shall be invalidated, modified, or stayed, consistent with the action of the legislative body, court, or regulatory agency upon the written request of either Party ("Written Notice"). Further, if any action of the Wisconsin Commission or of the federal government, including regulatory, legislative or judicial action, materially affects any of the rates, terms or conditions of this Amendment, the affected rates, terms and conditions shall be immediately invalidated or modified consistent with such action upon Written Notice. In the event of any such Written Notice, the Parties shall expend diligent efforts to arrive at an agreement respecting the appropriate modifications to the Agreement. Specifically, 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 negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in the Agreement. In entering into this Amendment, the Parties acknowledge and agree that they have not yet modified any of the Agreement or Amendment provisions that may have been or may be impacted by any regulatory, legislative or judicial action that occurred between the date of TWTC's request for this Amendment or Agreement and the Effective Date of this Amendment or Agreement or by any of the government actions identified in this Amendment. Notwithstanding that the Parties have not yet modified any of the Agreement or this Amendment provisions to reflect any of the foregoing government actions, the Parties agree that such governmental actions should be reflected in the rates, terms and conditions of the Agreement and this Amendment. Accordingly, either Party may invoke this Section with regard to any such government actions, even after the effective date of this Amendment or the Agreement.

13. The Parties acknowledge and agree that this Amendment shall be filed with, and is subject to approval by the Public Service Commission of Wisconsin and shall become effective ten (10) days following approval by such Commission.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this 27th day of JAN., 2005, by SBC Wisconsin, signing by and through its duly authorized representative, and TWTC, signing by and through its duly authorized representative.

Time Warner Telecom of Wisconsin, L.P.
By: Time Warner Telecom General Partnership, its general partner
By: Time Warner Telecom Holdings Inc., its managing general partner

By: _____

Name: Paul B. Jones
(Print or Type)

Title: Senior Vice President
General Counsel & Regulatory Policy

Date: JAN 07 2005

FACILITIES-BASED OCN # _____

ACNA _____

Wisconsin Bell, Inc. d/b/a SBC Wisconsin by SBC Telecommunications, Inc., its authorized agent

By: _____

Name: Mike Auinbauh
(Print or Type)

Title: ~~Senior Vice~~ President -
Industry Markets & Diversified Businesses

Date: JAN 27 2005