

EXHIBIT D

Date General Information Provided by USW:Qwest:
General Agreement Number :
BAN Number(must be assigned before processing): _____

REVISED U S WEST POLE ATTACHMENT AND/OR INNERDUCT OCCUPANCY REVISED QWEST RIGHT OF WAY, POLE ATTACHMENT, INNERDUCT OCCUPANCY GENERAL INFORMATION: EFFECTIVE 7/3/00

- 1. PURPOSE.** The purpose of this General Information document is to share information and provide or deny permission to attach and maintain Co-Provider's facilities ("Facilities") to ~~U S WEST Communications, Inc.'s ("USW") Poles or~~ Qwest Corporation's ("Qwest") Poles, to place Facilities on or within ~~USW's~~ Qwest's Innerduct (collectively "Poles/Innerduct") and to obtain access to ~~"Poles/Innerduct".~~ Qwest's private right of way ("ROW"), to the extent Qwest as the right to grant such access. This General Information is necessary to determine if ~~USW~~ Qwest can meet the needs of the Co-Provider's request but does not guarantee that physical space or access is currently available. Permission will be granted on a first-first-come, first-serve basis on the terms and conditions set forth in the appropriate agreement pertaining to "Poles/Innerduct". Quotes are effective for thirty (30) days.
- 2. PROCESS.** The ~~USW~~ Qwest process is designed to provide the Co-Provider the information so as to assist Co-Provider and ~~USW to make Poles and~~ Qwest to make Poles, Innerduct and ROW decisions in a cost-efficient manner. The Process has these distinct steps:

- 2.1 Inquiry Review - Attachment 1.A (Database Search). The Co-Provider is requested to review this document and return Form 1.A along with two copies of a map and the nonrefundable Inquiry Preparation Fee, calculated in the amount of ~~One Hundred Fourteen Dollars (\$114.00) per mile (with a One Hundred Fourteen Dollar minimum) for Pole Review, or the Innerduct Review Fee in the amount of One Hundred Seventy One Dollars (\$171.00) per mile (with a One Hundred Seventy One Dollar minimum)~~ accordance with Attachment 1.A hereto. These fees are intended to cover ~~USW's~~ Qwest's expenses associated with performing an internal record (database) review, preparing a cost estimate for the required field survey, ~~public record review~~, setting up an account, and determining time frames for completion of each task to meet the Co-Provider's Request. Please be sure a BAN number is assigned by the Product Manager (call 303-896-0789) before sending form 1.A.

As indicated on Form 1. A, a copy of the signed form and maps of the desired route should be sent to the Product Manager while the fee should be sent to the ~~U S WEST~~ Qwest CLEC Joint Use Manager with the original signed form 1.A. The map should clearly show street names and highways along the entire route, and specific locations of entry and exit of the ROW/duct/pole system. Area Maps should be equal to the best street maps available. ~~U S WEST~~ Qwest Central Offices should be identified where possible. Faxes are not acceptable. If Co-Provider wishes to terminate at a particular manhole (such as a POI) it must be indicated on the maps.

~~USW~~ Qwest will complete the Inquiry review and prepare and return a Innerduct Permit Processing Costs Quotation (Attachment 1.B) to the Co-Provider generally within ten (10) days or the applicable federal or state law, rule or regulation that governs this Agreement in the state in which Innerduct attachment is requested. In the case of poles, ~~USW~~ Qwest will assign a Field Engineer and provide his/her name and phone number to the Co-Provider. The Field engineer will check the local database and be available for a joint verification with the Co-Provider. This time frame is applicable to the standard inquiry of one hundred (100) Poles or fewer, or thirty (30) Utility Hole sections or

fewer. The Poles/Innerduct Quotation will be valid for thirty (30) calendar days from the date of quotation. The Inquiry step results only in the location and mapping of USWQwest facilities and does not indicate whether space is available. The resulting information is provided with Attachment 1.B.

In the case of ROW, Qwest will prepare and return a ROW information matrix, within ten (10) days, which will identify (a) the owner of the ROW as reflected in Qwest's records, and (b) the nature of each ROW (i.e., easement, license, etc.). The ROW information matrix will also indicated whether or not Qwest has a copy of the Easement Agreement in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and Co-Provider acknowledges that, to the extent that real property rights run with the land, the original granting party may not be the current owner of the property.

If there is no other effective agreement (i.e., an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

~~2.2~~ ~~2.2~~ Request Attachment 1.B (Verification) & Attachment 4 (Quitclaim Preparation). Upon With respect to Poles and Innerduct, upon review and acceptance of signed Attachment 1.B and payment of the estimated verification costs by the Co-Provider, USWQwest will conduct facilities verification and provide the requested information which may or may not include the following: a review of public and/or internal USWQwest right-of-ways records for restrictions,; identification of additional rights-of-way required; a field survey and site investigation of the Innerduct, including the preparation of distances and drawings, to determine availability on existing Innerduct; identification of any make-ready costs required to be paid by the Co-Provider, if applicable, prior to installing its facilities. In the case of Poles, form 1.B orders the field verification which may be done jointly. ~~Such work shall be completed within thirty-five (35) days for a standard inquiry of one hundred (100) poles (or fewer), or thirty (30) Utility Hole sections (or fewer), or as negotiated between USWQwest and Co-Provider and identified in Attachment 1.B.~~ A copy of the signed Form 1.B should be sent to the Product Manager while the appropriate fees should be sent to the USW-CLECQwest-CLEC Joint Use Manager with the original signed 1.B form. Upon completion of the verification, Attachment 2 will be sent to the Co-Provider by Qwest.

With respect to ROW, upon review and acceptance of signed Attachment 1.B and payment of the ROW conveyance consideration, Qwest will deliver to the Co-Provider ~~by USW:~~ an executed and acknowledged Quitclaim of Right of Access Agreement to the Co-Provider in the form attached hereto as Attachment 4 (the "Quitclaim"). In the event that the ROW in question was created by a publicly recorded document and Qwest has a copy of such document in its files, a copy of the Easement Agreement, as defined in the Quitclaim, will be attached to the Quitclaim and provided to the Co-Provider at the time of delivery ~~to the Co-Provider~~ of the Quitclaim. If the ROW was created by a document that is not publicly recorded, or if Qwest does not have a copy of the Easement Agreement in its possession, the Quitclaim will not have a copy of the Easement Agreement attached.

Verification/Quitclaim Preparation work shall be completed within the time frames designated in the table below:

SIZE OF VERIFICATION REQUEST	TIME LIMIT (DAYS)
Less than or equal to 100 poles or 30 manholes or 2 miles of linear ROW	35
Less than or equal to 200 poles or 60 manholes or 4 miles of linear ROW	50

Less than or equal to 300 poles or 90 manholes or 6 miles of linear ROW	65
Less than or equal to 400 poles or 120 manholes or 8 miles of linear ROW	80
Less than or equal to 500 poles or 150 manholes or 10 miles of linear ROW	95
Greater than 500 poles or 150 manholes or 10 miles of linear ROW	As Negotiated

In the case of ROW, after Qwest has delivered the Quitclaim, the Co-Provider will be required to obtain the property owner's notarized signature on the Consent that is a part of the Quitclaim. Although Qwest will provide the identity of the original grantor of the ROW, as reflected in Qwest's records, the Co-Provider is responsible for determining the current owner of the property and obtaining the proper signature and acknowledgement. If Qwest does not have a copy of the Easement Agreement in its records, it is the responsibility of the Co-Provider to obtain a copy of the Easement Agreement. After the Co-Provider has obtained the properly executed and acknowledged Consent: (a) if the ROW was created by a publicly recorded document, the Co-Provider must record the Quitclaim (with the Consent and the Easement Agreement attached) in the real property records of the county in which the property is located; (b) if the ROW was created by a grant or agreement that is not publicly recorded, (i) Co-Provider must provide Qwest with a copy of the properly executed and acknowledged Consent, (ii) upon receipt of such Consent, Qwest will provide the Co-Provider with a copy of the Easement Agreement with the monetary terms redacted, and (iii) the Co-Provider must then record the Quitclaim, together with the Consent and the Easement Agreement, in the real property records for the county in which the property is located; or (c) if the ROW was created by a non-publicly recorded document, but Qwest does not have a copy of the Easement Agreement in its possession, the Co-Provider (i) must obtain a copy of the Easement Agreement or other suitable documentation reasonably satisfactory to Qwest to describe the real property involved and the underlying rights giving rise to the quitclaim, and (ii) must record the Quitclaim (with the Consent and the Easement Agreement or other documentation attached) in the real property records of the county in which the property is located. In any case, recordation of the properly completed, executed and acknowledged Quitclaim gives effect to Qwest's quitclaim of access to Qwest's ROW.

~~2.3~~ ~~2.3~~ Poles/Duct Order Attachment 2 (Access). ~~Upon~~In the case of Poles and Innerduct, upon completion of the inquiry and verification work described in Section 2.2 above, ~~USW~~Qwest will provide the Co-Provider a Poles/Innerduct Order (Attachment 2) containing annual recurring charges, estimated Make-ready costs. Upon receipt of the executed Attachment 2 Order form from the Co-Provider and applicable payment for the Make-ready fees identified, ~~USW~~Qwest will assign the Co-Provider's requested space and complete the Make-ready work which may be required. ~~USW~~Qwest will notify Co-Provider when Poles/Innerduct are ready for attachment of Facilities. A copy of the signed Attachment 2 form should go to the Product Manager while the payment should go to the Joint Use Manager along with the original signed Attachment 2.

NOTE: Make-ready work performed by ~~USW~~Qwest concerns labor only. For Poles it involves rearrangement to accommodate the new attachment. For Innerduct, it involves placing the standard three innerducts in the conduit to accommodate fiber cable where spare conduit exists. Segments without conduit space are considered "blocked". ~~USW~~Qwest will repair or clear damaged facilities, but may not construct new facilities as part of Make-ready work.

Construction work to place conduit or replace poles may be required where facilities are blocked. The Co-Provider may contract separately with a ~~USW-approved~~Qwest-approved contractor to complete the construction provided a ~~USW~~Qwest inspector inspects the work during and after

construction. Construction attaching to or entering ~~USW-owned~~ Qwest-owned structure must conform to ~~USW~~Qwest standards. If other parties benefit from construction, the costs may be divided among the beneficiaries. Construction costs are not included in Attachment 2. The Co-Provider is not encouraged to sign the access agreement (Attachment 2) until provisions have been made for construction.

- 2.4 ~~Provision of Poles/Innerduct.~~ ~~USW~~ROW/Poles/Innerduct. Qwest agrees to issue to Co-Provider for any lawful telecommunications purpose, a nonexclusive, revocable Order authorizing Co-Provider to install, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct to the extent owned ~~in whole or in part~~ or controlled by ~~USW.~~ ~~USW~~Qwest. Qwest provides access to Poles/Innerduct in accordance with the applicable federal, state, or local law, rule, or regulation, incorporated herein by this reference, and said body of law, which governs this Agreement in the state in which Poles/Innerduct is provided. Any and all rights granted to ~~Co-~~Co-Provider shall be subject to and subordinate to any future federal, state, and/or local requirements. Nothing in this General Information shall be construed to require or compel ~~USW~~Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by the Co-Provider.

The costs included in the Poles/Innerduct Permit Processing Costs Quotation are used to cover the costs incurred by ~~USW~~Qwest in determining if Poles/Innerduct space is available to meet the Co-Provider's request; however, the Co-Provider must agree and will be responsible for payment of the actual costs incurred if such costs exceed the estimate. If the actual costs are less than the estimate, an appropriate credit can be provided upon request. If ~~USW~~Qwest denies access to the Poles/Innerduct Request, or section thereof, ~~USW~~Qwest shall do so in writing, specifying the reasons for denial along with the information upon which such denial is premised within 45 days of the initial inquiry.

Likewise, the fees included in the ROW processing costs quotation are used to cover the costs incurred by Qwest in searching its databases and preparing the Quitclaim. In the event that complications arise with respect to preparing the Quitclaim or any other aspect of ~~granting~~quitclaiming access to Qwest's ROW, the Co-Provider agrees to be responsible for payment of the actual costs incurred if such costs exceed the standard fees; actual costs shall include, without limitation, personnel time, including attorney time.;

3. **DISPUTE RESOLUTION**

- ~~a~~3.1. Other than those claims over which a federal or state regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.
- ~~B~~3.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.
- ~~C~~3.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.

Ø3.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

ATTACHMENT 1. A

General Agreement No. _____

BAN Number (must be assigned before processing): _____

Poles/Innerduct/ROW Inquiry Preparation Fee

Date Submitted: _____

Date Replied to Co-Provider: _____

Co-Provider Name: _____

Contact name: _____

Address: _____

Phone Number: _____

e-mail address: _____

State or location of inquiry: _____

Poles/Innerduct Permit Database Search Costs Quotation
(One Mile Minimum)

	<u>Costs</u>	<u>Est. Miles</u>	<u>Total</u>
1. Pole Database & Field Engineer inquiry	\$ 114.00 per milesee attached pricing chart		_____
	\$ _____		
2. Innerduct Database inquiry	\$ 171.00 per milesee attached pricing chart		_____
	\$ _____		
3. ROW Records inquiry	\$ 171.00 per milesee attached pricing chart		_____
	\$ _____		
4. Estimated Interval for Completion of Items 1, 2 and/or 3:	10 _____	Days	
4.5. Additional requirements of Co-Provider:	_____		

This Inquiry will result in (a) in the case of Poles and Innerduct, a drawing of the duct or innerduct structure fitting the requested route, if available, and a quote of the charges for field verification, and/or (b) in the case of ROW a ROW identification matrix, and quote of the charges for preparation of, and consideration for, the necessary Quitclaims. In the case of Poles, the name and telephone number of the Field Engineer will be provided so that the Co-Provider may contact the USWQwest Field engineer and discuss attachment plans. If a field verification of the poles is required, Attachment 1.B must be completed and the appropriate charges paid. Innerduct verification is always needed.

By signing below and providing payment of the Estimated Costs identified above, the Co-Provider desires USWQwest to proceed with the processing of its database/records search and acknowledges receipt of this General Information, including the General Terms and Conditions under which USWQwest offers such Poles/Innerduct.

U S WEST Communications, Inc.
Qwest Corporation

Signature

Name Typed or Printed

Title

Date

Signature

JOHN CARVETH

Name Typed or Printed

PRODUCT MANAGER

Title

Date

This signed form (original) should be sent with a check for the Inquiry amount (\$114 per mile or \$171 per mile) to:

Pam Fisher, U-S-WESTQwest CLEC Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112
303-792-6990

A copy of this form should be sent with two acceptably-detailed maps showing the requested route to:

John Carveth, U-S-WESTQwest Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202 303-896-0789

ATTACHMENT 1.B

General Agreement No. _____
BAN Number: _____

Poles/Innerduct Verification/ROW Quitclaim Preparation Costs Quotation

Date Nonrefundable Received: _____ Date Replied to Co-Provider: _____

****NOTE: THIS ATTACHMENT WILL BE COMPLETED BY USWQWEST AND SENT TO THE CO-PROVIDER FOR SIGNATURE AFTER THE DATABASE INQUIRY IS COMPLETE.****

Charge	Estimated Costs	Number	Total
Pole Field Survey (10 pole minimum) pole	see attached pricing chart	_____	\$_____ ICB per
Innerduct Field Survey Manhole	see attached pricing chart	_____	\$_____ ICB per
Quitclaim Preparation and Consideration	\$_____ per Quitclaim	_____	_____
	\$171 per Quitclaim	_____	_____

Estimated Interval for Completion of Items 1 or 2, 1, 2 and/or 3: _____ Working Days

Additional requirements of Co-Provider: _____

Comments: _____

By signing below and providing payment of the Total Estimated Costs identified above, the Co-Provider desires USWQwest to proceed with the processing of its field survey/preparation of Quitclaims, and acknowledges receipt of this General Information, including the General Terms and Conditions under which USW offers such Poles/Innerduct. The Co-Qwest offers such ROW/Poles/Innerduct. The Co-Provider acknowledges the above costs are estimates only and Co-Provider may be financially responsible for final actual costs which exceed this estimate, or receive credit if requested.

U-S WEST Communications, Inc.
Qwest Corporation

Signature
Name Typed or Printed

Signature
JOHN CARVETH
Name Typed or Printed
PRODUCT MANAGER

Title

Title

Date

Date

A copy of this form signed form should be sent to:

John Carveth, U-S WESTQwest Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202

The original signed form should be sent with a check for the verification amount to:

Pam Fisher, U-S WESTQwest CLEC Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112

1.

SCHEDULE A—PRICING CHART

INQUIRY, VERIFICATION, UNAUTHORIZED ATTACHMENT RATES BY STATE

Inquiry and Verification, Poles and Ducts

STATE	POLE/ROW INQUIRY per mile***	DUCT INQUIRY per mile***	POLE VERIFICATION per pole***	DUCT VERIFICATION per manhole***
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***** Qwest is currently recalculating costs for all states. Figures for all states will be provided when they are available.**

AZ	\$ _____	\$ _____	\$ _____	\$ _____
CO	\$ _____	\$ _____	\$ _____	\$ _____
ID	\$ _____	\$ _____	\$ _____	\$ _____
IA	\$ _____	\$ _____	\$ _____	\$ _____
MN	\$ _____	\$ _____	\$ _____	\$ _____
MT	\$ _____	\$ _____	\$ _____	\$ _____
NE	\$ _____	\$ _____	\$ _____	\$ _____
NM	\$ _____	\$ _____	\$ _____	\$ _____
ND	\$ _____	\$ _____	\$ _____	\$ _____
OR*	\$ _____	\$ _____	\$ _____	\$ _____
SD	\$ _____	\$ _____	\$ _____	\$ _____
UT	\$ _____	\$ _____	\$ _____	\$ _____
WA*	\$ _____	\$ _____	\$ _____	\$ _____
WY	\$ _____	\$ _____	\$ _____	\$ _____

* ordered rates by the state commission.

Unauthorized Attachments

Oregon: Sanctions for unauthorized attachments will comply with House Rule 860.

Utah, Idaho, Washington: Unauthorized attachment charges will be \$200.00 per pole or innerduct segment between manholes.

All other states: Unauthorized attachment charges will be according to Section 9.1 of Attachment 3.

ATTACHMENT 2

Poles/Innerduct Order

General Agreement No
BAN Number: _____

****NOTE: THIS FORM WILL BE COMPLETED BY USWQWEST AND SENT TO CO-PROVIDER FOR SIGNATURE****

Make-ready Work required: Yes () No () Date Received: _____

If Yes is checked, estimated Make-ready costs: \$ _____

Note: Make-Ready charges do not include construction work to enhance infrastructure

The following Attachments are hereby incorporated by reference into this Order:

1. Term - Effective Date - _____.
2. Summary of Field Results (including Make-Ready work if required).
3. When placing fiber, Co-Provider must:
 - a. provide USWQwest representative, a final design showing splice, racking and slack locations in USWQwest utility holes.
 - b. tag all equipment located in/on USW'sQwest's facilities from beginning of the route to the end, and at the entrance and exit of each utility hole with the following information: (1) Co-Provider's Name and Contact Number, (2) Contract Number and Date of Contract, (3) Number of Fibers in the Innerduct and Color of Occupied Innerduct.

Annual Recurring Charges for this Permit:

		Total Annual
1. Per Pole Attached	\$ _____	\$ _____
	/Foot/Pole	
2. Per Innerduct Foot	\$ _____/Foot	\$ _____
Total Annual Recurring Charges		\$ _____

For Poles, quantity is based on the number of vertical feet used (One cable attachment = one foot). If you choose not to place an order at this time, these Poles/Innerduct will be assigned on a first come-first served basis.

Additional Comments: THE ESTIMATED COSTS ARE FOR THE INSTALLATION OF INNERDUCT OR REARRANGEMENT PER THE WORK SHEETS. THE ANNUAL RECURRING CHARGE FOR YEAR 2000 HAS BEEN PRORATED TO _____ (/DAY * DAYS). PLEASE PROVIDE PAYMENT FOR THE MAKE-READY COSTS AND THE PRORATED 2000 RECURRING FEE ALONG WITH THIS SIGNED ORDER _____

By signing below and providing payment of the Make-ready costs and the first year's prorated Annual Recurring Charge (or, if CLEC requests Semiannual billing, then the first half-year's prorated Semiannual Recurring Charge), the Co-Provider desires USWQwest to proceed with the Make-ready Work identified herein and acknowledges receipt of the General Terms and Conditions under which USWQwest offers such Poles/Innerduct. By signing this document you are ~~leasing the available space~~ agreeing to the access described herein.

Return this signed form and check to: Pam Fisher, **U-S WEST** Fisher, **Qwest CLEC Joint Use, Suite 101, 6912 S. Quentin, Englewood, CO 80112**

Send a copy to: John Carveth, **Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202**

~~U S WEST~~Qwest Field Engineer: _____

Phone Number: _____

~~U S WEST~~ Communications, Inc.
Qwest Corporation

Signature

Name Typed or Printed

Title

Date

Signature

JOHN CARVETH

Name Typed or Printed

PRODUCT MANAGER

Title

Date

ATTACHMENT 3

General Agreement No. _____

U-S WEST POLE AND QWEST RIGHT OF WAY ACCESS, POLE ATTACHMENT AND/OR INNERDUCT OCCUPANCY GENERAL TERMS AND CONDITIONS

This is an Agreement between _____ (“Co-Provider”) and **U-S WEST Communications, Inc.** (“**USW**”), Qwest Corporation (“Qwest”), for one or more Orders for the Co-Provider to obtain access to Qwest’s Right-of-Way (“ROW”) and/or to install/attach and maintain their communications facilities (“Facilities”) to **USW’s** Qwest’s Poles and/or placement of Facilities on or within **USW’s** Qwest’s Innerduct (collectively “Poles/Innerduct”) described in the General Information and Co-Provider Map, which are incorporated herein by this reference (singularly “Order” or collectively, “Orders”). If there is no other effective agreement (*i.e.*, an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then this Agreement/Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

1. SCOPE.

- 1.1 Subject to the provisions of this Agreement, **USW** Qwest agrees to issue to Co-Provider for any lawful telecommunications purpose, (a) one or more nonexclusive, revocable Orders authorizing Co-Provider to attach, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct owned in whole or in part by **USW**:Qwest, and/or (b) access to Qwest’s ROW to the extent that (i) such ROW exists, and (ii) Qwest has the right to grant access to the Co-Provider. Any and all rights granted to Co-Provider shall be subject to and subordinate to any future local, state and/or federal requirements, and in the case of ROW, to the original document granting the ROW to Qwest or its predecessors.
- 1.2 Except as expressly provided herein, nothing in this Agreement shall be construed to require or compel **USW** Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by Co-Provider or to obtain any ROW for Co-Provider’s use.
- 1.3 **USW** Qwest agrees to provide access to ROW/Poles/Innerduct in accordance with the applicable local, state or federal law, rule, or regulation, incorporated herein by this reference, which governs this Agreement in the state in which Poles/Innerduct is provided.

2. **TERM.** Any Order issued under this Agreement for Pole attachments or Innerduct occupancy shall continue in effect for the term specified in the Order. Any access to ROW shall be non-exclusive and perpetual, subject to the terms and conditions of the Quitclaim (as hereinafter defined) and the original instrument granting the ROW to Qwest. This Agreement shall continue during such time Co-Provider is providing Poles/Innerduct attachments under any Order to this Agreement.

3. TERMINATION WITHOUT CAUSE.

- 3.1 **Co-Provider** To the extent permitted by law, either party may terminate this Agreement (which will have the effect of terminating all Orders hereunder), or any individual Order(s) hereunder, without cause, by providing notice of such termination in writing and by certified Mail to **USW**:the other party. The written notice for termination without cause shall be dated as of the day it is mailed and shall

be effective no sooner than one hundred twenty (120) calendar days from the date of such notice.

- 3.2. Termination of this Agreement or any Order hereunder does not release either party from any liability under this Agreement that may have accrued or that arises out of any claim that may have been accruing at the time of termination, including indemnity, warranties, and confidential information.
- 3.3. If USWQwest terminates this Agreement for Cause, or if Co-Provider terminates this Agreement without Cause, Co-Provider shall pay termination charges equal to the amount of fees and charges remaining on the terminated Order(s) and shall remove its Facilities from the Poles/Innerduct within sixty (60) days, or cause USWQwest to remove its Facilities from the Poles/Innerduct at Co-Provider's expense; provided, however, that Co-Provider shall be liable for and pay all fees and charges provided for in this Agreement to USWQwest until Co-Provider's Facilities are physically removed. Notwithstanding anything herein to the contrary, upon the termination of this Agreement for any reason whatsoever, all Orders hereunder shall simultaneously terminate.
- 3.4. If this Agreement or any Order is terminated for reasons other than Cause, then Co-Provider shall remove its Facilities from Poles/Innerduct within one hundred and eighty (180) days from the date of termination; provided, however, that ~~Co-Provider shall~~ Co-Provider shall be liable for and pay all fees and charges provided for in this Agreement to USWQwest until Co-Provider's Facilities are physically removed.
- 3.5. USWQwest may abandon or sell any Poles/Innerduct at any time by giving written notice to the Co-Provider. Upon abandonment of Poles/Innerduct, and with the concurrence of the other Co-Provider(s), if necessary, Co-Provider shall, within sixty (60) days of such notice, either apply for usage with the new owner or purchase the Poles/Innerduct from USWQwest, or remove its Facilities therefrom. Failure to remove its Facilities within sixty (60) days shall be deemed an election to purchase the Poles/Innerduct at the current market value.

4. CHARGES AND BILLING.

- 4.1. Co-Provider agrees to pay USWQwest Poles/Innerduct usage fees ("Fees") as specified in the Order. Fees will be computed in compliance with applicable local, state and Federal law, regulations and guidelines. Such Fees will be assessed, in advance on an annual basis. Annual Fees will be assessed as of January 1st of each year. Fees are not refundable except as expressly provided herein. Co-Provider shall pay all applicable Fees and charges specified herein within thirty (30) days from receipt of invoice. Any outstanding invoice will be subject to applicable finance charges.
- 4.2. USWQwest has the right to revise Fees, at its sole discretion, upon written notice to Co-Provider within at least sixty (60) days prior to the end of any annual billing period.

5. INSURANCE. The Co-Provider shall obtain and maintain at its own cost and expense the following insurance during the life of the Contract:

- 5.1. Workers' Compensation and/or Longshoremen's and Harbor Workers Compensation insurance with (1) statutory limits of coverage for all employees as required by statute; and (2) although not required by statute, coverage for any employee on the job site; and (3) Stop Gap liability or employer's liability insurance with a limit of One Hundred Thousand Dollars (\$100,000.00) for each accident.
- 5.2. General liability insurance providing coverage for underground hazard coverage (commonly referred to as "U" coverage), products/completed operations, premises operations, independent contractor's protection (required if contractor subcontracts the work), broad form property damage and

contractual liability with respect to liability assumed by the Co-Provider hereunder. This insurance shall also include: (1) explosion hazard coverage (commonly referred to as "X" coverage) if the work involves blasting and (2) collapse hazard coverage (commonly referred to as "C" coverage) if the work may cause structural damage due to excavation, burrowing, tunneling, caisson work, or underpinning. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.

- 5.3 Comprehensive automobile liability insurance covering the use and maintenance of owned, non-owned and hired vehicles. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.
- 5.4 USWQwest may require the Co-Provider from time-to-time during the life of the Contract to obtain additional insurance with coverage or limits in addition to those described above. However, the additional premium costs of any such additional insurance required by USWQwest shall be borne by USW, and the Co-Provider Qwest, and the Co-Provider shall arrange to have such costs billed separately and directly to USWQwest by the insuring carrier(s). USWQwest shall be authorized by the Co-Provider to confer directly with the agent(s) of the insuring carrier(s) concerning the extent and limits of the Co-Provider's insurance coverage in order to assure the sufficiency thereof for purposes of the work performable under the Contract and to assure that such coverage as a whole with respect to the work performable are coordinated from the standpoint of adequate coverage at the least total premium costs.
- 5.5 The insuring carrier(s) and the form of the insurance policies shall be subject to approval by USW.Qwest. The Co-Provider shall forward to USW.Qwest, certificates of such insurance issued by the insuring carrier(s). The insuring carrier(s) may use the ACORD form, which is the Insurance Industries certificate of insurance form. The insurance certificates shall provide that: (1) USWQwest is named as an additional insured; (2) thirty (30) calendar days prior written notice of cancellation of, or material change or exclusions in, the policy to which the certificates relate shall be given to USW;Qwest; (3) certification that underground hazard coverage (commonly referred to as "U" coverage) is part of the coverage; and (4) the words "pertains to all operations and projects performed on behalf of the certificate holder" are included in the description portion of the certificate. The Co-Provider shall not commence work hereunder until the obligations of the Co-Provider with respect to insurance have been fulfilled. The fulfillment of such obligations shall not relieve the Co-Provider of any liability hereunder or in any way modify the Co-Provider's obligations to indemnify USW.Qwest.
- 5.6 Whenever any work is performed requiring the excavation of soil or use of heavy machinery within fifty (50) feet of railroad tracks or upon railroad right-of-way, a Railroad Protective Liability Insurance policy will be required. Such policy shall be issued in the name of the Railroad with standard limits of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit for bodily injury, property damage or physical damage to property with an aggregate limit of Six Million Dollars (\$6,000,000.00). In addition, said policy shall name USWQwest and the Co-Provider/SubCo-Provider on the declarations page with respect to its interest in these specific job. Said insurance policy shall be in form and substance satisfactory both to the USWQwest and the Railroad and shall be delivered to and approved by both parties prior to the entry upon or use of the Railroad Property.
- 5.7 Whenever any work must be performed in the Colorado State Highway right-of-way, policies and certificates of insurance shall also name the State of Colorado as an additional insured. Like coverage shall be furnished by or on behalf of any subcontractor. Copies of said certificates must

be available on site during the performance of the work.

6. CONSTRUCTION AND MAINTENANCE OF FACILITIES.

- 6.1 USWQwest retains the right, in its sole judgment, to determine the availability of space on Poles/Innerduct. When modifications to a USWQwest spare conduit include the placement of innerduct, USWQwest retains the right to install the number of innerducts required to occupy the conduit structure to its full capacity. In the event USWQwest determines that rearrangement of the existing facilities on Poles/Innerduct is required before Co-Provider's Facilities can be accommodated, the cost of such modification will be included in the Co-Provider's nonrecurring charges for the associated Poles/Innerduct Order.
- 6.2 Co-Provider shall be solely responsible for obtaining the necessary underlying legal authority to occupy Poles/Innerduct on governmental, federal, Native American, and private rights of way, as applicable, and USWQwest does not warrant or represent that providing Co-Provider with access to the Poles/Innerduct in any way constitutes such legal right. -The Co-Provider shall obtain any necessary permits, licenses, bonds, or other legal authority and permission, at the Co-Provider's sole expense, in order to perform its obligations under this Agreement. The Co-Provider shall contact all owners of public and private rights-of-way, as necessary, to obtain written permission required to perform the work prior to entering the property or starting any work thereon and shall provide USWQwest with written documentation of such legal authority prior to placement of its facilities on or in the Poles/Innerduct. The Co-Provider shall comply with all conditions of rights-of-way and Orders.
- 6.3 Co-Provider's Facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated herein by reference, and any governing authority having jurisdiction of the subject matter of this Agreement. Where a difference in specifications exists, the more stringent shall apply. Failure to maintain Facilities in accordance with the above requirements shall be Cause as referenced in Section 3 to this Agreement for termination of the Order in question. Termination of more than two (2) Orders in any twelve-month period pursuant to the foregoing sentence shall be Cause as referenced in Section 3 for termination of this Agreement. USWQwest's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate USWQwest premises. Co-Provider's procedures governing its standards maintenance practices for Facilities shall be made available to USWQwest upon written request. Co-Provider shall within thirty (30) days comply and provide the requested information to USWQwest to bring their facilities into compliance with these terms and conditions.
- 6.4. In the event of any service outage affecting both USWQwest and Co-Provider, repairs shall be effectuated on a priority basis as established by local, state or federal requirements, or where such requirement do not exists, repairs shall be made in the following order: electrical, telephone (local), telephone (long distance), and cable television, or as mutually agreed to by the users of the effected Poles/Innerduct.
- 6.5 In the event of an infrastructure outage, the Co-Provider should contact their Network Maintenance Center at ~~1-800-223-7881~~ at 1-800-223-7881 or the Co-Provider may contact their Account Manager at the Interconnect Service Center.

7. MODIFICATION TO EXISTING POLES/INNERDUCT.

- 7.1. If Co-Provider requests USWQwest to replace or modify existing Poles/Innerduct to increase its strength or capacity for the benefit of the Co-Provider and USWQwest determines in its sole discretion to provide the requested capacity, the Co-Provider shall pay USWQwest the total replacement cost, USWQwest's cost to transfer its attachments, as necessary, and the cost for removal (including destruction fees) of any replaced Poles/Innerduct, if such is necessary. Ownership of new Poles/Innerduct shall vest in USWQwest. To the extent that a modification is incurred for the benefit of multiple parties, Co-Provider shall pay a proportionate share of the total cost as outlined above, based on the ratio of the amount of new space occupied by the Facilities to the total amount of space occupied by all parties joining the modification. Modifications that occur in order to bring Poles/Innerduct into compliance with applicable safety or other requirements shall be deemed to be for the benefit of the multiple parties and Co-Provider shall be responsible for its pro rata share of the modification cost. Except as set forth herein, Co-Provider shall have no obligation to pay any of the cost of replacement or modification of Poles/Innerduct requested solely by third parties.
- 7.2. Written notification of modification initiated by or on behalf of USWQwest shall be provided to Co-Provider at least sixty (60) days prior to beginning modifications if such modifications are not the result of an emergency situation. Such notification shall include a brief description of the nature and scope of the modification. If Co-Provider does not rearrange its facilities within sixty (60) days after receipt of written notice from USWQwest requesting such rearrangement, USWQwest may perform or cause to have performed such rearrangement and Co-Provider shall pay for cost thereof. No such notice shall be required in emergency situations or for routine maintenance of Poles/Innerduct.

8. INSPECTION OF FACILITIES. USWQwest reserves the right to make final construction, subsequent and periodic inspections of Co-Provider's facilities occupying the Poles/Innerduct system. Co-Provider shall reimburse USWQwest for the cost of such inspections except as specified in Section 8 hereof.

- 8.1. Co-Provider shall provide written notice to USWQwest, at least fifteen (15) days in advance, of the locations where Co-Provider's plant is to be constructed.
- 8.2. The Co-Provider shall forward Exhibit A, entitled "Pulling In Report" attached hereto and incorporated herein by this reference, to USWQwest within five (5) business days of the date(s) of the occupancy.
- 8.3. USWQwest shall provide written notification to Co-Provider within seven (7) days of the date of completion of a final construction inspection.
- 8.4. Where final construction inspection by USWQwest has been completed, Co-Provider shall be obligated to correct non-complying conditions within thirty (30) days of receiving written notice from USWQwest. In the event the corrections are not completed within the thirty (30)-day period, occupancy authorization for the Poles/Innerduct system where non-complying conditions remain uncorrected shall terminate immediately, regardless of whether Co-Provider has energized the facilities occupying said Poles/Innerduct system, unless USWQwest has provided Co-Provider a written extension to comply. Co-Provider shall remove its facilities from said Poles/Innerduct in accordance with the provisions set forth in Section 10 of this Agreement. No further occupancy authorization shall be issued to Co-Provider until such non-complying conditions are corrected or until Co-Provider's facilities are removed from the Pole/Conduit system where such non-complying conditions exist. If agreed to in writing, by both parties, USWQwest shall perform such corrections and Co-Provider shall pay USWQwest the cost of performing such work. Subsequent inspections to determine if appropriate corrective action has been taken may be made by USWQwest.
- 8.5. Once the Co-Provider's facilities occupy USWQwest Poles/Innerduct system and Exhibit A has been received by USWQwest, USWQwest may perform periodic inspections. The cost of such

inspections shall be borne by USW:Qwest, unless the inspection reveals any violations, hazards, or conditions indicating that Co-Provider has failed to comply with the provisions set forth in this Agreement, in which case the Co-Provider shall reimburse USW:Qwest for full costs of inspection, and re-inspection to determine compliance as required. A Co-Provider representative may accompany USW:Qwest on field inspections scheduled specifically for the purpose of inspecting Co-Provider's Facilities; however, Co-Provider's costs associated with its participation in such inspections shall be borne by Co-Provider. USW:Qwest shall have no obligation to notify Co-Provider, and Co-Provider shall have no right to attend, any routine field inspections.

- 8.6. The costs of inspections made during construction and/or the final construction survey and subsequent inspection shall be billed to the Co-Provider within thirty (30) days upon completion of the inspection.
- 8.7. Final construction, subsequent and periodic inspections or the failure to make such inspections, shall not impose any liability of any kind upon USW:Qwest, and shall not relieve Co-Provider of any responsibilities, obligations, or liability arising under this Agreement.

9. UNAUTHORIZED FACILITIES

- 9.1 If any facilities are found attached to Poles/Innerduct for which no Order is in effect, USW, without prejudice to any other rights or remedies under this Agreement, shall assess an unauthorized attachment administrative fee of Two Hundred Dollars (\$200.00) per attachment per Pole or innerduct run between manholes, and require the Co-Provider to submit in writing, within ten (10) day after receipt of written notification from USW of the unauthorized occupancy, a Poles/Innerduct application. If such application is not received by USW within the specified time period, the Co-Provider will be required to remove its unauthorized facility within ten (10) days of the final date for submitting the required application, USW may remove the Co-Provider's facilities without liability, and the cost of such removal shall be borne by the Co-Provider.
- 9.2 For the purpose of determining the applicable charge, the unauthorized Poles/Innerduct occupancy shall be treated as having existed for a period of five (5) years prior to its discovery, and the charges, as specified in Section 4, shall be due and payable forthwith whether or not Co-Provider is ordered to continue the occupancy of the Poles/Innerduct system.
- 9.3. No act or failure to act by USW:Qwest with regard to an unauthorized occupancy shall be deemed to constitute the authorization of the occupancy; any authorization that may be granted subsequently shall not operate retroactively or constitute a waiver by USW:Qwest of any of its rights of privileges under this Agreement or otherwise.

10. **REMOVAL OF FACILITIES.** Should USW:Qwest, under the provisions of this Agreement, remove Co-Provider's Facilities from the Poles/Innerduct covered by any Order (or otherwise), USW:Qwest will deliver the Facilities removed upon payment by Co-Provider of the cost of removal, storage and delivery, and all other amounts due USW:Qwest. If payment is not received by USW:Qwest within thirty (30) days, Co-Provider will be deemed to have abandoned such facilities, and USW:Qwest may dispose of said facilities as it determines to be appropriate. If USW:Qwest must dispose of said facilities, such action will not relieve Co-Provider of any other financial responsibility associated with such removal as provided herein. If Co-Provider removes its Facilities from Poles/Innerduct for reasons other than repair or maintenance purposes, the Co-Provider shall have no right to replace such facilities on the Poles/Innerduct until such time as all outstanding charges due to USW:Qwest for previous occupancy have been paid in full. Co-Provider shall submit Exhibit B, entitled "Notification of Surrender of Modification of Conduit Occupancy License by Co-Provider," or Exhibit C, entitled "Notification of Surrender of Modification of Pole Attachment by Co-Provider," each as attached hereto, advising USW:Qwest as to the date on which the removal of Facilities from each Poles/Innerduct has been completed.

11. INDEMNIFICATION AND LIMITATION OF LIABILITIES. Co-Provider shall indemnify and hold harmless USW, Qwest, its owners, parents, subsidiaries, affiliates, agents, directors, and employees against any and all liabilities, claims, judgments, losses, orders, awards, damages, costs, fines, penalties, costs of defense, and attorneys' fees ("Liabilities") to the extent they arise from or in connection with: (1) infringement, or alleged infringement, of any patent rights or claims caused, or alleged to have been caused, by the use of any apparatus, appliances, equipment, or parts thereof, furnished, installed or utilized by the Co-Provider; (2) actual or alleged fault or negligence of the Co-Provider, its officers, employees, agents, subcontractors and/or representatives; (3) furnishing, performance, or use of any material supplied by Co-Provider under this Contract or any product liability claims relating to any material supplied by Co-Provider under this Contract; (4) failure of Co-Provider, its officers, employees, agents, subcontractors and/or representatives to comply with any term of this Contract or any applicable local, state, or federal law or regulation, including but not limited to the OSH Act and environmental protection laws; (5) assertions under workers' compensation or similar employee benefit acts by Co-Provider or its employees, agents, subcontractors, or subcontractors' employees or agents; (6) the acts or omissions (other than the gross negligence or willful misconduct) of USW, Qwest, its officers, employees, agents, and representatives, except as otherwise provided in paragraphs 11.3 and 11.4 below; and/or, (7) any economic damages that may rise, including damages for delay or other related economic damages that the USW, Qwest or third parties may suffer or allegedly suffer as a result of the performance or failure to perform work by the Co-Provider. If both USW, Qwest and the Co-Provider are sued as a result of or in connection with the performance of work arising out of this Contract, the parties hereby agree that the defense of the case (including the costs of the defense and attorneys' fees) shall be the responsibility of the Co-Provider, if USW, Qwest desires. USW, Qwest shall give the Co-Provider reasonable written notice of all such claims and any suits alleging such claims and shall furnish upon the Co-Provider's request and at the Co-Provider's expense all information and assistance available to the USW, Qwest for such defense. The parties shall employ Article 13, Dispute Resolution, to resolve any dispute concerning the proportional fault and liability after the underlying case is terminated.

11.1 IF WORK IS PERFORMED IN THE STATE OF WASHINGTON UNDER THIS GENERAL CONTRACT, THE CO-PROVIDER ACKNOWLEDGES AND AGREES THAT THIS INDEMNIFICATION OBLIGATION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL CLAIMS AGAINST USW, QWEST BY AN EMPLOYEE OR FORMER EMPLOYEE OF THE CO-PROVIDER, AND THE CO-PROVIDER EXPRESSLY WAIVES ALL IMMUNITY AND LIMITATION ON LIABILITY UNDER ANY INDUSTRIAL INSURANCE ACT, OTHER WORKERS' COMPENSATION ACT, DISABILITY BENEFIT ACT, OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION WHICH WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH A CLAIM.

11.2 Except as expressly provided herein, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, ANY LOSS OF USE, LOSS OF BUSINESS OR LOSS OF PROFIT; provided, however, there shall be no limitation on a party's liability to the other for any fines or penalties imposed on the other party by any court of competent jurisdiction or federal, state or local administrative agency resulting from the failure of the party to comply with any term or condition of this Contract or any valid and applicable law, rule or regulation.

11.3 FOR ANY WORK PERFORMED IN ARIZONA, IDAHO, SOUTH DAKOTA, UTAH OR WASHINGTON, SECTION 11(6) SHALL NOT EXTEND TO THE SOLE NEGLIGENCE OF USW, QWEST BUT SHALL EXTEND TO THE NEGLIGENCE OF USW, QWEST WHEN CONCURRENT WITH THAT OF THE CO-PROVIDER.

11.4 FOR ANY WORK PERFORMED IN THE STATES OF MINNESOTA, NEBRASKA, NEW MEXICO, OR OREGON, ARTICLE 11 SHALL NOT APPLY, EXCEPT THAT SECTION 11 SHALL APPLY FOR WORK PERFORMED IN MINNESOTA FOR MAINTENANCE OR REPAIR OF

MACHINERY, EQUIPMENT, OR OTHER SUCH DEVICES, USED AS PART OF A MANUFACTURING, COVERING, OR OTHER PRODUCTION PROCESS INDULGING ELECTRIC, GAS, STEAM, AND TELEPHONE UTILITY EQUIPMENT USED FOR PRODUCTION, TRANSMISSION, OR DISTRIBUTION PURPOSES.

12. FORCE MAJEURE

12.1 The Co-Provider shall be excused from its performance as to any Order if prevented by acts or events beyond the Co-Provider's reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.

12.2 If such contingency occurs, USWQwest may elect:

12.2.1 To terminate this Agreement as to the Order in question; or

12.2.2 To terminate already-assigned specific work assignment(s) the Co-Provider is unable to perform, or any part thereof, and to assign new specific work assignments to other parties for the duration of the cause of the delay; or

12.2.3 To suspend already-assigned specific work assignment(s) the Co-Provider is unable to perform, or any part thereof, for the duration of the cause of the delay; and to assign new specific work assignments to other parties for the duration of the cause of the delay.

12.3 USWQwest shall be deemed to have elected Section 12.2.3 above unless written notice of termination is given by USWQwest after the contingency occurs. With respect to USW'sQwest's election of Section 12.2.3 above:

12.3.1 USWQwest shall give the Co-Provider written notice of the work to be performed by such other party prior to its performance and shall deduct from the Co-Provider's price the cost of the work or services actually performed by such other parties.

12.3.2 The Co-Provider shall resume performance, and complete any work not performed or to be performed by another party, once the delaying cause ceases.

12.3.3 If appropriate, at the USW'sQwest's discretion, the time for completion of specific work assignment(s) shall be extended up to the length of time the contingency endured.

12.4 USWQwest shall be excused from its performance if prevented by acts or events beyond the USW'sQwest's reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.

13. DISPUTE RESOLUTION.

13.1. Other than those claims over which a regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of

qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.

13.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

13.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.

13.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

14. **LAWFULNESS.** This Agreement and the parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. This Agreement shall be governed by the laws of the state where Poles/Innerduct is provided. Nothing contained herein shall substitute for or be deemed a waiver of the parties' respective rights and obligations under applicable federal, state and local laws, regulations and guidelines, including (without limitation) Section 224 of the Communications Act of 1934, as amended (47 U.S.C. 224). The Co-Provider represents that it is a certified Competitive Local Exchange Carrier or otherwise has the legal right, pursuant to 47 U.S.C. 224 to attach to Qwest's pole pursuant to the terms thereof. The Co-Provider acknowledges that Qwest will rely on the foregoing representation, and that if such representation is not accurate, this Agreement shall be deemed void *ab initio*, except for Article 9 hereof, for which Co-Provider shall remain fully liable.

15. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

16. **GENERAL PROVISIONS.**

16.1 Failure or delay by either party to exercise any right, power, or privilege hereunder, shall not operate as a waiver hereto.

16.2 This Agreement shall not be assignable by Co-Provider without the express written consent of USW, Qwest, which shall not be unreasonably withheld. Assignment of this Agreement by Co-Provider to Co-Provider's subsidiary or affiliate shall be presumed to be reasonable; provided, however, that Co-Provider must obtain USW's Qwest's consent in any event.

16.3 This Agreement benefits Co-Provider and USW-Qwest. There are no third party beneficiaries.

16.4 This Agreement constitutes the entire understanding between Co-Provider and USW Qwest with respect to Service provided herein and supersedes any prior agreements or understandings.

The parties hereby execute and authorize this Agreement as of the latest date shown below:

Co-Provider

~~U S WEST Communications, Inc.~~ Qwest Corporation

Signature

Signature

Name Typed or Printed

~~JOHN CARVETH~~

Name Typed or Printed

Title

~~PRODUCT MANAGER~~

Title

Date

Date

Address for Notices

Address for Notices

~~U S WEST Communications, Inc.~~
~~1801 California, Rm. 2330~~
~~Denver, CO 80202~~

Contact: _____

Contact: JOHN CARVETH

Phone: _____

Phone: 303-896-0789

FAX: _____

FAX: 303-896-9022

Address for Notices

Address for Notices

~~Qwest Corporation~~
~~1801 California, Rm. 2330~~
~~Denver, CO 80202~~

Contact: _____

Contact: JOHN CARVETH

Phone: _____

Phone: 303-896-0789

FAX: _____

FAX: 303-896-9022

PULLING IN REPORT

2019

U S WEST Communications, Inc. Qwest Corporation

This is to advise you that pursuant to General Agreement No. _____ granted to us under the terms of the Innerduct Agreement dated _____, 1999-20__ we have completed installation of the following cable into the following ducts.

Municipality

Location		Cable and Equipment Installed	Date
From Manhole at	To Manhole at		

Name of Co-Provider

By: _____

Title: _____

Receipt of the above report is hereby acknowledged _____, 1920-__.

U S WEST Qwest Oregon-Washington SGAT, April-July 1724, 2000

U S WEST Communications,

By: _____

Title: _____

1. Reports shall be submitted in duplicate.
2. A complete description of all facilities shall be given, including a print showing the locations, quantities, sizes and types of all cables and equipment.

3. Sketch to be furnished showing duct used. Must be same duct assigned to Licensee by Licensor as shown on Exhibit ____, unless a change has been previously authorized in writing by Licensor.

Co-Provider: _____

NOTIFICATION OF SURRENDER OR MODIFICATION
OF CONDUIT OCCUPANCY ORDER BY CO-PROVIDER

Street Address
City and State
Date

U-S WEST, Inc. Qwest Corporation

In accordance with the terms and conditions of this Agreement between us, dated _____, 1920 _____, notice is hereby given that the licenses covering occupancy of the following conduit are surrendered (and/or modified as indicated in Licensee's prior notification to Licensor, dated _____, 1920__) effective _____.

CONDUIT LOCATION	LIC. NO. & DATE	SURRENDER OR MODIFICATION	DATE FAC. RMVD. OR MODIFIED
------------------	--------------------	------------------------------	-----------------------------------

Name of Licensor

Name of Co- Provider

Date Notification Received

By _____

Date Modification Accepted

Title _____

By _____

Discontinued:

Total duct footage

Co-Provider

NOTIFICATION OF SURRENDER OR MODIFICATION
OF POLE ATTACHMENT ORDER BY CO-PROVIDER

Street Address
City and State
Date

~~U-S WEST, Inc.~~ Qwest Corporation

In accordance with the terms and conditions of the Agreement between ~~USW~~ Qwest and Co-Provider, dated _____, 1920__, notice is hereby given that the licenses covering attachments to the following poles and/or anchors, and/or utilization of anchor/guy strand is surrendered (or modified as indicated in Co-Provider's prior notification to ~~USW~~ Qwest, dated _____, 1920__) effective _____.

POLE NO.	ASSOC. POLE NO.	LIC. NO. & DATE	SURRENDER OR MODIFICATION	DATE FAC. RMVD OR MODIFIED
1.	A			
	A/GS -			
2.	A			
	A/GS -			
3.	A			
	A/GS -			
4.	A			
	A/GS -			
5.	A			
	A/GS -			
6.	A			
	A/GS -			
7.	A			
	A/GS -			
8.	A			
	A/GS -			
9.	A			
	A/GS -			
10.	A			
	A/GS -			
11.	A			
	A/GS -			
12.	A			
	A/GS -			
13.	A			
	A/GS -			

Date Notification Received _____

Date Modification Received _____

By: _____

Discontinued:

Poles _____

Anchors _____

Anchor/Guy Strands _____

Name of Co-Provider

By: _____

Its: _____

ATTACHMENT 4
FORM OF QUITCLAIM RIGHT OF ACCESS AGREEMENT

After recording, please return to:

Qwest Corporation
1801 California Street
Suite 2330
Denver, Colorado 80202

Attention: Structure Project Manager

QUITCLAIM RIGHT OF ACCESS AGREEMENT

THIS QUITCLAIM RIGHT OF ACCESS AGREEMENT (this "Agreement") is made as of the ___ day of _____, 2000, by and between **QWEST CORPORATION**, a Colorado corporation, successor in interest to **U S WEST COMMUNICATIONS, INC.**, a Colorado corporation ("Grantor"), whose address is _____, and _____, a _____, whose address is _____ ("Grantee").

RECITALS

A. This Agreement relates to certain real property (the "Property") located in the County of _____ (the "County"), State of _____ (the "State").

B. A copy of an agreement purporting to grant to Grantor certain rights to use the Property, as described therein (the "Easement Rights"), is attached as Exhibit A (the "Right of Way Agreement").

C. Pursuant to 42 U.S.C. §§ 224 and 251(b)(5), Grantor, as a Local Exchange Carrier, is required to provide access to rights-of-way to a requesting telecommunications carrier, as defined in 42 U.S.C. § 224. Grantee is a telecommunications carrier that has requested access to Grantor's Easement Rights. To comply with the aforementioned legal requirement, Grantor has agreed to share with Grantee its Easement Rights, if any, relating to the Property, to the extent Grantor may legally convey such an interest.

D. Subject to the consent of the owner of the Property ("Owner") and on the other terms

and conditions set forth in this Agreement, Grantor has agreed to quitclaim to Grantee, without any representation or warranty, the right to use the Easement Rights, and Grantee has agreed to accept such quitclaim conveyance.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

2. 1. Grant of Right of Access. Grantor hereby quitclaims to Grantee and its Authorized Users (as defined below) a non-exclusive, perpetual right to access and use the Easement Rights, which right shall be expressly (a) subject to, subordinate to, and limited by the Right of Way Agreement, and (b) subject to the terms and conditions hereof. As used in this Agreement, “Authorized Users” of Owner, Grantor and Grantee shall mean Owner, Grantor or Grantee, as applicable, their respective Affiliates and agents, licensees, employees, and invitees, including, without limitation, contractors, subcontractors, consultants, suppliers, public emergency vehicles, shipping or delivery vehicles, or construction vehicles. “Affiliates” means, with respect to any Person, any Person that controls, is controlled by or is under common control with such Person, together with its and their respective members, partners, venturers, directors, officers, stockholders, agents, employees and spouses. A Person shall be presumed to have control when it possesses the power, directly or indirectly, to direct, or cause the direction of, the management or policies of another Person, whether through ownership of voting securities, by contract, or otherwise. “Person” means an individual, partnership, limited liability company, association, corporation or other entity.

2. 2. Grantor’s Reserved Rights. Grantor reserves to itself and its Authorized Users the right to use the Easement Rights for any purpose not incompatible with the rights quitclaimed to Grantee by this Agreement.

2. 3. Conditions Precedent to Effectiveness of Agreement. This Agreement is expressly conditioned on the following:

2. a. Consent by Owner. Grantee shall obtain, at its sole cost and expense, a written consent from Owner in the form attached (the “Consent”). The Consent provides, among other things, that Owner shall give notice to Grantor of any default under the Right of Way Agreement and the opportunity to cure such default.

2. b. Recordation of Agreement. Grantee shall be responsible for assuring that the Agreement is in appropriate form for recording in the real property records of the County, shall pay for the recording thereof, and shall provide a copy of the recorded Agreement to Grantor at the address set forth above. An executed and acknowledged Consent and a legible copy of the Right of Way Agreement must be attached to the Agreement when recorded or the Agreement shall not be effective.

2. c. Payment of Costs and Expenses. Grantee shall pay to or reimburse Grantor for all costs and expenses, including reasonable attorneys’ fees, relating to Grantor’s execution and delivery of this Agreement.

2. 4. Grantee’s Representations and Warranties. Grantee represents and warrants to Grantor that:

2. a. Authority. Grantee is a _____, duly formed and validly existing under the laws of the State of _____. All necessary action has been taken by Grantee to execute and deliver this Agreement and to perform the obligations set forth hereunder. Grantee is a “telecommunications carrier” as that term is defined in 42 U.S.C. § 224.

2. b. Due Diligence. Grantee acknowledges and agrees that neither Grantor nor any agent, employee, attorney, or representative of Grantor has made any statements, agreements, promises, assurances, representations, or warranties, whether in this Agreement or otherwise and whether express or implied, regarding the Right of Way Agreement or the Easement Rights or the assignability or further granting thereof, or title to or the environmental or other condition of the Property. Grantee further acknowledges and agrees that Grantee has examined and investigated to its full satisfaction the physical nature and condition of the Property and the Easement Rights and that it is acquiring the Easement Rights in an “AS IS, WHERE IS” condition. Grantee expressly waives all claims for damages by reason of any statement, representation, warranty, assurance, promise or agreement made, if any.

2. 5. Grantee’s Covenants.

2. a. Compliance with Right of Way Agreement. Grantee agrees that the rights granted by Grantor hereunder are expressly subject to, subordinate to, and limited by the Right of Way Agreement, and Grantee further agrees to comply in all respects with the terms and conditions of the Right of Way Agreement as they apply to the holder or user of the Easement Rights.

2. b. Compliance with Laws. Grantee agrees to use the Property and the Easement Rights in compliance with all applicable laws.

2. c. No Further Grant. Grantee shall not grant to any Person other than Grantee’s Authorized Users the right to use the Easement Rights without the prior written consent of Grantor, which consent may be granted or withheld in Grantor’s sole discretion.

2. d. Non-Interference. Grantee agrees that it will not interfere with Grantor’s or Grantor’s Authorized Users’ use of the Easement Rights and will not take any action or fail to take any action that would negatively affect the Easement Rights or cause or contribute to the termination of the Right of Way Agreement.

2. 6. Indemnification. Grantee hereby agrees to indemnify, defend and hold Owner, Grantor and their respective Affiliates harmless from and against any and all claims, judgments, damages, liabilities, penalties, fines, suits, causes of action, costs of settlement, and expenses (including, without limitation, reasonable attorneys' fees) which may be imposed upon or incurred by Grantor or its Authorized Users, or any of them, arising from, relating to or caused by Grantee's breach of this Agreement or the use, or the use by any of Grantee's Authorized Users, of the Easement Rights. In addition to the indemnity obligations described above, in the event that any act or omission of Grantee or Grantee's Authorized Users causes, directly or indirectly, and without reference to any act or omission of Owner, Grantor or their respective Authorized users, the termination or revocation of the Easement Rights, Grantee shall be liable to Grantor for all costs incurred in connection with (a) acquiring replacement Easement Rights over the Property or over other suitable Property, as determined in Grantor's sole judgment (the "Replacement Easement"), (b) the fully-loaded cost of constructing replacement facilities over the Replacement Easement, (c) the cost of removing its facilities and personal property from the Property, if required by the Right of Way Agreement, and (d) any other costs of complying with the Right of Way Agreement, including, without limitation, reasonable attorneys' fees. Grantee shall pay all such amounts within ten (10) days of receipt of any invoice for such costs delivered to Grantee by Owner, Grantor or their respective Authorized Users.

2. 7. Condemnation. If any action is taken whereby the Right of Way Agreement or any part of the Easement Rights are terminated, relocated or otherwise affected, by any taking or partial taking by a governmental authority or otherwise, then such any compensation due or to be paid to the holder of the Easement Rights due to such occurrence shall belong solely to Grantor.

2. 8. Severable Provisions. If any term of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

2. 9. Default; Remedies. (a) If Grantee files a petition in bankruptcy, or a petition is filed against Grantee, which is not dismissed on or before fifteen (15) days after such filing, or (b) in the event of Grantee's breach or threatened breach of any term, covenant or condition of this Agreement, then Grantor shall have, in addition to all other legal and equitable remedies, the right to (x) terminate this Agreement, (y) enforce the provisions hereof by the equitable remedy of specific performance, or (z) enjoin such breach or threatened breach by injunctive action, all without the necessity of proof of actual damages or inadequacy of any legal remedy. Grantee agrees to pay all costs of enforcement of the obligations of Grantee hereunder, including reasonable attorneys' fees and all costs of suit, in case it becomes necessary for Grantor to enforce the obligations of Grantee hereunder, whether suit be brought or not, and whether through courts of original jurisdiction, as well as in courts of appellate jurisdiction, or through a bankruptcy court or other legal proceedings.

2. 10. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be assigned at any time in whole or in part by Grantor.

2. 11. No Dedication. Nothing contained in this Agreement shall constitute a gift or dedication of any portion of the Easement Rights to the general public or for any public purpose

whatsoever. There are no intended third-party beneficiaries to this Agreement.

2. **12. Grantor's Waiver of Confidentiality.** In the event that Owner properly executes the Consent, Grantor hereby waives any right to keep the terms and conditions of the Right of Way Agreement confidential, except for any dollar amounts in the Right of Way Agreement, which rights Grantor expressly reserves. Grantor's waiver of rights, subject to the limitation set forth above, is intended to be effective whether or not such right to confidentiality is expressly set forth in the Right of Way Agreement or elsewhere or may have been agreed to orally, and Grantor further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Owner or Grantee, based upon or arising out of Grantor's alleged right to confidentiality relating to the Right of Way Agreement, except in the event of disclosure of dollar amounts in the Right of Way Agreement. Grantor's waiver is expressly conditioned on Owner's waiver of Owner's confidentiality rights, as set forth in the Consent, which is a part hereof. In the event that Owner does not waive its rights to confidentiality by executing the Consent in the form attached hereto, or if the person executing the Consent does not have the legal right to bind the Owner, Grantor reserves the right (a) to enforce the confidentiality provisions of the Right of Way Agreement, and/or (b) to maintain an action for damages, including, without limitation, consequential damages, arising from the breach of such confidentiality provisions, against any party, including, without limitation, against Grantee or against any Person improperly executing the Consent. In any event, Grantor reserves its right to (a) to enforce the confidentiality provisions of the Right of Way Agreement as to any dollar amounts set forth in such Right of Way Agreements, and/or (b) to maintain an action for damages, including, without limitation, consequential damages, arising from the disclosure of the dollar amounts in any Right of Way Agreement, against any party, including, without limitation, against Grantee or against any Person improperly executing the Consent.

2. **13. Notices.** All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.

2. **14. Modification; Counterparts.** This Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by an instrument in writing and signed by the party against whom enforcement of any amendment, modification, change or waiver is sought. This Agreement may be executed in any number of counterparts, all of which shall constitute but one and the same document.

2. **15. Controlling Law.** This Agreement shall be governed by and construed in accordance with the laws of the State.

2. **16. Waiver of Jury Trial. THE PARTIES HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT OF APPLICABLE LAW, ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

[Signature pages follow]

EXECUTED as of the date first written above.

GRANTOR:

Witnessed by: _____

QWEST CORPORATION, a Colorado corporation,
successor in interest to
U S WEST COMMUNICATIONS, INC.,
a Colorado corporation

By:

Name:

Title:

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2000, by _____ as _____ of QWEST CORPORATION, a Colorado corporation.

Witness my hand and official seal.

(SEAL)

Notary Public

My Commission Expires:

EXECUTED as of the date first written above.

GRANTEE:

Witnessed by: _____, a

By:

Name:

Title:

STATE OF _____)
_____) ss:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of
_____, 2000, by _____ as
_____ of
_____, a _____.

Witness my hand and official seal.

(SEAL)

Notary Public

My Commission Expires:

CONSENT TO QUITCLAIM RIGHT OF ACCESS AGREEMENT

THE UNDERSIGNED, _____, a _____ (“Owner”), whose address is _____, hereby consents to the foregoing Quitclaim Right of Access Agreement (the “Agreement”), as required therein. This Consent is attached to and made a part of the Agreement, and capitalized terms used in this Consent, if not otherwise defined, have the same meaning as in the Agreement.

FOR TEN DOLLARS (\$10) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner agrees as follows:

- 1. Consent.** Owner hereby consents to the terms and provisions of the foregoing Agreement between Grantor and Grantee.
- 2. Title to Property.** Owner represents and warrants either (a) that Owner is the owner of fee title to the Property described in the Right of Way Agreement attached to the Agreement as Exhibit A or, if no description of the Property is given in the Right of Way Agreement, then (b) that Owner is the grantor, or the successor to or assignee of the grantor, of the Easement Rights under the Right of Way Agreement. Owner further represents and warrants that Owner has the legal right to execute this Consent, including, without limitation, the right to waive the confidentiality of the Right of Way Agreement as set forth in Section 4 of this Consent and the right to bind Owner to grant the notice and cure period as set forth in Section 5 of this Consent.
- 3. Owner’s Acknowledgments.** Owner expressly acknowledges that (a) Owner has received and reviewed a copy of the foregoing Agreement; (b) this is a legal document that may affect Owner’s rights and Owner was given the opportunity to have the Agreement and this Consent reviewed by Owner’s attorney; (c) the Agreement, with this Consent attached, will be recorded in the real property records of the County and will become a public record, and Owner, by signing this Consent, waives any rights it may to keep the terms and provisions of the Agreement and the Right of Way Agreement confidential; and (d) Owner understands that it is neither illegal nor a violation of the Right of Way Agreement with Grantor for Owner to enter into a right-of-way agreement, including the Agreement, with a telecommunications carrier, as defined in 42 U.S.C. § 224, such as Grantee.
- 4. Owner’s Waiver of Confidentiality.** Owner hereby waives any right it may have to keep the terms and conditions of the Agreement and/or the Right of Way Agreement confidential, whether or not such right to confidentiality is expressly set forth in the Agreement, the Right of Way Agreement or elsewhere or may have been agreed to orally, and Owner further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Grantor or Grantee, based upon or arising out of Owner’s alleged right to confidentiality relating to the Agreement or the Right of Way Agreement. **Owner understands that Qwest does not agree to waive the confidentiality of the dollar amounts set forth in any Right of Way Agreement, and acknowledges that Owner has no right to provide copies of such Right of Way Agreements to any party unless Owner has completely deleted the dollar amounts.**

5. Notice and Cure Period. Notwithstanding anything to the contrary contained in the Right of Way Agreement, Owner shall not commence any action or otherwise pursue any right or remedy under, or take any steps to terminate, the Right of Way Agreement due to a default by Grantee under the terms and provisions of the Right of Way Agreement unless written notice by Owner specifying such default is given to Grantor and Grantee. Owner agrees that Grantor shall have the right, but shall not be obligated, to cure such default within thirty (30) days after notice, or, if such default cannot reasonably be cured in such 30-day period, Grantor shall have the right to commence the cure of such default in such 30-day period and thereafter diligently pursue such cure until completed. Owner further agrees not to invoke any of its remedies, either express or implied, under the Right of Way Agreement, unless such default shall remain uncured following such notice and grace period.

6. Notices. All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.

EXECUTED as of the date first written above.

OWNER:

a _____

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing Consent was acknowledged before me this ____ day of _____, 2000, by _____ as _____ of _____, a _____.

Witness my hand and official seal.

(SEAL)

Notary Public

My Commission Expires:

2. EXHIBIT 1

Right of Way Agreement