

COMPARISON OF WORLDCOM AND QWEST LANGUAGE

WORLDCOM LANGUAGE BOLD AND ITALICS

QWEST LANGUAGE – NO BOLD OR ITALICS, BUT TITLES BOLD AND UNDERLINED

This CLEC/Qwest Interconnection Agreement (the “Agreement”), is entered into by and between CLEC (“CLEC”), and Qwest Corporation “Qwest” each referred to as a “Party” or collectively as the “Parties”, to establish the rates, terms and conditions for Interconnection, Local Resale, Network Elements, and other services.

WHEREAS the Parties wish to interconnect their local exchange networks in a technically and economically efficient manner for the transmission and termination of calls and for CLEC’s use in the provision of local exchange, exchange access, and ancillary services (“Interconnection”); and

WHEREAS CLEC wishes to purchase services for resale to others (“Resale” or “Local Resale”), and Qwest is willing to provide these services; and

WHEREAS, CLEC wishes to purchase on an unbundled basis network elements, ancillary services, and associated functions, capabilities and features (collectively “Network Elements”), separately or in any Combination, and to use these Network Elements for itself or for the provision of its Telecommunications Services to others, and Qwest is willing to provide these Network Elements; and

WHEREAS CLEC wishes to obtain access to Qwest’s operational support systems (“OSS”) in order to provide local exchange and exchange access services at Parity with Qwest’s provision of access to OSS to itself, its customers, subsidiaries, Affiliates, or any third party, and Qwest is willing to provide this access; and

WHEREAS the Parties intend the rates, terms, and conditions of this Agreement, and their performance of obligations under this Agreement, to comply with the Communications Act of 1934, as amended, (most notably by the Telecommunications Act of 1996) (the “Act”), the rules and regulations of the Federal Communications Commission (“FCC”), and the

orders, rules and regulations of the {State} Commission/Board (the “Commission/Board”);

NOW, THEREFORE, in consideration of the terms and conditions contained in this Agreement, CLEC and Qwest hereby mutually agree as follows:

Section 1.0 - GENERAL TERMS

1.1 This Statement of Generally Available Terms and Conditions ("SGAT") for Interconnection, unbundled network elements, Ancillary Services, and Resale of Telecommunications Services is filed by Qwest Corporation ("Qwest"), a Colorado Corporation with offices at 1801 California Street, Denver, Colorado 80202, pursuant to Section 252(f) of the Telecommunications Act of 1996, for purposes of fulfilling Qwest's obligations under Sections 222, 251(a), (b), and (c), 252, 271, and other relevant provisions of the Act and the rules and regulations promulgated thereunder.

1.2 If this document is being used as the basis for negotiations of an Interconnection Agreement, it is between _____, ("Competitive Local Exchange Carrier" or "CLEC") a _____ corporation and Qwest Corporation ("Qwest"), a Colorado corporation, pursuant to Section 252(f) of the Telecommunications Act of 1996, for purposes of fulfilling Qwest's obligations under Sections 222, 251(a), (b), and (c), 252, 271, and other relevant provisions of the Act and the rules and regulations promulgated thereunder.

1.3 This Agreement sets forth the terms, conditions and pricing under which Qwest will offer and provide to any requesting CLEC network Interconnection, access to unbundled network elements, Ancillary services, and Telecommunications Services available for resale within the geographical areas in which both Parties are providing local exchange service at that time, and for which Qwest is the incumbent Local Exchange Carrier within the State of Colorado for purposes of providing local Telecommunications Services. This Agreement is available for the term set forth herein.

1.4 Individual CLECs may adopt this SGAT, in lieu of entering into an individual Interconnection agreement, by signing the Signature Page Section of this SGAT and by delivering a signed copy of this SGAT to Qwest, pursuant to the notification provision of this SGAT. Upon adoption of the SGAT by CLEC, the SGAT becomes an Interconnection agreement between Qwest and CLEC. The date on which Qwest receives an executed copy of this SGAT shall hereafter be referred to as the "Effective Date" of the Agreement between Qwest and

CLEC.

1.5 This SGAT, once it is approved or permitted to go into effect by the Commission, offers CLECs an alternative to negotiating an individual Interconnection agreement with Qwest or adopting an existing approved Interconnection agreement between Qwest and another CLEC pursuant to Section 252(i) of the Act. In this respect, neither the submission nor approval of this SGAT nor any provision herein shall affect Qwest's willingness to negotiate an individual agreement with any requesting carrier pursuant to Section 252 of the Telecommunications Act of 1996.

1.6 Qwest may modify this SGAT prior to the date it is approved or permitted to go into effect. If Qwest files a modification, the section modified shall be considered withdrawn, and the section as modified will be approved or permitted to go into effect pursuant to the Schedule for Review set forth in 252(f) of the Act. For the purposes of the Schedule for Review set forth in section 252(f) of the Act, the sixty-calendar-day timeframe for this SGAT to take effect shall commence from the filing of this SGAT and shall not be affected by the filing of any modification.

1.7 Following the date this SGAT is approved or allowed to take effect, Qwest may file amendments to this SGAT, which shall be approved or permitted to take effect pursuant to the Schedule for Review set forth in Section 252(f) of the Act. At the time any amendment is filed, the section amended shall be considered withdrawn, and no CLEC may adopt the section considered withdrawn following the filing of any amendment, even if such amendment has not yet been approved or allowed to take effect.

1.8 Because this SGAT is Qwest's standard contract offer, CLECs with a current Interconnection Agreement may opt into, through Section 252(i) of the Act, any provision of the SGAT by executing an appropriate amendment to its current Interconnection Agreement.

1.8.1 When opting into a provision, Qwest may require CLEC to accept legitimately related provisions to ensure that the provision retains the context set forth in the SGAT. At all times, Qwest bears the burden of establishing that an SGAT provision is legitimately related.

1.8.2 To opt into a provision of the SGAT through Section 252(i), CLEC must provide Qwest with written notice of such intention specifying in detail the provisions of the SGAT selected in the form of a proposed amendment to the Interconnection Agreement which has been signed by

the CLEC. Qwest shall make a form or sample amendment as well as the currently effective SGAT, available in electronic form for use by CLEC to prepare the written notice. Once Qwest receives such written notice, it shall have a reasonable period of time to submit a formal written response either accepting the change and signing the amendment or identifying those additional provisions that Qwest believes are legitimately related and must also be included as part of the amendment. If Qwest identifies additional provisions that Qwest believes are legitimately related Qwest shall specify the provisions in the proposed amendment, if any, to which the additional provisions are not legitimately related and which could be included in a revised proposed amendment that would be acceptable to Qwest. Under ordinary circumstances, a reasonable period of time shall be deemed to be fifteen (15) business days. In extraordinary circumstances, where CLEC's requested modification is complex, Qwest shall have additional time to perform its review. When such extraordinary circumstances exist, Qwest will notify CLEC in writing within fifteen (15) business days from the notice and advise CLEC that additional time is necessary. In no event shall a reasonable period of time be deemed to be greater than twenty (20) business days from the time of CLEC's notice.

1.8.3 If Qwest has identified additional provisions that Qwest believes are legitimately related and has specified provisions in the proposed amendment to which those provisions are not legitimately related, CLEC may provide Qwest with a revised proposed amendment that deletes the disputed provisions, which Qwest shall accept and sign. Regardless of whether CLEC provides Qwest with a revised proposed amendment, if CLEC disputes Qwest's written response that additional SGAT provisions are legitimately related, then CLEC may immediately demand that the dispute be submitted to dispute resolution and CLEC shall submit such dispute to dispute resolution within fifteen (15) days from such receipt of Qwest's response. CLEC may, at its sole option, elect to have the dispute resolution conducted through one of the following methods of dispute resolution:

1.8.3.1 The dispute may be settled by the Commission. Such dispute resolution shall be conducted pursuant to Commission rules or regulations specifying a procedure for submission, hearing and resolving issues pursuant to Section 252(i) of the Act or rules and regulations specifying procedures for submission of a dispute arising under an Interconnection Agreement, as appropriate. If the Commission shall not have established any such rules or regulations, CLEC may file a complaint with the Commission. The Commission may elect to hear the complaint under expedited

procedures.

1.8.3.2 The dispute may be settled by arbitration. Such an arbitration proceeding shall be conducted by a single arbitrator. The arbitration proceedings shall be conducted under the then-current rules of the American Arbitration Association (“AAA”). The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the dispute. All expedited procedures prescribed by AAA rules shall apply. The arbitrator’s award shall be final and binding and may be entered in any court having jurisdiction thereof. Except for a finding of bad faith as set forth in 1.8.3.3, each Party shall bear its own costs and attorney’s fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Phoenix metropolitan area or in another mutually agreed upon location.

1.8.3.3 Each Party to the dispute shall bear the responsibility of paying its own attorney’s fees and costs in prosecuting/defending the action. However, if either Party is found to have brought or defended the action in “bad faith”, then that Party shall be responsible for reimbursing the other Party for its reasonable attorney’s fees and costs in prosecuting or defending the action.

1.8.4 If Qwest accepts a CLEC proposed change to adopt certain SGAT language and signs the amendment, the Parties shall begin abiding by the terms of the amendment immediately upon CLEC’s receipt of the signed amendment. Qwest shall be responsible for submitting the proposed change to the Commission for its approval within ten (10) business days from receipt of the signed amendment. The amendment shall be deemed effective upon approval of the amendment by the Commission.

Section 2.0 - INTERPRETATION AND CONSTRUCTION

2.1 This Agreement (“Agreement”) includes this Agreement and all Exhibits appended hereto, each of which is hereby incorporated by reference in this Agreement and made a part hereof. All references to Sections and Exhibits shall be deemed to be references to Sections of, and Exhibits to, this Agreement unless the context shall otherwise require. The headings used in this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of this Agreement. Unless the context shall otherwise require, any reference to any agreement, other instrument (including Qwest or other third party offerings, guides or practices), statute, regulation, rule or Tariff applies to such agreement, instrument, statute, regulation, rule or Tariff as amended and supplemented from time to time (and, in the case of a statute,

regulation, rule or Tariff, to any successor provision).

2.2 The provisions in this Agreement are based, in large part, on the existing state of the law, rules, regulations and interpretations thereof, as of the date hereof (the “Existing Rules”). Among the Existing Rules are the results of arbitrated decisions by the Commission, which are currently being challenged by Qwest or CLEC. Among the Existing Rules are certain FCC rules and orders that are the subject of, or affected by, the opinion issued by the Supreme Court of the United States in *AT&T Corp., et al. v. Iowa Utilities Board, et al.* on January 25, 1999. Many of the Existing Rules, including rules concerning which Network Elements are subject to unbundling requirements, may be changed or modified during legal proceedings that follow the Supreme Court opinion. Among the Existing Rules are the FCC’s orders regarding BOCs’ applications under Section 271 of the Act. Qwest is basing the offerings in this Agreement on the Existing Rules, including the FCC’s orders on BOC 271 applications. Nothing in this Agreement shall be deemed an admission by Qwest concerning the interpretation or effect of the Existing Rules or an admission by Qwest that the Existing Rules should not be vacated, dismissed, stayed or modified. Nothing in this Agreement shall preclude or estop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of the Existing Rules or concerning whether the Existing Rules should be changed, dismissed, stayed or modified. To the extent that the Existing Rules are changed, vacated, dismissed, stayed or modified, then this Agreement and all contracts adopting all or part of this Agreement shall be amended to reflect such modification or change of the Existing Rules. Where the Parties fail to agree upon such an amendment within sixty (60) days from the effective date of the modification or change of the Existing Rules, it shall be resolved in accordance with the Dispute Resolution provision of this Agreement. It is expressly understood that this Agreement will be corrected to reflect the outcome of generic proceedings by the Commission for pricing, service standards, or other matters covered by this Agreement. This Section shall be considered part of the rates, terms and conditions of each Interconnection, service and network element arrangement contained in this Agreement, and this Section shall be considered legitimately related to the purchase of each Interconnection, service and network element arrangement contained in this Agreement.

2.3 In cases of conflict between Qwest’s IRRG product descriptions, methods and procedures, or a Technical Publication, and this Agreement, the rates, terms and conditions of this Agreement shall prevail over such IRRG product descriptions, methods and procedures, or a Technical Publication.

Section 3.0 - IMPLEMENTATION SCHEDULE

3.1 Except as otherwise required by law, Qwest will not provide or establish Interconnection, unbundled network elements, ancillary services and/or resale of Telecommunications Services in accordance with the terms and conditions of this Agreement prior to CLEC's execution of this Agreement. Thereupon, the Parties shall complete Qwest's "CLEC Questionnaire," and negotiate an Interconnection implementation schedule as it applies to CLEC's obtaining of Interconnection, unbundled network elements, ancillary services, and/or resale of Telecommunications Services hereunder.

3.2 Prior to placing any orders for services under this Agreement, the Parties will jointly complete Qwest's "CLEC Questionnaire." This questionnaire will then be used to:

Determine geographical requirements;

Identify CLEC Identification Codes;

Determine Qwest system requirements to support CLEC's specific activity;

Collect credit information;

Obtain billing information;

Create summary bills;

Establish input and output requirements;

Create and distribute Qwest and CLEC contact lists; and Identify CLEC hours and holidays.

3.3 Prior to placing any orders for services under this Agreement, the Parties will finalize an Interconnection implementation schedule. Subject to the terms and conditions of this Agreement, each Party shall exercise reasonable efforts to adhere to the Interconnection implementation schedule.

3.4 ~~Intentionally Left Blank CLEC will provide an initial two-year forecast prior to placing any orders for service under this Agreement. During the first year of the term of this Agreement, the forecast shall be updated and provided to Qwest on a quarterly basis. During the remaining term of this Agreement, CLEC will provide updated forecasts from time to time, as requested by Qwest. The information provided pursuant to this paragraph shall be considered Proprietary Information under the Nondisclosure Section of this Agreement. The initial~~

~~forecast will minimally provide:~~

~~3.4.1 The date service will be offered (by city and/or state);~~

~~3.4.2 The type and quantity of service(s) which will be offered;~~

~~3.4.3 CLEC's anticipated order volumes; and~~

~~3.4.4 CLEC's key contact personnel.~~

Section 5.0 - TERMS AND CONDITIONS

5.1 General Provisions

5.1.1 Each Party shall use its best efforts to comply with the Implementation Schedule provisions that will be mutually agreed upon by the Parties.

5.1.2 The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

5.1.3 Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, or otherwise impairs the quality of service to other carriers or to either Party's end users. Each Party may discontinue or refuse service if the other Party violates this provision. Upon such violation, either Party shall provide the other Party notice of such violation at the earliest practicable time.

5.1.4 Each Party is solely responsible for the services it provides to its end users and to other Telecommunications Carriers.

5.1.5 The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

5.1.6 Nothing in this Agreement shall prevent either Party from seeking to recover the costs and expenses, if any, it may incur in (a) complying with and implementing its obligations under this Agreement, the Act, and the rules, regulations and orders of the FCC and the Commission, and (b) the development, modification, technical installation and maintenance of any systems or other infrastructure which it requires to comply with and to continue complying with its responsibilities and obligations under this Agreement.

Section 3. Term and Termination

3.1 This Agreement becomes effective upon approval by the Commission/Board or pursuant to the Act, whichever date comes first (the “Effective Date”). Neither Party may seek a stay of the Commission/Board’s approval of this Agreement. This Agreement will remain in effect for three years after the Effective Date (“Initial Term”), and continue in full force and effect thereafter until superseded in accordance with this Section [3]. No earlier than 120 days before the expiration of the Initial Term, either Party may request that the Parties commence informal negotiations to replace this Agreement with a superseding agreement by providing the other Party with a written request to enter into negotiations.

3.2 CLEC may terminate this Agreement in whole or in part at any time for any reason upon sixty (60) days prior written notice. CLEC’s sole liability will be payment of undisputed amounts due for services provided up to the date of termination.

3.3 Except as provided in Section [3.5], if either Party breaches a material provision of this Agreement, the non-breaching Party may pursue all available legal and equitable remedies for the breach, if:

3.3.1 the non-breaching Party provides the breaching Party with written notice of the breach; and

3.3.2 the breaching Party fails to cure the breach to the non-breaching Party’s reasonable satisfaction for Customer-affecting breaches within ten days and for non-Customer-affecting breaches within 30 days after its receipt of the non-breaching Party’s notice.

3.4 Nonpayment of amounts disputed in good faith, and withheld or set off, in accordance with Section [4.2.12] of Attachment VIII is not to be deemed, nor should it be construed as, a material breach of this Agreement.

3.5 Notwithstanding any termination of this Agreement, the Parties will continue to comply with their obligations under the Act to provide interconnection. If there is any termination pursuant to this

[Section 3], Qwest will provide for an uninterrupted transition of services to CLEC or another vendor designated by CLEC.

3.6 A Party may immediately pursue all available legal and equitable remedies in the event of breach or anticipated breach of Sections [10 and 21].

5.2 Term of Agreement

5.2.1 When this document is used for purposes of negotiating an Interconnection Agreement, this Agreement shall become effective upon Commission approval, pursuant to Sections 251 and 252 of the Act. This Agreement shall be binding upon the Parties upon the Effective Date and for a term of two years and shall terminate on _____.

5.2.2 Upon expiration of the term of this Agreement, this Agreement shall continue in force and effect until terminated by either Party on one hundred sixty (160) days written notice to the other Party. The date of this notice will be the starting point for the one hundred sixty-- (160) day negotiation window under Section 252 of the Act. If the Parties reach agreement, this Agreement will terminate on the date specified in the notice or on the date the agreement is approved by the Commission, whichever is later. If the Parties arbitrate, this Agreement will terminate when the new agreement is approved by the Commission.

5.2.2.1 Prior to the conclusion of the term specified above, CLEC may obtain Interconnection services under the terms and conditions of a then-existing agreement to become effective at the conclusion of the term.

5.3 Proof of Authorization

5.3.1 Where so indicated in specific sections of this Agreement, each Party shall be responsible for obtaining and having in its possession Proof of Authorization ("POA"). POA shall consist of documentation of the end user's selection of its local service provider. Such selection may be obtained in the following ways:

5.3.1.1 The end user's written Letter of Authorization.

5.3.1.2 The end user's electronic authorization by use of an 8XX number.

5.3.1.3 The end user's oral authorization verified by an

independent third party (with third party verification as POA).

5.3.2 The Parties shall make POAs available to each other upon request in accordance with applicable laws and rules. A charge of \$100.00 will be assessed if the POA cannot be provided supporting the change in service provider. If there is a conflict between the end user designation and the other Party's written evidence of its authority, the Parties shall honor the designation of the end user and change the end user back to the previous service provider.

Section 4. Charges and Payment

4.1 Attachment I of this Agreement sets forth the rates that Qwest may charge CLEC in consideration of the services provided by Qwest under this Agreement. These charges are inclusive. The billing and payment procedures for the charges incurred by CLEC under this Agreement are set forth in Attachment VIII.

5.4 Payment

5.4.1 Amounts payable under this Agreement are due and payable within thirty (30) calendar days after the date of invoice, or within twenty (20) days after receipt of the invoice, whichever is later. If the payment due date is not a business day, the payment shall be made the next business day.

5.4.2 Qwest may discontinue processing orders for the failure of CLEC to make full payment, less any disputed amount as provided for in Section 5.4.4 of this Agreement, for the services provided under this Agreement within thirty (30) days of the due date on CLEC's bill. Qwest will notify CLEC in writing at least ten (10) days prior to discontinuing the processing of orders. If Qwest does not refuse to accept additional orders on the date specified in the ten (10) days notice, and CLEC's non-compliance continues, nothing contained herein shall preclude Qwest's right to refuse to accept additional orders from the non-complying CLEC without further notice. For order processing to resume, CLEC will be required to make full payment of all past and current charges. Additionally, Qwest may require a deposit (or additional deposit) from CLEC, pursuant to this section.

5.4.3 Qwest may disconnect any and all services for failure by CLEC to make full payment, less any disputed amount as provided for in Section 5.4.4 of this Agreement, for the services provided under this Agreement within sixty (60) days of the due date on CLEC's bill. CLEC will pay the Tariff charge required to reconnect each resold end user line disconnected pursuant to this paragraph. Qwest will notify CLEC in writing at least ten (10) business days prior to disconnection of the service(s). In case of such disconnection, all applicable

charges, including termination charges, shall become due. If Qwest does not disconnect CLEC's service(s) on the date specified in the ten (10) day notice, and CLEC's noncompliance continues, nothing contained herein shall preclude Qwest's right to disconnect any or all services of the non-complying CLEC without further notice. For reconnection of service to occur, CLEC will be required to make full payment of all past and current charges. Additionally, Qwest will request a deposit (or additional deposit) from CLEC, pursuant to this section. Qwest agrees, however, that the application of this provision will be suspended for the initial three (3) billing cycles of this Agreement and will not apply to amounts billed during those three (3) cycles.

5.4.4 Should CLEC or Qwest dispute, in good faith, any portion of the monthly billing under this Agreement, the Parties will notify each other in writing within thirty (30) calendar days of the receipt of such billing, identifying the amount, reason and rationale of such dispute. At a minimum, CLEC and Qwest shall pay all undisputed amounts due. Both CLEC and Qwest agree to expedite the investigation of any disputed amounts in an effort to resolve and settle the dispute prior to initiating any other rights or remedies.

5.4.4.1 If a Party disputes charges and does not pay such charges by the payment due date, such charges will be subject to late payment charges. If the disputed charges have been withheld and the dispute is resolved in favor of the billing Party, the withholding Party shall pay the disputed amount and applicable late payment charges no later than the second billing period following the resolution. If the disputed charges have been withheld and the dispute is resolved in favor of the disputing Party, the billing Party shall credit the bill of the disputing Party for the amount of the disputed charges no later than the second Bill Date after the resolution of the dispute. If a Party pays the disputed charges and the dispute is resolved in favor of the billing Party, no further action is required.

5.4.4.2 If a Party pays the disputed charges and the dispute is resolved in favor of the disputing Party, the billing Party shall credit the disputing Party's bill for the disputed amount and any associated interest no later than the second bill payment due date after the resolution of the dispute. The interest calculated on the disputed amounts will be the same rate as late payment charges. In no event, however, shall any late payment charges be assessed on any previously assessed late payment charges.

5.4.5 Qwest will determine CLEC's credit status based on previous payment history with Qwest or credit reports such as Dun and Bradstreet. If

CLEC has not established satisfactory credit with Qwest according to the above provisions or CLEC is repeatedly delinquent in making its payments, or CLEC is being reconnected after a disconnection of service or discontinuance of the processing of orders by Qwest due to a previous nonpayment situation, Qwest will require a deposit to be held as security for the payment of charges before the orders from CLEC will be provisioned and completed or before reconnection of service. "Repeatedly delinquent" means any payment received thirty (30) calendar days or more after the due date, three (3) or more times during a twelve (12) month period. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a surety bond if allowed by the applicable Commission rules, regulations or Tariffs, a letter of credit with terms and conditions acceptable to Qwest, or some other form of mutually acceptable security such as a cash deposit. Required deposits are due and payable within ten (10) calendar days after demand.

5.4.6 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or Tariffs. Cash deposits and accrued interest will be credited to CLEC's account or refunded, as appropriate, upon the earlier of the two year term or the establishment of satisfactory credit with Qwest, which will generally be one full year of timely payments in full by CLEC. The fact that a deposit has been made does not relieve CLEC from any requirements of this Agreement.

5.4.7 Qwest may review CLEC's credit standing and modify the amount of deposit required.

5.4.8 The late payment charge for amounts that are billed under this Agreement shall be in accordance with Commission requirements.

5.4.9 CLEC agrees to inform end-user in writing of pending disconnection by CLEC to allow end user to make other arrangements for Telecommunications Services.

Section 26. Taxes

26.1 For purposes of this Section [26], the term "Taxes" means applicable federal, state and local sales, use, excise, similar consumption taxes and sales tax-like privilege and gross receipts taxes, fees or liabilities, except any taxes, tax like charges or tax-related surcharges determined by a Party's income, net worth, franchise or property (which shall be borne solely by that Party).

26.2 CLEC's Responsibilities

26.2.1 Any amounts payable by CLEC for the services provided it under this Agreement are exclusive of Taxes, which CLEC agrees to pay, provided that, the Taxes are: (i) due from a purchaser of the services under this Agreement pursuant to law; (ii) properly invoiced; and (iii) separately stated on the invoice for the associated services provided.

26.2.2 CLEC is responsible for all applicable CLEC subscriber Taxes, taxes, tax-like charges, and tax-related and other surcharges (including without limitation, 911 fees, charges, taxes, and surcharges). Qwest is not responsible for, and may not invoice to (or collect from) CLEC subscribers, or remit any such Taxes, taxes, tax-like charges, or tax-related and other surcharges (including without limitation, 911 fees, charges, taxes and surcharges).

26.2.3 If CLEC provides Qwest with an applicable, duly authorized direct pay permit, sale for resale exemption certificate, or other applicable exemption certificate, Qwest will not invoice CLEC those taxes that are the subject of the permit/certificate(s), in accordance with law.

26.2.4 If CLEC contests the application of any Tax collected by Qwest, Qwest shall cooperate with CLEC and provide it with any records, testimony, additional information, or assistance as may be reasonable. CLEC is entitled to the benefit of any refund or recovery resulting from the contest.

26.3 Qwest's Responsibilities

26.3.1 Any amounts payable by Qwest for the services provided it under this Agreement are exclusive of Taxes, which ILEC agrees to pay, provided that, the Taxes are: (i) due from a purchaser of the services under this Agreement pursuant to law; (ii) properly invoiced; and (iii) separately stated on the invoice for the associated services provided.

26.3.2 Qwest is not responsible for, and may not invoice to (or collect from) CLEC subscribers, or remit any applicable CLEC subscriber Taxes, taxes, tax-like charges, or tax-related and other surcharges (including without limitation, 911 fees, charges, taxes, and surcharges). CLEC is responsible for all

such CLEC subscriber Taxes, taxes, tax-like charges, and tax-related and other surcharges (including without limitation, 911 fees, charges, taxes and surcharges).

26.3.3 If Qwest provides CLEC with an applicable, duly authorized direct pay permit, sale for resale exemption certificate, or other applicable exemption certificate, CLEC will not invoice Qwest those taxes that are the subject of the permit/certificate(s), in accordance with law.

26.3.4 If Qwest contests the application of any Tax collected by CLEC, CLEC shall cooperate with Qwest and provide it with any records, testimony, additional information, or assistance as may be reasonable. Qwest shall be entitled to the benefit of any refund or recovery resulting from the contest.

5.5 Taxes

5.5.1 Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Until such time as a resale tax exemption certificate is provided, no exemptions will be applied.

5.6 Insurance

5.6.1 CLEC shall at all times during the term of this Agreement, at its own cost and expense, carry and maintain the insurance coverage listed below with insurers having a "Best's" rating of B+XIII.

5.6.1.1 Workers' Compensation with statutory limits as required in the state of operation and Employers' Liability insurance with limits of not less than \$100,000 each accident.

5.6.1.2 Commercial General Liability insurance covering claims for bodily injury, death, personal injury or property damage

occurring or arising out of the use or occupancy of the premises, including coverage for independent contractor's protection (required if any work will be subcontracted), premises-operations, products and/or completed operations and contractual liability with respect to the liability assumed by CLEC hereunder. The limits of insurance shall not be less than \$1,000,000 each occurrence and \$2,000,000 general aggregate limit.

5.6.1.3 Comprehensive automobile liability insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage.

5.6.1.4 Umbrella/Excess Liability insurance in an amount of \$10,000,000 excess of Commercial General Liability insurance specified above. These limits may be obtained through any combination of primary and excess or umbrella liability insurance so long as the total limit is \$11,000,000.

5.6.1.5 "All Risk" Property coverage on a full replacement cost basis insuring all of CLEC personal property situated on or within the premises. CLEC may elect to purchase business interruption and contingent business interruption insurance. Qwest has no liability for loss of profit or revenues should an interruption of service occur.

5.6.2 CLEC shall provide certificate(s) of insurance evidencing coverage, and annually thereafter within ten (10) calendar days of renewal of any coverage maintained pursuant to this Section. Such certificates shall (1) name Qwest as an additional insured under commercial general liability coverage as respects Qwest's interests; (2) provide Qwest thirty (30) calendar days prior written notice of cancellation of, material change or exclusions in the policy(s) to which certificate(s) relate; (3) indicate that coverage is primary and not excess of, or contributory with, any other valid and collectible insurance purchased by Qwest; and (4) provide severability of interest/cross liability coverage.

Section 18. Force Majeure

18.1 Neither Party is liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence. These causes may include acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, or unusually severe weather. If there is an excused delay in the performance of a Party's

obligation(s) under this Agreement, the due date for the performance of the original obligation(s) will be extended by a term equal to the time lost by reason of the delay. If there is a delay, the delaying Party shall perform its obligations at a performance level no less than that which it uses for its own operations. If there is a performance delay or failure by Qwest, Qwest agrees to resume performance in a nondiscriminatory manner and will not favor its own provision of Telecommunications Services above that of CLEC.

5.7 Force Majeure

5.7.1 Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a “Force Majeure Event”). The Party affected by a Force Majeure Event shall give prompt notice to the other Party, shall be excused from performance of its obligations hereunder on a day to day basis to the extent those obligations are prevented by the Force Majeure Event, and shall use reasonable efforts to remove or mitigate the Force Majeure Event. In the event of a labor dispute or strike the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

Section 12. Limitation of Liability

12.1 Neither Party is liable to the other for any consequential damages arising out of or related to this Agreement. Notwithstanding the foregoing limitation, a Party’s liability is not limited by the provisions of this Section 12 in the event of its willful or intentional misconduct, including gross negligence, or its repeated breach of any one or more of its material obligations under this Agreement. A Party’s lost revenue caused by the other Party’s breach of this Agreement will not be considered consequential damages. A Party’s liability is not limited with respect to its indemnification obligations.

12.2 Notwithstanding the limitation in Section 12.1, Qwest is liable for all of CLEC’s reasonably foreseeable damages that result from

Qwest's failure to provide, or delay in providing, to CLEC (i) any services offered under this Agreement, or (ii) the ability to order those services.

5.8 Limitation of Liability

5.8.1 Except for losses relating to or arising out of any act or omission in its performance of services or functions provided under this Agreement, each Party shall be liable to the other for direct damages for any loss, defect or equipment failure including without limitation any penalty, reparation or liquidated damages assessed by the Commission or under a Commission-ordered agreement (including without limitation penalties or liquidated damages assessed as a result of cable cuts), resulting from the causing Party's conduct or the conduct of its agents or contractors.

5.8.2 Neither Party shall be liable to the other for indirect, incidental, consequential, or special damages, including (without limitation) damages for lost profits, lost revenues, lost savings suffered by the other Party regardless of the form of action, whether in contract, warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result.

5.8.3 Except for indemnity obligations, or as otherwise set forth in this Section, each Party's liability to the other Party for any loss relating to or arising out of any act or omission in its performance of services or functions provided under this Agreement, whether in contract or in tort, shall be limited to the total amount that is or would have been charged to the other Party by such breaching Party for the service(s) or function(s) not performed or improperly performed, including without limitation direct damages for loss of or damaged to CLEC's collocated equipment located within the Collocation space.

5.8.4 Nothing contained in this Section shall limit either Party's liability to the other for willful or intentional misconduct.

5.8.5 Nothing contained in this Section shall limit either Party's obligations of indemnification as specified in the Indemnity Section of this Agreement.

5.8.6 CLEC is liable for all fraud associated with service to its end-users and accounts. Qwest takes no responsibility, will not investigate, and will make no adjustments to CLEC's account in cases of fraud unless such fraud is the result of any intentional act or gross negligence of Qwest. Notwithstanding the above, if Qwest becomes aware of potential fraud with respect to CLEC's accounts, Qwest will promptly inform CLEC and, at the direction of CLEC, take

reasonable action to mitigate the fraud where such action is possible.

Section 11. Indemnification

11.1 Notwithstanding any limitations in remedies contained in this Agreement, each Party (the “Indemnifying Party”) will indemnify and hold harmless the other Party (“Indemnified Party”) from and against any loss, cost, claim, damage or expense (including, but not limited to, reasonable attorney’s fees), or other liability to third parties, relating to or arising out of the acts or omissions of the Indemnifying Party, its employees, directors, agents, or contractors in the performance of this Agreement or the failure of the Indemnifying Party to perform its obligations under this Agreement. In addition, the Indemnifying Party will, to the extent of its obligations to indemnify under this Agreement, defend any action or suit brought by a third party against the Indemnified Party.

11.2 The Indemnified Party will notify the Indemnifying Party promptly in writing of any written claim, lawsuit, or demand by a third party for which the Indemnified Party alleges that the Indemnifying Party is responsible under this Section 11. The Indemnified Party will tender the defense (and the control thereof) of the claim, lawsuit, or demand to the Indemnifying Party. The Indemnified Party also will cooperate in every reasonable manner with the defense or settlement of the claim, demand, or lawsuit. The Indemnifying Party will keep the Indemnified Party reasonably and timely apprised of the status of the claim, demand, or lawsuit but at the reasonable expense of the Indemnifying Party. The Indemnified Party will have the right to retain its own counsel, at its expense, and participate in but not direct the defense; provided, however, that if there are reasonable defenses in addition to those asserted by the Indemnifying Party, the Indemnified Party and its counsel may raise and direct these defenses, which will be at the expense of the Indemnifying Party.

11.3 The Indemnifying Party will not be liable under this Section 11 for settlements or compromises by the Indemnified Party of any claim, demand, or lawsuit unless the Indemnifying Party has approved the settlement or compromise in advance or unless the Indemnified Party has ceded the defense of the claim, demand, or

lawsuit to the Indemnifying Party in writing and the Indemnifying Party has failed to promptly undertake the defense.

5.9 Indemnity

5.9.1 With respect to third party claims, the Parties agree to indemnify each other as follows:

5.9.1.1 Except for claims made by end users of one Party against the other Party, which claims are based on defective or faulty services provided by the other Party to the one Party, each of the Parties agrees to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other Party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the indemnifying Party's performance, breach of applicable law, or status of its employees, agents and subcontractors; or for failure to perform under this Agreement, regardless of the form of action.

5.9.1.2 Where the third party claim is made by (or through) an end user of one Party against the other Party, which claim is based on defective or faulty services provided by the other Party to the one Party, then there shall be no obligation of indemnity unless the act or omission giving rise to the defective or faulty services is shown to be intentional and malicious misconduct of the other Party.

5.9.1.3 If the claim is made by (or through) an end user and where a claim is in the nature of a claim for invasion of privacy, libel, slander, or other claim based on the content of a transmission, and it is made against a Party who is not the immediate provider of the Telecommunications Service to the end user (the indemnified provider), then in the absence of fault or neglect on the part of the indemnified provider, the Party who is the immediate seller of such Telecommunications Service shall indemnify, defend and hold harmless the indemnified provider from such claim.

5.9.1.4 For purposes of this Section, where the Parties have agreed to provision line sharing using a POTS splitter: "claims made by end users or customers of one Party against the other Party" refers to

claims relating to the provision of DSL services made against the Party that provides voice services, or claims relating to the provision of voice service made against the Party that provides DSL services; and "immediate provider of the Telecommunications Service to the end user or customer" refers to the Party that provides DSL service for claims relating to DSL services, and to the Party that provides voice service for claims relating to voice services. For purposes of this Section, "customer" refers to the immediate purchaser of the telecommunications service, whether or not that customer is the ultimate end user of that service.

5.9.2 The indemnification provided herein shall be conditioned upon:

5.9.2.1 The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of any liability that the indemnifying Party might have, except to the extent that such failure prejudices the indemnifying Party's ability to defend such claim.

5.9.2.2 The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the indemnified Party may engage separate legal counsel only at its sole cost and expense.

5.9.2.3 In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party.

Section 10. Intellectual Property Rights and Indemnification

10.1. Any intellectual property which originates from or is developed by a Party is owned exclusively by that Party. Except for a limited license to use patents or copyrights to the extent necessary for a Party to use any facilities or equipment (including software) or to receive any service under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by the other Party, is granted to the first party or shall be implied or arise by estoppel. It is the responsibility of each Party to ensure at no additional cost to the other Party that the first Party has obtained any necessary licenses in relation to intellectual property of third parties used in the first Party's network that may be required to enable the other Party to use any facilities or equipment (including

software), to receive any service, or to perform the other Party's respective obligations under this Agreement.

10.1.2 Without limiting the generality of Section 10.1.1, and except to the extent otherwise agreed by the Parties in writing, nothing contained in this Agreement should be construed to grant to either Party any right, title, license or other interest (whether by estoppel, by implication or otherwise) in, to or under, any logo, trademark, trade name, service mark or similar designations of the other Party or its respective Affiliates or any confusingly similar name or designation.

10.2. Notwithstanding any limitation of remedies or liability otherwise set forth in this Agreement or any applicable tariff, the party providing, or otherwise making available (the "IP Indemnitor"), any service, equipment, software, system, facility, data, access or other information, right or material (for purposes of this Section 10.2 only, individually a "Service" and collectively the "Services") to the other party or its Affiliates (individually an "IP Indemnitee" and collectively the "IP Indemnitees") pursuant to this Agreement will, at its expense, defend, or at its option settle, any claim, action, suit or other proceeding (an "Action") brought against an IP Indemnitee alleging infringement or misappropriation of any patent, copyright, trade secret, trademark, service mark or other intellectual property or proprietary right, arising solely from the sale or resale, or the singular, non-combinative use, by the IP Indemnitee of such Service (a "Claim"). The IP Indemnitor will indemnify and hold harmless any IP Indemnitee from and against (i) any damages, liabilities, expenses and costs awarded for, or agreed to by the IP Indemnitor in settlement of, only such Claim, as well as the IP Indemnitee's reasonable costs (including, without limitation, reasonable attorneys' fees and allocated in-house legal expenses) incurred in connection with only such Claim, and (ii) any damages, liabilities, expenses and costs for which the IP Indemnitee becomes obligated to pay to or which are incurred by a Customer or by IP Indemnitee on behalf of a Customer to the extent based only on an Action against such Customer that would be a Claim if brought directly against the IP Indemnitee, where the IP Indemnitee is contractually obligated to indemnify the Customer, and only where the Action is based on the IP Indemnitee's provision of a Service to such Customer. Any IP Indemnitor and any IP Indemnitee shall further comply with, and be subject to, the provisions of Sections 11.2 and 11.3 below, with the terms "Indemnifying Party" and "Indemnified Party" in such

provisions also meaning, respectively, “IP Indemnitor” and “IP Indemnatee”.

10.2.1 IP Indemnitor expressly agrees that it shall promptly reimburse to any IP Indemnatee its respective reasonable attorneys fees and costs, including without limitation allocable costs of in-house counsel, incurred in enforcing against IP Indemnitor the provisions of this Section 10.2

5.10 Intellectual Property

5.10.1 Each Party hereby grants to the other Party the limited, personal and nonexclusive right and license to use its patents, copyrights and trade secrets but only to the extent necessary to implement this Agreement or specifically required by the then-applicable federal and state rules and regulations relating to Interconnection and access to telecommunications facilities and services, and for no other purposes. Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trademarks.

5.10.2 The rights and licenses above are granted “AS IS, WITH ALL FAULTS”, and the other Party’s exercise of any such right and license shall be at the sole and exclusive risk of the other Party. Neither Party shall have any obligation to defend, indemnify or hold harmless the other based on or arising from any claim, demand, or proceeding (hereinafter “claim”) by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision of any facilities by either Party under this Agreement constitutes infringement, or misuse or misappropriation of any patent, copyright, trade secret, or any other proprietary or intellectual property right of any third party.

5.10.3 To the extent required under applicable federal and state rules law, the Party providing access shall use its best efforts to obtain, from its vendors who have licensed intellectual property rights to such Party in connection with facilities and services provided hereunder, licenses under such intellectual property rights as necessary for the other Party to use such facilities and services as contemplated hereunder.

5.10.4 Except as expressly provided in this Intellectual Property Section, nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, logo, trademark, trade name, trade secret or any other intellectual property right now or hereafter owned, controlled or licensable by either Party. Neither Party may use any patent, copyright, logo, trademark, trade name, trade secret or other intellectual

property rights of the other Party or its affiliates without execution of a separate agreement between the Parties.

5.10.5 Neither Party shall without the express written permission of the other Party, state or imply that: 1) it is connected, or in any way affiliated with the other or its affiliates; 2) it is part of a joint business association or any similar arrangement with the other or its affiliates; 3) the other Party and its affiliates are in any way sponsoring, endorsing or certifying it and its goods and services; or 4) with respect to its marketing, advertising or promotional activities or materials, the resold goods and services are in any way associated with or originated from the other or any of its affiliates. Nothing in this paragraph shall prevent either Party from truthfully describing the network elements it uses to provide service to its end users, provided it does not represent the network elements as originating from the other Party or its affiliates in any marketing, advertising or promotional activities or materials.

5.10.6 For purposes of resale only and notwithstanding the above, unless otherwise prohibited by Qwest pursuant to an applicable provision herein, CLEC may use the phrase “CLEC is a Reseller of Qwest’s services” (the “Authorized Phrase”) in CLEC’s printed materials provided:

5.10.6.1 The Authorized Phrase is not used in connection with any goods or services other than Qwest services resold by CLEC.

5.10.6.2 CLEC’s use of the Authorized Phrase does not cause end users to believe that CLEC is Qwest.

5.10.6.3 The Authorized Phrase, when displayed, appears only in text form (CLEC may not use the Qwest logo) with all letters being the same font and point size. The point size of the Authorized Phrase shall be no greater than one fourth the point size of the smallest use of CLEC’s name and in no event shall exceed 8 point size.

5.10.6.4 CLEC shall provide all printed materials using the Authorized Phrase to Qwest for its prior written approval.

5.10.6.5 If Qwest determines that CLEC’s use of the Authorized Phrase causes end user confusion, Qwest may immediately terminate CLEC’s right to use the Authorized Phrase.

5.10.6.6 Upon termination of CLEC’s right to use the Authorized Phrase or termination of this Agreement, all permission or right to use the Authorized Phrase shall immediately cease to exist and CLEC shall immediately cease any and all such use of the Authorized Phrase. CLEC

shall either promptly return to Qwest or destroy all materials in its possession or control displaying the Authorized Phrase.

5.10.7 CLEC acknowledges the value of the mark “Qwest” Qwest and the goodwill associated therewith and acknowledges that such goodwill is a property right belonging to Qwest Communications International Inc. Qwest (the “Owner”). CLEC recognizes that nothing contained in this Agreement is intended as an assignment or grant to CLEC of any right, title or interest in or to the Mark and that this Agreement does not confer any right or license to grant sublicenses or permission to third parties to use the Mark and is not assignable. CLEC will do nothing inconsistent with the Owner’s ownership of the Mark, and all rights, if any, that may be acquired by use of the Mark shall inure to the benefit of the Owner. CLEC will not adopt, use (other than as authorized herein), register or seek to register any mark anywhere in the world which is identical or confusingly similar to the Mark or which is so similar thereto as to constitute a deceptive colorable imitation thereof or to suggest or imply some association, sponsorship, or endorsement by the Owner. The Owner makes no warranties regarding ownership of any rights in or the validity of the Mark.

Section 13. Warranties

13.1 Except as otherwise provided in this Agreement, Qwest shall perform its obligations under this Agreement at a performance level no less than the highest level which it uses for itself, its customers, subsidiaries or Affiliates, or any third party.

13.2 Qwest warrants that it will provide Interconnection to CLEC at any technically feasible point within its network at CLEC’s request, and that the Interconnection will contain all the same features, functions and capabilities, and be at least equal in quality to the highest level provided by Qwest to itself, its customers, subsidiaries or Affiliates or any third party.

13.3 Qwest warrants that it will provide to CLEC on a nondiscriminatory basis each and every Network Element and ancillary service described in Attachments III, VIII and IX, including, but not limited to, Loops, Local Switching, Tandem Switching, Transit, NIDs, Advance Services, Transport (Shared and Dedicated), data switching, Dark Fiber, intelligent network and AIN, Operator Service, Directory Assistance, Directory Listings, E911/911, white and yellow pages, Operations Support Systems, signaling and call related databases, and all the features, functions and capabilities associated directly and indirectly with these Network Elements and

ancillary services. Qwest further warrants that these Network Elements and ancillary services will contain all the same features, functions and capabilities, and be provided at a level of quality at least equal to the highest level, that Qwest provides to itself, its customers, subsidiaries or Affiliates, or any third party.

13.4 Qwest warrants that it will provide to CLEC nondiscriminatory access to poles, pole attachments, ducts, innerducts, conduits, building entrance facilities, building entrance links, equipment rooms, remote terminals, cable vaults, telephone closets, building risers, rights of way, and other pathways owned or controlled by Qwest, using capacity currently available or that can be made available.

13.5 Qwest warrants that it will provide CLEC nondiscriminatory access to all the features, functions and capabilities of Qwest's Operations Support Systems (OSS) at a level of quality that is at least equal to the highest level that Qwest provides to itself, its customers, subsidiaries or Affiliates, or any third party.

13.6 Qwest warrants that it will provide CLEC nondiscriminatory access to telephone numbers.

13.7 Qwest warrants that it will provide CLEC, in a competitively neutral fashion, INP and LNP with the same features, functions, and capabilities that Qwest provides to its customers, subsidiaries or Affiliates, or any third party. Qwest further warrants that it will provide CLEC with INP and LNP with as little impairment of functionality, quality, reliability, and convenience as possible.

13.8 Qwest warrants that it will provide to CLEC, in a competitively neutral fashion, dialing parity for local exchange service and interexchange service and all other forms of traffic, with the same features, functions and capabilities that Qwest provides to itself, its customers, subsidiaries or Affiliates, or any third party, so that CLEC's Customers experience no greater post-dial delay than Qwest's Customers, and are not required to dial any greater number of digits than similarly situated Qwest Customers.

13.9 Qwest warrants that it will provide CLEC with Local Resale, and with respect to Local Resale, will provide Preorder, access to databases, order entry, provisioning, installation, trouble resolution, maintenance, Customer care, maintenance of databases, billing, and

service quality, that is at least at a level of quality that Qwest provides for itself, its Customers, subsidiaries or Affiliates, or any third party. Qwest warrants further that it will impose no restrictions on CLEC's resale of these services unless specifically sanctioned by Applicable Law.

13.10 Qwest warrants that it will provide CLEC on a nondiscriminatory basis space in its premises for collocation, as CLEC may specify.

5.11 Warranties

5.11.1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THAT ALL PRODUCTS AND SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS IS," WITH ALL FAULTS.

Section 5. Assignment and Subcontract

5.1 Any assignment or delegation by either Party to any non-Affiliate entity of any right, obligation or duty, or of any other interest under this Agreement, in whole or in part, without the prior written consent of the other Party will be void. A Party assigning or delegating this Agreement or any right, obligation, duty or other interest under this Agreement to an Affiliate shall provide written notice to the other Party. All obligations and duties of any Party under this Agreement will be binding on all successors in interest and assigns of that Party. No assignment or delegation of this Agreement (in whole or part) will relieve the assignor of its obligations under this Agreement.

5.2 Qwest may not subcontract the performance of any obligation under this Agreement without CLEC's prior written consent. Qwest remains fully responsible for the performance of this Agreement in accordance with its terms if any obligation is performed by a subcontractor or Affiliate.

Section 33. Successors-in-Interest and Assigns

33.1 This Agreement will be binding upon, and inure to the benefit of, the Parties hereto and their respective successors-in-interest and permitted assigns.

5.12 Assignment

5.12.1 Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to a corporate affiliate or an entity under its common control; however, if CLEC's assignee or transferee has an Interconnection agreement with Qwest, no assignment or transfer of this Agreement shall be effective without the prior written consent of Qwest. Such consent shall include appropriate resolutions of conflicts and discrepancies between the assignee's or transferee's Interconnection agreement and this Agreement. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

5.12.2 Without limiting the generality of the foregoing subsection, any merger, dissolution, consolidation or other reorganization of CLEC, or any sale, transfer, pledge or other disposition by CLEC of securities representing more than fifty percent (50%) of the securities entitled to vote in an election of CLEC's board of directors or other similar governing body, or any sale, transfer, pledge or other disposition by CLEC of substantially all of its assets, shall be deemed a transfer of control. If any entity, other than CLEC, involved in such merger, dissolution, consolidation, reorganization, sale, transfer, pledge or other disposition of CLEC has an Interconnection agreement with Qwest, the Parties agree that only one agreement, either this Agreement or the Interconnection agreement of the other entity, will remain valid. All other Interconnection agreements will be terminated. The Parties agree to work together to determine which Interconnection agreement should remain valid and which should terminate. In the event the Parties cannot reach agreement on this issue, the issue shall be resolved through the Dispute Resolution process contained in this Agreement.

Section 15. Remedies

5.13 Default

5.13.1 If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other material provision of this Agreement, and such default or violation shall continue for thirty (30) calendar days after written notice thereof, the other Party may seek relief in accordance with the Dispute Resolution provision of this Agreement. The failure of either

Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

5.14 Disclaimer of Agency

5.14.1 Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

Section 29. Severability

29.1 Subject to Section [2] of this Part A, if any part of this Agreement is held to be invalid for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if the invalid provision had not been a part of it, and the remainder of this Agreement will remain in full force and effect.

5.15 Severability

5.15.1 In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable or invalid in any respect under law or regulation, the Parties will negotiate in good faith for replacement language as set forth herein. If any part of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will affect only the portion of this Agreement which is invalid or unenforceable. In all other respects, this Agreement will stand as if such invalid or unenforceable provision had not been a part hereof, and the remainder of this Agreement shall remain in full force and effect.

Section 21. Confidentiality

21.1 "Confidential Information" means all information that is disclosed by or on behalf of one Party ("Disclosing Party") to the

other Party (“Recipient”), or to which a Recipient otherwise gains access, in the course of or incidental to the performance of this Agreement and that should reasonably have been understood by the Recipient because of legends or other markings, the circumstances of disclosure or the nature of the information itself, to be proprietary and confidential to the Disclosing Party, an Affiliate of the Disclosing Party or to a third party. Confidential Information may be disclosed hereunder in written or other tangible form (including on magnetic media) or by oral, visual or other means. Notwithstanding the foregoing, the following information, in any event, is deemed the Confidential Information of the Disclosing Party under this Agreement: (i) the existence of any transaction, and any related information acquired or derived in the course of that transaction, pursuant to the business processes set forth in Attachment VIII of this Agreement; (ii) all information relating to, as well as the submission of or existence of, orders for services, service requests, forecasts, usage information in any form, customer service records, or letters of agency or authority hereunder; (iii) information that reflects, describes, or otherwise quantifies the volume of services purchased under this Agreement, and (iv) all information disclosed by or on behalf of one Party to the other Party, or to which a Party otherwise gained access, in the course of or incidental to the negotiation of this Agreement and that was “Confidential Information” within the terms of a Non-disclosure Agreement or similar agreement entered into between the Parties and that covered such negotiations.

21.1.1 Recipient agrees as to any Confidential Information received hereunder that it shall: (i) use the Confidential Information only for the purpose of this Agreement or as otherwise expressly permitted by this Agreement; (ii) hold it in confidence and disclose it only to its Affiliates [who are bound to protect the received Confidential Information from unauthorized use and disclosure under the terms of a written agreement] [provided that Recipient shall remain liable for the handling by any such Affiliates of disclosed Confidential Information in compliance with the requirements of this Section 21], its employees and the employees of its Affiliates who have a need to know, for the purpose of this Agreement, and who are bound to protect the received Confidential Information from unauthorized use and disclosure under the terms of a written agreement, and its independent contractors and the independent contractors of its Affiliates, who have a

need to know for the purpose of this Agreement, and who are each bound to protect the received Confidential Information from unauthorized use and disclosure under the terms of a written agreement (including without limitation a pre-existing written agreement); (iii) safeguard it from unauthorized disclosure using no less than the same degree of care with which Recipient safeguards its own confidential or proprietary information of like importance, but in any case using no less than a reasonable degree of care; (iv) except as may otherwise be expressly provided elsewhere in this Agreement, make only the number of copies of Confidential Information as is reasonably required in connection with Recipient's use as permitted under this Section 21; and (v) reproduce and maintain on any such copies such proprietary legends or notices (whether of the Disclosing Party or a third party) as are contained in or on the original or as the Disclosing Party may otherwise reasonably request. Except as expressly permitted in the preceding sentence, Confidential Information may not otherwise be disclosed by Recipient to any third party without the prior written authorization of the Disclosing Party, which authorization may not be unreasonably withheld or delayed. For purposes of this Section 21, disclosure by a Party of Confidential Information to a person or entity permitted by the other Party pursuant to the prior two sentences to receive the same shall be deemed to be a disclosure to such other Party.

21.1.2 Notwithstanding the provisions of Section 21.1.1, under no circumstances will Qwest disclose CLEC's Confidential Information to, or permit access to CLEC's Confidential Information by, the retail operations or any employee thereof, or the retail customer representatives of, Qwest or any Qwest Affiliate, or any independent contractors to any of the foregoing, and Qwest and any Qwest Affiliate shall take all actions necessary to ensure that any such retail operations and any employees thereof, their respective retail customer representatives, and any independent contractors of any of the foregoing, cannot access CLEC's Confidential Information. In the event that the retail operations, any employees thereof, or retail customer representatives of Qwest or any Qwest Affiliate, or any independent contractors to any of the foregoing, possess or have knowledge of any CLEC Confidential Information, that fact will establish a rebuttable presumption that Qwest breached its obligations under this

Section 21, and Qwest will bear the full burden of showing that the Qwest as to such Confidential Information is subject to one or more of the exceptions set forth in Section 21.1.3.

21.1.3 The restrictions of this Section 21 on use and disclosure of Confidential Information does not apply to Confidential Information which: (i) was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party, (ii) was publicly known at the time of the Disclosing Party's communication thereof to Recipient, (iii) becomes publicly known or available through no fault of Recipient subsequent to receipt hereunder, (iv) is rightfully acquired by Recipient from third parties authorized to make such disclosure free of restrictions on its use and disclosure, or (v) is developed by Recipient independently of and without reference to any of the Disclosing Party's Confidential Information or other information that the Disclosing Party disclosed in confidence to any third party.

21.1.4 In the event Recipient is required by law, regulation or court order to disclose any of the Disclosing Party's Confidential Information, Recipient will promptly notify the Disclosing Party in writing prior to making any such disclosure and shall reasonably cooperate in any efforts of the Disclosing Party to seek a protective order or other appropriate remedy from the proper authority. If the Disclosing Party is not successful in precluding the requested disclosure, Recipient will furnish only that portion of the Confidential Information which is legally required and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information.

21.1.5 The Parties acknowledge that their respective Confidential Information is unique and valuable, and that breach by either Party of the obligations of this Agreement regarding Confidential Information will result in irreparable injury to the affected Party for which monetary damages alone would not be an adequate remedy. Therefore, the Parties agree that in the event of a breach or threatened breach of the obligations of this Agreement regarding Confidential Information, the affected Party shall be entitled to specific performance and injunctive or other equitable relief as a

remedy for any such breach or anticipated breach without the necessity of posting a bond. Any such relief will be in addition to and not in lieu of any appropriate relief in the way of monetary damages.

21.2 Confidential Information which would constitute CPNI if in the possession of the Disclosing Party may not be used or disclosed by a Recipient for Recipient's marketing purposes or any purpose other than performing under this Agreement, notwithstanding any authorization Recipient may have from a third-party concerning CPNI that relates to the third party's relationship with the Disclosing Party. "CPNI" is Customer Proprietary Network Information, as defined by the FCC in implementing 47 U.S.C. 222.

21.3 Except as otherwise expressly provided in this Section 21, nothing herein should be construed as limiting either Party's rights with respect to its own proprietary or confidential information or its obligations with respect to the other Party's proprietary or confidential information under Section 222 of the Act.

21.4 All Confidential Information disclosed under this Agreement (including information in computer software or held in electronic storage media) shall be and remain the property of the Disclosing Party. At the request of the Disclosing Party, all Confidential Information in any computer memory or data storage apparatus must be erased or destroyed, and all Confidential Information in tangible form in the possession or under the control of the Recipient shall promptly, at the option of the Disclosing Party, either be destroyed or returned to the Disclosing Party.

21.5 The provisions of this Section 21 shall survive any expiration or earlier termination of this Agreement.

5.16 Nondisclosure

5.16.1 All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with end user specific, facility specific, or usage specific information, other than end user information communicated for the purpose of providing directory assistance or publication of directory database, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as

“Confidential” or “Proprietary”, or (iii) communicated and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) calendar days after delivery, to be “Confidential” or “Proprietary” (collectively referred to as “Proprietary Information”), shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information.

5.16.2 Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.

5.16.3 Each Party shall keep all of the other Party’s Proprietary Information confidential and shall use the other Party’s Proprietary Information only in connection with this Agreement. Neither Party shall use the other Party’s Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.

5.16.4 Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:

- a) was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the disclosing Party; or
- b) is or becomes publicly known through no wrongful act of the receiving Party; or
- c) is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; or
- d) is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
- e) is disclosed to a third person by the disclosing Party without similar restrictions on such third person’s rights; or
- f) is approved for release by written authorization of the disclosing

Party; or

g) is required to be made public by the receiving Party pursuant to applicable law or regulation provided that the receiving Party shall give sufficient notice of the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.

5.16.5 Nothing herein is intended to prohibit a Party from supplying factual information about its network and Telecommunications Services on or connected to its network to regulatory agencies including the Federal Communications Commission and the Commission so long as any confidential obligation is protected.

5.16.6 Effective Date of this Section. Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the Effective Date.

Section 17. Survival

17.1 If this Agreement expires or is terminated, the following survive: (i) any liabilities or obligations of a Party for acts or omissions prior to the expiration or termination of this Agreement, (ii) any obligation of a Party under the provisions regarding Indemnification, Confidential Information, Limitation of Liability, and (iii) all other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) expiration or termination of this Agreement.

5.17 Survival

5.17.1 Any liabilities or obligations of a Party for acts or omissions prior to the completion of the two year term, and any obligation of a Party under the provisions regarding indemnification, Confidential or Proprietary Information, limitations of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, shall survive cancellation or termination hereof.

Section 23. Dispute Resolution Procedures

23.1 The parties recognize and agree that the Commission has continuing jurisdiction to implement and enforce all terms and conditions of this Agreement. Accordingly, the parties agree that any dispute arising out of or relating to this Agreement that the

parties themselves cannot resolve, may be submitted to the Commission for resolution. The parties agree to seek expedited resolution by the Commission, and shall request that resolution occur in no event later than sixty (60) days from the date of submission of such dispute. If the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each party shall pay half of the fees and expenses so incurred. During the Commission proceeding each party shall continue to perform its obligations under this Agreement; provided, however that neither party shall be required to act in any unlawful fashion. This provision shall not preclude the parties from seeking relief available in any other forum or preclude CLEC from using alternative dispute resolution offered by Qwest in relation to merger approvals or other regulatory actions.

23.2 The Parties agree that claims regarding the provision of or failure to provide Interconnecting Local Resale, Network Elements or other services under this Agreement which the Commission/Board has not resolved after such claims are submitted to the Commission/Board for resolution pursuant to Section 23.1 of this Part A may be submitted to binding and final arbitration before J.A.M.S./Endispute pursuant to the United States Arbitration Act, 9 USC Sec. 1 et seq. Either Party may commence the arbitration process called for in this Agreement by filing a written demand for arbitration with J.A.M.S./Endispute, with a copy to the other Party. The arbitration will be conducted in accordance with the provisions of J.A.M.S./Endispute's Comprehensive Arbitration Rules and Procedures in effect at the time of the filing of the demand for arbitration. The Parties shall file the arbitrator's decision with the Commission/Board. The Parties will share the costs of the arbitration equally. The provisions of this Section 23.2 may be enforced by any Court of competent jurisdiction, and the Party seeking enforcement will be entitled to an award of all costs, fees, and expenses, including attorneys' fees, to be paid by the Party against whom enforcement is ordered.

5.18 Dispute Resolution

5.18.1 If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents should arise, and the Parties do not resolve it in the ordinary course of their dealings (the "Dispute"), then it shall be resolved in accordance with the dispute resolution process set forth in this Section. Each notice of default, unless cured within the applicable

cure period, shall be resolved in accordance herewith.

5.18.2 At the written request of either Party, and prior to any other formal dispute resolution proceedings, each Party shall designate a vice-presidential level employee to review, meet, and negotiate, in good faith, to resolve the Dispute. The Parties intend that these negotiations be conducted by non-lawyer, business representatives, and the locations, format, frequency, duration, and conclusions of these discussions shall be at the discretion of the representatives. By mutual agreement, the representatives may use other procedures, such as mediation, to assist in these negotiations. The discussions and correspondence among the representatives for the purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, and shall be exempt from discovery and production, and shall not be admissible in any subsequent arbitration or other proceedings without the concurrence of both of the Parties.

5.18.3 If the vice-presidential level representatives have not reached a resolution of the Dispute within thirty (30) calendar days after the matter is referred to them, then either Party may demand that the Dispute be settled by arbitration. Such an arbitration proceeding shall be conducted by a single arbitrator, knowledgeable about the telecommunications industry unless the Dispute involves amounts exceeding one million dollars (\$1,000,000) in which case the proceeding shall be conducted by a panel of three arbitrators, knowledgeable about the telecommunications industry. The arbitration proceedings shall be conducted under the then-current rules of the American Arbitration Association (“AAA”). The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the Dispute. All expedited procedures prescribed by the AAA rules shall apply. The arbitrator’s award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys’ fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Denver, Colorado metropolitan area or in another mutually agreeable location. It is acknowledged that the Parties, by mutual, written agreement, may change any of these arbitration practices for a particular, some, or all Dispute(s).

5.18.4 Should it become necessary to resort to court proceedings to enforce a Party’s compliance with the dispute resolution process set forth herein, and the court directs or otherwise requires compliance herewith, then all of the costs and expenses, including its reasonable attorney fees, incurred by the Party requesting such enforcement shall be reimbursed by the non-complying Party to the requesting Party.

5.18.5 No Dispute, regardless of the form of action, arising out of this

Agreement, may be brought by either Party more than two (2) years after the cause of action accrues.

5.18.6 Nothing in this Section is intended to divest or limit the jurisdiction and authority of the Commission or the FCC as provided by state and federal law.

Section 7. Governing Law

7.1 This Agreement will be governed by and construed in accordance with the Act and the FCC's Rules and Regulations, except insofar as state law may control any aspect of this Agreement, in which case the domestic laws of the {State of _____}, without regard to its conflicts of laws principles, will govern.

5.19 Controlling Law

5.19.1 This Agreement is offered by Qwest and accepted by CLEC in accordance with the terms of the Act and the State law of Colorado. It shall be interpreted solely in accordance with the terms of the Act and the State law of Colorado.

Section 27. Responsibility for Environmental Contamination

27.1 CLEC is in no event liable to Qwest for any costs whatsoever resulting from the presence or release of any environmental hazard that CLEC did not introduce to the affected work location. Qwest shall, at CLEC's request, indemnify, defend, and hold harmless CLEC, each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys fees) that arise out of or from: (i) any environmental hazard that Qwest or its contractors, employees or agents introduce to the work locations; or (ii) the presence or release of any environmental hazard for which Qwest is responsible under Applicable Law.

27.2 Qwest is in no event liable to CLEC for any costs whatsoever resulting from the presence or release of any environmental hazard that Qwest did not introduce to the affected work location. CLEC shall, at Qwest's request, indemnify, defend, and hold harmless Qwest, each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities,

finances, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from: (i) any environmental hazard that CLEC or its contractors, employees or agents introduce to the work locations; or (ii) the presence or release of any environmental hazard for which CLEC is responsible under Applicable Law.

27.3 In the event any suspect materials within Qwest-owned, operated or leased facilities are identified to be asbestos-containing, CLEC will ensure that to the extent any activities which it undertakes in the facility disturb such suspect materials, such CLEC activities will be in accordance with applicable local, state and federal environmental and health and safety statutes and regulations. Except for abatement activities undertaken by CLEC or equipment placement activities that result in the generation of asbestos-containing material, CLEC does not have any responsibility for managing, nor is it the owner of, nor does it have any liability for, or in connection with, any asbestos-containing material. Qwest agrees to immediately notify CLEC if Qwest undertakes any asbestos control or asbestos abatement activities that potentially could affect CLEC personnel, equipment or operations, including, but not limited to, contamination of equipment.

5.20 Responsibility for Environmental Contamination

5.20.1 Neither Party shall be liable to the other for any costs whatsoever resulting from the presence or release of any environmental hazard that either Party did not introduce to the affected work location. Both Parties shall defend and hold harmless the other, its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any environmental hazard that the indemnifying Party, its contractors or agents introduce to the work locations or (ii) the presence or release of any environmental hazard for which the indemnifying Party is responsible under applicable law.

Section 14. Notices

14.1 Except as otherwise provided in this Agreement, all notices or other communications under this Agreement are deemed duly given when made in writing and delivered in person or deposited in the United States mail, certified mail, postage prepaid, return receipt

requested, or delivered by prepaid overnight express mail, and addressed as follows:

To CLEC:

Copy to: CLEC To Qwest:

If personal delivery is selected to give notice, a receipt of such delivery must be obtained. The address to which notices or communications may be given to either Party may be changed by written notice given by one Party changing its address to the other Party pursuant to this Section [14].

5.21 Notices

5.21.1 Any notices required by or concerning this Agreement shall be in writing and sent by certified mail, return receipt requested, to Qwest and CLEC at the addresses shown below:

Qwest Corporation
Director Interconnection Compliance
1801 California, Room 2410
Denver, CO 80202

With copy to:

Qwest Attention:
Corporate Counsel, Interconnection
1801 California Street, ~~51st~~ 49th Floor
Denver, CO 80202

and to CLEC at the address shown below:

Name:

Each Party shall inform the other of any change in the above contact person and/or address.

5.22 Responsibility of Each Party

5.22.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations, and (ii) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal, and (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

Section 9. No Third Party Beneficiaries

9.1 The provisions of this Agreement are for the benefit of the Parties and not for any other Person. This Agreement will not provide any Person not a Party to this Agreement with any remedy, claim, liability, reimbursement, claim of action, or other right in excess of those existing by reference in this Agreement.

5.23 No Third Party Beneficiaries

5.23.1 Unless specifically set forth herein, this Agreement does not provide and shall not be construed to provide third parties with any remedy,

claim, liability, reimbursement, cause of action, or other privilege.

5.24 Referenced Documents

5.24.1 All references to Sections shall be deemed to be references to Sections of this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, Qwest practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, Qwest practice, or publication of industry standards. The existing configuration of either Party's network may not be in immediate compliance with the latest release of applicable referenced documents.

5.25 Publicity

5.25.1 Neither Party shall publish or use any publicity materials with respect to the execution and delivery or existence of this Agreement without the prior written approval of the other Party.

Section 32. Counterparts

32.1 This Agreement may be executed in counterparts. Each counterpart will be considered an original and such counterparts will together constitute one and the same instrument.

5.26 Executed in Counterparts

5.26.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

Section 6. Compliance with Laws

6.1 The Parties will perform all terms, conditions, and operations under this Agreement in accordance with all Applicable Laws.

6.2 Each Party is responsible for obtaining and keeping in effect all FCC, Commission/Board, franchise authority and other regulatory agency approvals that may be required in connection with the performance of its obligations under this Agreement. Each Party shall reasonably cooperate with the other in obtaining and maintaining any required approvals for which the other is responsible.

6.3 In the event a provision of the Act or any FCC rule or regulation applicable to this Agreement is held invalid, this Agreement will survive, and the Parties will promptly renegotiate only those provisions of this Agreement which, in the absence of such invalidated Act, rule or regulation, are insufficiently clear to be effectuated.

6.4 Qwest is solely responsible for obtaining from governmental authorities, building owners, other carriers, and any other Persons, all rights and privileges (including, but not limited to, space and power), which are necessary for Qwest to provide the Network Elements, Ancillary Services, Combinations, Local Resale, Interconnection and other services pursuant to this Agreement.

5.27 Compliance

5.27.1 Each Party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement. Without limiting the foregoing, Qwest and CLEC agree to keep and maintain in full force and effect all permits, licenses, certificates, and other authorities needed to perform their respective obligations hereunder.

20.3. Law Enforcement Interface

Qwest shall provide seven days per week/24 hours per day (i) installation and information retrieval pertaining to traps, (ii) assistance involving emergency traces and (iii) information retrieval on Customer invoked CLASS services, including, but not limited to, call traces requested by CLEC. Qwest shall provide all necessary assistance to facilitate the execution of wiretap or dialed number recorder orders from law enforcement authorities.

5.28 Compliance with the Communications Assistance Law Enforcement Act of 1994

5.28.1 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the Communications Assistance Law Enforcement Act of 1994 ("CALEA"). Each Party shall indemnify and hold the other Party harmless from any and all

penalties imposed upon the other Party for such noncompliance and shall at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

5.29 Cooperation

5.29.1 The Parties agree that this Agreement involves the provision of Qwest services in ways such services were not previously available and the introduction of new processes and procedures to provide and bill such services. Accordingly, the Parties agree to work jointly and cooperatively in testing and implementing processes for pre-ordering, ordering, maintenance, provisioning and billing and in reasonably resolving issues which result from such implementation on a timely basis. Electronic processes and procedures are addressed in the Support Functions Section of this Agreement.

Section 28. Amendments and Modifications

28.1 No provision of this Agreement will be deemed waived, amended or modified by either Party unless the waiver, amendment or modification is in writing, dated, and signed by both Parties.

5.30 Amendments

5.30.1 When this document is being used as an Interconnection agreement, it can only be amended in writing, executed by the duly authorized representatives of the Parties.

Section 31. Entire Agreement

31.1 This Agreement, including all Parts and Attachments and subordinate documents attached to it or referenced within, all of which are hereby incorporated by reference, constitute the entire matter thereof, and supersede all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter of the Agreement.

5.31 Entire Agreement

5.31.1 This Agreement constitutes the entire agreement between Qwest and CLEC and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with

respect to the subject matter hereof.

5.32 Pick and Choose

5.32.1 If this document is being used to negotiate an Interconnection Agreement, the Parties agree to comply with Section 252(i) of the Act, and rules promulgated thereunder.

Section 2. Regulatory Approvals

2.1 This Agreement, and any amendment or modification hereof, will be submitted to the Commission/Board for approval in accordance with Section 252 of the Act. If any governmental authority or agency rejects any provision of this Agreement, the Parties will negotiate promptly and in good faith the revisions which may reasonably be required to achieve approval.

2.2 If any change in the Applicable Law makes unlawful any provision of this Agreement, the Parties will negotiate promptly and in good faith in order to amend the Agreement to substitute contract provisions which are consistent with the change. If the Parties cannot agree on an amendment within thirty (30) days after the date on which the change in Applicable Law becomes effective, then either Party may involve the applicable procedures set forth in Section [23] (Dispute Resolution Procedures).

2.3 If Qwest files or is required to file a tariff or makes or is required to make a similar filing that would otherwise be governed by this Agreement, Qwest shall: (i) consult with CLEC reasonably in advance of the filing about the form and substance of the filing; (ii) provide to CLEC its proposed filing and obtain CLEC's agreement on the form and substance prior to the filing; and (iii) take all steps reasonably necessary to ensure that the tariff or other filing imposes obligations upon Qwest that are as close as possible to those provided in this Agreement and preserves for CLEC the full benefit of the rights otherwise provided in this Agreement. Qwest may not otherwise file any tariff or similar filing that purports to govern the services provided under this Agreement that is inconsistent with the terms and conditions (including rates) set forth in this Agreement.

2.4 If any governmental authority or agency (including, but not limited to, the Commission/Board) requires Qwest to provide any service covered by this Agreement in accordance with any terms or

conditions that differ from one or more corresponding terms or conditions of this Agreement, CLEC may elect to amend this Agreement to reflect any differing terms or conditions contained in such decision or order, with effect from the date CLEC makes its election. Terms and conditions relating to other services covered by this Agreement and not covered by such decision or order will remain unaffected and will remain in full force and effect.

2.5 The Parties intend that any additional services requested by either Party relating to the subject matter of this Agreement will be incorporated into this Agreement by amendment. Each amendment will be effective between the Parties on the date specified in the amendment notwithstanding Section 2.1 above. Each Party will individually bear the risk of regulatory action on the amendment.

2.6 The Parties acknowledge that the terms and conditions of this Agreement were established pursuant to an order of the Commission/Board. Any or all of the terms and conditions of this Agreement may be altered or abrogated by a successful legal challenge or appeal of this Agreement (or to the order approving the Agreement) as permitted by Applicable Law. By signing this Agreement, the Parties do not waive their right to pursue such a legal challenge or appeal.

Section 8. Relationship of Parties

8.1 The Parties intend that Qwest be an independent contractor. Nothing contained in this Agreement may be construed to deem the Parties joint venturers, partners, employees or agents of one another, and neither Party has the right or power to bind or obligate the other.

Section 16. Waivers

16.1 Waiver of any provision of this Agreement and consent to any default under this Agreement must be in writing.

16.2 No course of dealing or failure of either Party to strictly enforce any term, right, or condition of this Agreement in any instance may be construed as a general waiver or relinquishment of the term, right or condition.

16.3 Waiver by either Party of any default by the other Party will not be deemed a waiver of any other default.

16.4 Neither party, by entering into this Agreement, waives any right granted to it pursuant to the Act.

Section 19. Non-Discriminatory Treatment

19.1 CLEC may, at its option and immediately upon written notice to Qwest, incorporate into this Agreement any provision contained in any third party contract related to the subject matter of this Agreement. Qwest shall provide to CLEC any such contract within 15 days of filing it with the Commission/Board. If the selected provision relates to Interconnection arrangements, Network Elements, or other services available to CLEC under the Act, the Parties agree to incorporate other terms and conditions from that third party contract only if those terms and conditions relate solely to the subject Interconnection arrangement, Network Element, or other service. The Parties agree that such terms and conditions may include volume and term commitments. However, CLEC need not accept any other terms and conditions unless and until Qwest proves to the Commission/Board, and the Commission/Board so orders, that those terms and conditions relate solely to the subject Interconnection arrangement, Network Element, or other service. Any term incorporated pursuant to this Section 19 will remain available to CLEC until the expiration of the third party contract, or until the subject term is no longer available to the third party, whichever is later.

Section 30. Headings Not Controlling

30.1 The headings and numbering of Sections, Parts and Attachments in this Agreement are for convenience only and will not be construed to define or limit any of the terms in this Agreement or affect the meaning or interpretation of this Agreement.

Section 20.1 Network Security

20.1.1 Qwest shall provide an appropriate and sufficient back-up and recovery plan to be used in the event of a system failure or emergency.

20.1.2 Qwest shall install controls to: (i) disconnect a user for a pre-determined period of inactivity on authorized ports; (ii) protect customer network proprietary information; and (iii) ensure both ongoing operational and update integrity.

20.1.3 Qwest shall provide network security ensuring that: (i) all CLEC-approved systems and modem access are secured through CLEC-approved security devices; and (ii) access to or connection with a Network Element is established through CLEC security-approved networks or gateways.

20.1.4 Qwest agrees to comply with CLEC Corporate Security Standards, including but not limited to “CLEC Information Asset Security Standards”, February, 1996, Document Number 076-0004-01-01.OF-ER and “CLEC Minimum Security Baseline Standard for Information Systems”, January 1996, Document Number 076-0003-01.OF-ER.

20.2 Revenue Protection

20.2.1 Qwest shall make available to CLEC all present and future fraud prevention or revenue protection features, including prevention, detection, or control functionality embedded within any of the Network Elements. These features include, but are not limited to, screening codes; information digits, such as information digits ‘29’ and ‘70’ which indicate prison and COCOT pay phone originating line types respectively; call blocking of domestic, international, 800, 888, 900, NPA-976, 700, 500 and specific line numbers; and the capability to require end-user entry of an authorization code for dial tone. Qwest shall, in addition, provide partitioned access to fraud prevention, detection, and control functionality within pertinent operations support systems (“OSS”), including, but not limited to, Line Information Data Base Fraud monitoring systems, High Toll Notifiers, SS7 suspect traffic alerts, and AMA suspect traffic alerts.

20.2.2 Uncollectible and unbillable revenues resulting from, but not confined to, a provisioning, maintenance, or signal network routing error are the responsibility of the Party causing that error.

20.2.3 Uncollectible or unbillable revenues resulting from the accidental or malicious alteration of software underlying Network Elements or their subtending OSS by unauthorized third parties is the responsibility of the Party which has administrative control of access to the Network Element or OSS software.

20.2.4 Qwest is responsible for any uncollectible or unbillable revenues resulting from the unauthorized use of the service provider network whether that compromise is initiated by software or physical attachment to Loop facilities from the Main Distribution Frame up to and including the Network Interface Device (NID), including clip-on fraud. Qwest shall provide soft dial tone to allow only the completion of calls to final termination points required by law.

Section 25. Branding

25.1 Whenever Qwest has control over handling of the services that CLEC may provide to third parties using services provided by Qwest under this Agreement, Qwest shall, at CLEC's sole discretion, brand any and all services at all points of Customer contact exclusively as CLEC services, or otherwise as CLEC may specify, or be provided with no brand at all, as CLEC may determine. Where technically feasible, the branding provided by Qwest must be automatic and not require any manual intervention. Qwest shall not unreasonably interfere with branding by CLEC. Qwest shall thoroughly test branding or unbranding of Operator Services, Directory Assistance and all interfaces and transfer features prior to delivery to CLEC's Customers, subsidiaries, Affiliates, or any other third parties. These tests include, but are not limited to, the installation and testing of CLEC-provided tapes.

25.2 CLEC will provide the exclusive interface to CLEC Customers, except as CLEC may otherwise specify. When CLEC requires Qwest personnel or systems to interface with CLEC Customers, the Qwest personnel shall identify themselves as representing CLEC, or any brand as CLEC may specify, and shall not identify themselves as representing Qwest or any other entity.

25.3 All forms, business cards or other business materials which are furnished by Qwest to CLEC Customers must be unbranded and

must be supplied by Qwest unless otherwise decided by CLEC in its sole discretion.

25.4 Qwest shall not provide information to CLEC Customers about CLEC or CLEC's products or services except as specifically permitted by CLEC.

25.5 Qwest shall provide, for CLEC's review and approval, the methods and procedures, training and approaches to be used by Qwest to assure that Qwest meets CLEC's branding requirements.

25.6 This Section [25] confers on Qwest no rights to the service marks, trademarks and trade names owned by or used in connection with services by CLEC or its Affiliates, except as expressly permitted in writing by CLEC.

Section 11.0 - NETWORK SECURITY

11.1 Protection of Service and Property. Each Party shall exercise the same degree of care to prevent harm or damage to the other Party and any third parties, its employees, agents or end users, or their property as it employs to protect its own personnel, end users and property, etc.

11.2 Each Party is responsible to provide security and privacy of communications. This entails protecting the confidential nature of telecommunications transmissions between end users during technician work operations and at all times. Specifically, no employee, agent or representative shall monitor any circuits except as required to repair or provide service of any end user at any time. Nor shall an employee, agent or representative disclose the nature of overheard conversations, or who participated in such communications or even that such communication has taken place. Violation of such security may entail state and federal criminal penalties, as well as civil penalties. CLEC is responsible for covering its employees on such security requirements and penalties.

11.3 The Qwest telecommunications network is part of the national security network, and as such, is protected by federal law. Deliberate sabotage or disablement of any portion of the underlying equipment used to provide the network is a violation of federal statutes with severe penalties, especially in times of national emergency or state of war. CLEC is responsible for covering its employees on such security requirements and penalties.

11.4 Qwest and CLEC share responsibility for security and network

protection for each Collocation arrangement. Each Party's employees, agents or representatives must secure its own portable test equipment, spares, etc. and shall not use the test equipment or spares of other parties. Use of such test equipment or spares without written permission constitutes theft and may be prosecuted. Exceptions are the use of Qwest ladders in the Wire Center, either rolling or track, which CLEC may use in the course of work operations. Qwest assumes no liability to CLEC, its agents, employees or representatives, if CLEC uses a Qwest ladder available in the Wire Center.

11.5 Each Party is responsible for the physical security of its employees, agents or representatives. Providing safety glasses, gloves, etc. must be done by the respective employing Party. Hazards handling and safety procedures relative to the telecommunications environment is the training responsibility of the employing Party. Proper use of tools, ladders, and test gear is the training responsibility of the employing Party.

11.6 In the event that one Party's employees, agents or representatives inadvertently damage or impair the equipment of the other Party, prompt notification will be given to the damaged Party by verbal notification between the Parties' technicians at the site or by telephone to each Party's 24 x 7 security numbers.

11.7 Each Party shall comply at all times with Qwest security and safety procedures and requirements.

11.8 Qwest will allow CLEC to inspect or observe spaces which house or contain CLEC equipment or equipment enclosures at any time and to furnish CLEC with all keys, entry codes, lock combinations, or other materials or information which may be needed to gain entry into any secured CLEC space, in a manner consistent with that used by Qwest.

11.9 Qwest will limit the keys used in its keying systems for enclosed collocated spaces which contain or house CLEC equipment or equipment enclosures to its employees and representatives to emergency access only. CLEC shall further have the right to change locks where deemed necessary for the protection and security of such spaces.

11.10 Keys may entail either metallic keys or combination electronic ID/key cards. It is solely the responsibility of CLEC to ensure keys are not shared with unauthorized personnel and recover keys and electronic ID/keys promptly from discharged personnel, such that office security is always maintained. Qwest has similar responsibility for its employees.

11.11 CLEC will train its employees, agents and vendors on Qwest security policies and guidelines.

11.12 When working on Qwest ICDF Frames or in Qwest equipment line-ups, CLEC employees, agents and vendors agree to adhere to Qwest quality and performance standards provided by Qwest and as specified in this Agreement.

11.13 CLEC shall report all material losses to Qwest Security. All security incidents are to be referred directly to local Qwest Security – 1-888-Qwest-SECURE. In cases of emergency, CLEC shall call 911 and 1-888-Qwest-SECURE.

11.14 CLEC employees, agents and vendors will display the identification/access card above the waist and visible at all times.

11.15 CLEC employees will ensure adherence by its employees, agents and vendors to all Qwest environmental health and safety regulations. This includes all fire/life safety matters, OSHA, EPA, Federal, State and local regulations, including evacuation plans and indoor air quality.

11.16 CLEC employees, agents and vendors will secure and lock all doors and gates.

11.17 CLEC will report to Qwest all property and equipment losses immediately, any lost cards or keys, vandalism, unsecured conditions, security violations, anyone who is unauthorized to be in the work area or is not wearing the Qwest identification/access card.

11.18 CLEC's employees, agents and vendors will comply with Qwest Central Office fire and safety regulations, which include but are not limited to, wearing safety glasses in designated areas, keeping doors and aisles free and clean of trip hazards such as wire, checking ladders before moving, not leaving test equipment or tools on rolling ladders, not blocking doors open, providing safety straps and cones in installation areas, using electrostatic discharge protection, and exercising good housekeeping.

11.19 Smoking is not allowed in Qwest buildings, Wire Centers, and all other Qwest facilities. No open flames shall be permitted anywhere within the buildings. Failure to abide by this restriction will result in immediate denial of access for that individual and will constitute a violation of the access rules, subjecting CLEC to denial of unescorted access.

11.20 No flammable or explosive fluids or materials are to be kept or used

anywhere within the Qwest buildings or on the grounds.

11.21 No weapons of any type are allowed on Qwest Premises. Vehicles on Qwest property are subject to this restriction as well.

11.22 CLEC's employees, agents or vendors may not make any modifications, alterations, additions or repairs to any space within the building or on the grounds.

11.23 Qwest employees may request CLEC's employee, agent or vendor to stop any work activity that in their reasonable judgment is a jeopardy to personal safety or poses a potential for damage to the building, equipment of services within the facility.

11.24 Qwest is not liable for any damage, theft or personal injury resulting from CLEC's employees, agents or vendors parking in a Qwest parking area.

11.25 CLEC's employees, agents or vendors outside the designated CLEC access area or without proper identification will be asked to vacate the Premises and Qwest Security will be notified. Continued violations may result in termination of access privileges.

11.26 Building related problems may be referred to the Qwest Work Environment Centers:

800-879-3499 (CO, WY, AZ, NM)
800-201-7033 (all other Qwest states)

11.27 CLEC will submit a Qwest Collocation Access Application form for individuals needing to access Qwest facilities. CLEC and Qwest will meet to review applications and security requirements.

11.28 CLEC employees, agents and vendors will utilize only corridors, stairways and elevators that provide direct access to CLEC's space or the nearest restroom facility. Such access will be covered in orientation meetings. Access shall not be permitted to any other portions of the building.

11.29 CLEC will collect identification/access cards for any employees, agents or vendors no longer working on behalf of CLEC and forward them to Qwest Security. If cards or keys cannot be collected, CLEC will immediately notify Qwest at 800-210-8169.

11.30 CLEC will assist Qwest in validation and verification of identification

of its employees, agents and vendors by providing a telephone contact available 7 days a week, 24 hours a day.

11.31 CLEC employees, agents and vendors will notify Qwest Service Assurance (800-713-3666) when gaining access into a Central Office after hours. Normal business hours are 7:00 a.m. to 5:00 p.m.

11.32 CLEC will notify Qwest if CLEC has information that its employee, agent or vendor poses a safety and/or security risk. Qwest may deny access to anyone who in the reasonable judgment of Qwest threatens the safety or security of facilities or personnel.

11.33 CLEC will supply to Qwest Security, and keep up to date, a list of its employees, agents and vendors who require access to CLEC's space. The list will include names and social security numbers. Names of employees, agents or vendors to be added to the list will be provided to Qwest Security, who will provide it to the appropriate Qwest personnel.

11.34 Revenue Protection. Qwest shall make available to CLEC all present and future fraud prevention or revenue protection features. These features include, but are not limited to, screening codes, 900 and 976 numbers. Qwest shall additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent Operations Support Systems which include but are not limited to LIDB Fraud monitoring systems.

11.35 Law Enforcement Interface. Qwest provides emergency assistance to 911 centers and law enforcement agencies seven days a week/twenty-four hours a day. Assistance includes, but is not limited to, release of 911 trace and subscriber information; in-progress trace requests; establishing emergency trace equipment, release of information from an emergency trap/trace or *57 trace; requests for emergency subscriber information; assistance to law enforcement agencies in hostage/barricade situations, kidnappings, bomb threats, extortion/scams, runaways and life threats.

11.36 Qwest provides trap/trace, pen register and Title III assistance directly to law enforcement, if such assistance is directed by a court order. This service is provided during normal business hours, Monday through Friday. Exceptions are addressed in the above paragraph. The charges for these services will be billed directly to the law enforcement agency, without involvement of CLEC, for any lines served from Qwest Wire Centers or cross boxes.

11.37 In all cases involving telephone lines served from Qwest Wire

Centers or cross boxes, whether the line is a resold line or part of an Unbundled Local Switching or Unbundled Loop element, Qwest will perform trap/trace Title III and pen register assistance directly with law enforcement. CLEC will not be involved or notified of such actions, due to non-disclosure court order considerations, as well as timely response duties when law enforcement agencies are involved. Exceptions to the above will be those cases, as yet undetermined, where CLEC must participate due to technical reasons wherein its circuitry must be accessed or modified to comply with law enforcement, or for legal reasons that may evolve over time. CLEC will provide Qwest with a 24 hour a day, 7 days a week contact for processing such requests, should they occur.

Section 24. Bona Fide Request Process

24.1 The Parties recognize that because CLEC plans to maintain a technologically advanced network, it may seek new Interconnection methods, services, Network Elements, Combinations or access methods to Network Element(s) (collectively referred to in this Section 24 as “methods”, “arrangements” and “Network Elements”). Accordingly, CLEC may request such new methods, arrangements and Network Elements from time to time by submitting, in writing, a request known as a “Bona Fide Request” or “BFR”.

24.2 CLEC may submit either an “Inquiry BFR” or a “Firm BFR.” When CLEC issues an Inquiry BFR to Qwest, Qwest shall determine the technical feasibility and pricing for the method or arrangement.

24.3 The Inquiry BFR will contain a technical description of each item or service sought, an estimate of the number or quantity requested, the general location(s) (for example, wire center, CEV, hut, etc.) and the date(s) on which each item or service is desired. CLEC will submit the Inquiry BFR via United States Postal Service, return receipt requested, or via private courier. Qwest shall acknowledge in writing such Inquiry BFR within 24 hours of receipt. Qwest shall not charge more than two hundred dollars (\$200.00) to process an Inquiry BFR. Except as may otherwise be agreed to by the Parties, CLEC may cancel an Inquiry BFR, in writing, at any time without incurring additional fees or costs.

24.4 Within 15 days after its receipt of an Inquiry BFR, Qwest shall provide to CLEC an analysis of the Inquiry BFR. The Inquiry BFR analysis must specify whether or not the method or arrangement is technically feasible. An Inquiry BFR analysis that confirms such

technical feasibility must also contain a cost estimate. If Qwest's Inquiry BFR analysis results in a determination that the requested method, arrangement or Network Element is not technically feasible or is not required under the Act, then Qwest must provide a detailed explanation to support its determination(s).

24.5 Qwest may request a face-to-face meeting between technical representatives of both Parties to better understand CLEC's Inquiry BFR. No later than five business days following such a meeting, Qwest shall provide its Inquiry BFR analysis pursuant to Section 24.4. Both Parties shall make reasonable efforts to meet as expeditiously as possible.

24.6 Within 60 business days after receiving Qwest's Inquiry BFR analysis, CLEC may:

24.6.1 Submit to Qwest a Firm BFR via United States Postal Service, return receipt requested, or via private courier; or

24.6.2 Elect not to submit a Firm BFR.

24.7 A Firm BFR constitutes CLEC's formal request to have Qwest procure, produce or provide the sought after method, arrangement or Network Element. The Firm BFR will refer to the Inquiry BFR that preceded it. The total cost charged to CLEC by Qwest for completion of the Firm BFR may not exceed by more than 10% the cost figure contained in Qwest's Inquiry BFR analysis. Qwest shall acknowledge the Firm BFR in writing within 24 hours of receipt.

24.8 In handling an Inquiry BFR pursuant to this Section 24, Qwest shall, to the extent possible, utilize information from previously developed BFRs in order to shorten its response times.

24.9 Once a Firm BFR has been fully completed, and the Qwest has delivered the requested item or service sought, and has developed the ordering, provisioning and maintenance procedures to support the Firm BFR, CLEC and Qwest agree that future requests by CLEC for the same item or service will be handled by the previously developed ordering process, and not require a BFR.

24.10 Unless the Parties otherwise agree, a BFR under this Section 24 must be priced in accordance with Section 252(d)(1) of the Act and any applicable FCC or Commission rules, regulations, or orders.

24.11 If CLEC believes Qwest's analysis under section 24.4 is inconsistent with the requirements of the Act, CLEC may seek arbitration by the Commission or other remedies available under this Agreement or Applicable Law including Dispute Resolution under Section [23] of Part A. CLEC has an additional 60 days from the date of the filing of a Commission Final Order to respond to Qwest under Section 24.6.

24.12 If CLEC believes that Qwest is not negotiating or processing a BFR in good faith, is failing to act in accordance with the Act, or if CLEC disputes a determination of feasibility or availability, or a price or cost quote, CLEC may seek immediate mediation or arbitration by the Commission, including the use of any available expedited procedures. The relief sought can include, but is not limited to, a determination that the Qwest be required to provide the requested method, arrangement, or Network Element. The full burden of proof in any such hearing, mediation or arbitration is on Qwest. The parties further agree to seek expedited Commission approval, to be completed within 20 days of Qwest's response, and in no event more than 30 days after the filing of CLEC's petition.

Section 17.0 - BONA FIDE REQUEST PROCESS

17.1 Any request for Interconnection or access to an unbundled network element or ancillary service that is not already available as described in other sections of this Agreement shall be treated as a Bona Fide Request (BFR). Qwest shall use the BFR Process to determine the terms and timetable for providing the requested Interconnection, access to UNEs or ancillary services, if available, and the technical feasibility of new/different points of Interconnection. Qwest will administer the BFR Process in a non-discriminatory manner.

17.2 A BFR shall be submitted in writing and on the appropriate Qwest form for BFRs. CLEC and Qwest will work together to prepare the BFR form. This form shall be accompanied by the non-refundable Processing Fee specified in Exhibit A of this Agreement. The form will request, and CLEC will need to provide, the following information, as well as, any additional information that may be helpful in describing and analyzing CLEC's request:

- (a) a technical description of each requested Network Element or new/different points of Interconnection or ancillary services;

- (b) the desired interface specification;
- (c) each requested type of Interconnection or access;
- (d) a statement that the Interconnection or Network Element or ancillary service will be used to provide a Telecommunications Service;
- (e) the quantity requested;
- (f) the specific location requested;
- (g) if the requested unbundled network element is a proprietary element as specified in Section 251(d)(2) of the Act, CLEC must submit documentation that demonstrates that access to such Network Element is necessary, that the failure to provide access to such Network Element would impair the ability of CLEC to provide the services that it seeks to offer, and that CLEC's ability to compete would be significantly impaired or thwarted without access to such requested proprietary element; and
- (h) if the requested Unbundled Network Element is a non-proprietary element as specified in Section 251(d)(2) of the Act, CLEC must submit documentation that demonstrates that denial of access to such non-proprietary unbundled network element would impair the ability of CLEC to provide the services that it seeks to offer, and that CLEC's ability to compete would be significantly impaired or thwarted without access to such unbundled network element.

17.3 Within fifteen (15) calendar days of its receipt, Qwest shall acknowledge receipt of the BFR and in such acknowledgment advise CLEC of missing information, if any, necessary to process the BFR. Thereafter, Qwest shall promptly advise CLEC of the need for any additional information required to complete the analysis of the BFR.

17.4 Within twenty-one (21) calendar days of its receipt of the BFR and all information necessary to process it, Qwest shall provide to CLEC a preliminary analysis of the BFR. The preliminary analysis shall specify Qwest's conclusions as to whether or not the requested Interconnection or access to an unbundled network element complies with the unbundling requirements of the Act.

17.5 If Qwest determines during the twenty-one (21) day period that a BFR does not qualify as an unbundled network element or Interconnection or ancillary service that is required to be provided under the Act, Qwest shall advise CLEC as soon as reasonably possible of that fact, and Qwest shall promptly, but in no case later than ten (10) calendar days after making such a determination,

provide a written report setting forth the basis for its conclusion.

17.6 If Qwest determines during the twenty-one (21) day period that the BFR qualifies under the Act, it shall notify CLEC in writing of such determination within ten (10) calendar days.

17.7 As soon as feasible, but in any case within forty-five (45) calendar days after Qwest notifies CLEC that the BFR qualifies under the Act, Qwest shall provide to CLEC a BFR quote. The BFR quote will include, at a minimum, a description of each Interconnection, Network Element, and ancillary service, the quantity to be provided, any interface specifications, and the applicable rates (recurring and nonrecurring) including the separately stated development costs and construction charges of the Interconnection, unbundled network element or ancillary service and any minimum volume and term commitments required, and the timeframes the request will be provisioned.

17.8 A CLEC has thirty (30) business days upon receipt of the BFR quote, to either agree to purchase under the quoted price, cancel its BFR, or seek mediation or arbitration.

17.9 If CLEC has agreed to minimum volume and term commitments under the preceding paragraph, CLEC may cancel the BFR or volume and term commitment at any time, but in the event of such cancellation CLEC will pay Qwest's reasonable development costs incurred in providing the Interconnection, Unbundled Network Element, or ancillary service to the extent that those development costs are not otherwise amortized.

17.10 If either Party believes that the other Party is not requesting, negotiating or processing any BFR in good faith, or disputes a determination or quoted price or cost, it may seek arbitration pursuant to the Dispute Resolution provision of this Agreement.

17.11 All time intervals within which a response is required from one Party to another under this Section are maximum time intervals. Each Party agrees that it will provide all responses to the other Party as soon as the Party has the information and analysis required to respond, even if the time interval stated herein for a response is not over.

Section 22. Audits and Examinations

22.1 As used in this Agreement, "Audit" means a comprehensive review of services performed under this Agreement; "Examination" means an inquiry into a specific element of or process related to

services performed under this Agreement. CLEC may perform up to four Audits per 12-month period commencing on the Effective Date. CLEC may perform Examinations as CLEC deems necessary.

22.2 Upon 30 days written notice by CLEC to Qwest, CLEC may, through its authorized representative, conduct an Audit or Examination, during normal business hours, of any records, accounts and processes which contain information related to the services provided under, and performance standards contained in, this Agreement. Within the above-described 30-day period, the Parties will reasonably agree upon the scope of the Audit or Examination, the documents and processes to be reviewed, and the time, place and manner in which the Audit or Examination will be performed. Qwest agrees to provide Audit or Examination support, including, but not limited to, appropriate access to and use of Qwest's facilities (including conference rooms, telephones, copying machines, and basic facilities).

22.3 Each Party shall bear its own expenses in connection with the conduct of the Audit or Examination. CLEC will pay for the reasonable cost of special data extractions required by CLEC to conduct the Audit or Examination. For purposes of this Section [22.3], a "Special Data Extraction" means the creation of an output record or informational report (from existing data files) that is not created in the normal course of business. If any program is developed to CLEC's specifications and at CLEC's expense, CLEC will specify at the time of request whether the program is to be retained by Qwest for reuse for any subsequent CLEC Audit or Examination. Notwithstanding the foregoing, Qwest shall pay all of CLEC's expenses in the event an Audit or Examination results in an adjustment in the charges or in any invoice paid or payable by CLEC in an amount that is, on an annualized basis, greater than one percent (1%) of the aggregate charges for all services purchased under this Agreement.

22.4 Adjustments, credits or payments will be made and any corrective action must commence within 30 days after Qwest's receipt of the final audit report to compensate for any errors and omissions which are disclosed by such Audit or Examination and are agreed to by the Parties. The highest interest rate allowable by law for commercial transactions may be assessed and will be computed by compounding daily from the time of the overcharge to the day of payment.

22.5 Neither the right to examine and audit nor the right to receive an adjustment will be affected by any statement to the contrary appearing on checks or otherwise, unless the statement expressly waiving the right appears in writing, is signed by the authorized representative of the Party having that right, and is delivered to the other Party in a manner sanctioned by this Agreement.

22.6 This Section [22] will survive expiration or termination of this Agreement for a period of two years after expiration or termination of this Agreement.

Section 18.0 - AUDIT PROCESS

18.1 “Audit” shall mean the comprehensive review of:

18.1.1 Data used in the billing process for services performed, including reciprocal compensation, and facilities provided under this Agreement; and

18.1.2 Data relevant to provisioning and maintenance for services performed or facilities provided by either of the Parties for itself or others that are similar to the services performed or facilities provided under this Agreement for Interconnection or access to unbundled loops, ancillary and finished services.

18.2 The data referred to above shall be relevant to any performance indicators that are adopted in connection with this Agreement, through negotiation, arbitration or otherwise. This Audit shall take place under the following conditions:

18.2.1 Either Party may request to perform an Audit.

18.2.2 The Audit shall occur upon thirty (30) business days written notice by the requesting Party to the non-requesting Party.

18.2.3 The Audit shall occur during normal business hours.

18.2.4 There shall be no more than two Audits requested by each Party under this Agreement in any 12-month period.

18.2.5 The requesting Party may review the non-requesting Party’s records, books and documents, as may reasonably contain information relevant to the operation of this Agreement.

18.2.6 The location of the Audit shall be the location where the requested records, books and documents are retained in the normal course of business.

18.2.7 All transactions under this Agreement which are over twenty-four (24) months old will be considered accepted and no longer subject to Audit. The Parties agree to retain records of all transactions under this Agreement for at least 24 months.

18.2.8 Each Party shall bear its own expenses occasioned by the Audit, provided that the expense of any special data collection shall be born by the requesting Party.

18.2.9 The Party requesting the Audit may request that an Audit be conducted by a mutually agreed-to independent auditor. Under this circumstance, the costs of the independent auditor shall be paid for by the Party requesting the Audit.

18.2.10 In the event that the non-requesting Party requests that the Audit be performed by an independent auditor, the Parties shall mutually agree to the selection of the independent auditor. Under this circumstance, the costs of the independent auditor shall be shared equally by the Parties.

18.2.11 The Parties agree that if an Audit discloses error(s), the Party responsible for the error(s) shall, in a timely manner, undertake corrective action for such error(s). All errors not corrected within thirty (30) business days shall be escalated to the Vice-President level.

18.3 All information received or reviewed by the requesting Party or the independent auditor in connection with the Audit is to be considered Proprietary Information as defined by this Agreement. The non-requesting Party reserves the right to require any non-employee who is involved directly or indirectly in any Audit or the resolution of its findings as described above to execute a nondisclosure agreement satisfactory to the non-requesting Party. To the extent an Audit involves access to information of other competitors, CLEC and Qwest will aggregate such competitors' data before release to the other Party, to insure the protection of the proprietary nature of information of other competitors. To the extent a competitor is an affiliate of the Party being audited (including itself and its subsidiaries), the Parties shall be allowed to examine such affiliates' disaggregated data, as required by reasonable needs of the Audit.

Section 19.0 - CONSTRUCTION CHARGES

19.1 All rates, charges and initial service periods specified in this Agreement contemplate the provision of network Interconnection services and access to unbundled loops or ancillary services to the extent existing facilities are available. Except for modifications to existing facilities necessary to accommodate Interconnection and access to unbundled loops or ancillary services specifically provided for in this Agreement, Qwest will consider requests to build additional or further facilities for network Interconnection and access to unbundled loops or ancillary services, as described in the applicable section of this Agreement.

19.2 All necessary construction will be undertaken at the discretion of Qwest, consistent with budgetary responsibilities, consideration for the impact on the general body of end users and without discrimination among the various carriers.

19.3 A quote for CLEC's portion of a specific job will be provided to CLEC. The quote will be in writing and will be binding for ninety (90) business days after the issue date. When accepted, CLEC will be billed the quoted price and construction will commence after receipt of payment. If CLEC chooses not to have Qwest construct the facilities, Qwest reserves the right to bill CLEC for the expense incurred for producing the engineered job design.

19.4 In the event a construction charge is applicable, CLEC's service Application Date will become the date upon which Qwest receives the required payment.

Section 22.0 - SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

(CLEC)

Qwest Corporation

Signature

Signature

Name Printed/Typed

Name Printed/Typed

Title

Title

Date

Date

