

**8.0 Bill Accuracy Certification**

- 8.1 The Parties agree that in order to ensure the proper performance and integrity of the entire billing process, SWBT will be responsible and accountable for transmitting to IP Communications Corporation an accurate and current bill. For the purposes of this Agreement, IP Communications Corporation and SWBT will develop the processes and methodologies required for Unbundled Network Elements bill certification by December 31, 1997, unless otherwise mutually agreed.

**9.0 Payment of Charges**

- 9.1 Subject to the terms of this Agreement, IP Communications Corporation will pay within thirty (30) calendar days from the Bill Date, or twenty (20) calendar days from the receipt of the bill, whichever is greater. If the payment due date is a Sunday or is a Monday that has been designated a bank holiday by the Chase Manhattan Bank of New York (or such other bank as the Parties agree), payment will be made the next business day. If the payment due date is a Saturday or is on a Tuesday, Wednesday, Thursday or Friday that has been designated a bank holiday by the Chase Manhattan Bank of New York (or such other bank as the Parties agree), payment will be made on the preceding business day.
- 9.2 Payments will be made in U.S. Dollars via electronic funds transfer (EFT) to SWBT's bank account. At least thirty (30) days prior to the first transmission of billing data and information for payment, SWBT will provide the name and address of its bank, its account and routing number and to whom billing payments should be made payable. If such banking information changes, each Party will provide the other Party at least sixty (60) days written notice of the change and such notice will include the new banking information. SWBT desires electronically transferred funds and remittances via automated clearinghouse (ACH) standard EDI transaction sets. IP Communications Corporation agrees to provide such automated remittances if and when IP Communications Corporation develops such capability. IP Communications Corporation will provide SWBT with one address to which such payments will be rendered and SWBT will provide IP Communications Corporation with one address to which such payments will be rendered. In the event IP Communications Corporation receives multiple and/or other bills from SWBT which are payable on the same date, IP Communications Corporation may remit one payment for the sum of all such bills payable to SWBT's bank account specified in this subsection and IP Communications Corporation will provide SWBT with a payment advice. Each Party will provide the other Party with a contact person for the handling of billing payment questions or problems.

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**10.0 Examination of Records**

- 10.1 Without waiver of and in addition to the Audit rights in the General part of this Agreement, upon reasonable notice and at reasonable times and in accordance with the Certification Agreement mutually developed out of Section 8 to this Attachment, IP Communications Corporation or its authorized representatives may examine SWBT's documents, systems, records and procedures which relate to the billing of the charges under this Attachment.

**11.0 Meet Point Billing**

- 11.1 IP Communications Corporation and SWBT will establish and maintain meet-point billing (MPB) arrangements in accordance with the Meet Point Billing guidelines adopted by and contained in the OBF's MECAB and MECOD documents, except as modified herein. Each Party will maintain provisions in its respective federal and state access tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff to reflect the MPB arrangements identified in this Agreement, including MPB percentages.
- 11.2 IP Communications Corporation and SWBT will implement the Multiple Bill/Single Tariff option. As described in the MECAB document, each Party will render a bill in accordance with its own tariff for that portion of the service it provides.
- 11.3 In the case of tandem routing, the tandem company will provide to the end office company the billing name, billing address, and carrier identification code (CIC) of the Interexchange Carriers (IXCs) in order to comply with the MPB Notification process as outlined in the MECAB document. Such information will be provided, on a one time basis, in the format and via the medium that the Parties agree. In the event that the end office company is unable to ascertain the IXC to be billed, the tandem company will work with the end office company to identify the proper entity to be billed.
- 11.4 SWBT and IP Communications Corporation will record and transmit MPB information in accordance with the standards and in the format set forth in this Attachment. SWBT and IP Communications Corporation will coordinate and exchange the billing account reference (BAR) and billing account cross reference (BACR) numbers for the MPB arrangements described in this Agreement. Each Party will notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number.
- 11.5 Intentionally left blank
- 11.6 Each Party will provide access usage records to the other Party within ten (10) business days of the recording. The IBC will provide the summary usage records (SURs) to the

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subsequent billing company within ten (10) business days of sending IBC bills to the IXC.

- 11.7 Each Party agrees to provide the other Party with notification of any discovered errors within ten (10) business days of the discovery. The appropriate Party will correct the error within ninety (90) calendar days of notification and resubmit the data. In the event the errors cannot be corrected within the time period specified above, the erroneous data will be considered lost.
- 11.8 Both Parties will provide the other a single point of contact to handle any MPB questions and will not charge for billing inquiries.
- 11.9 The Parties will work cooperatively to establish a method of recording for purposes of MPB in a facilities based environment not later than January 1, 1997.

#### **12.0 Mutual Compensation**

- 12.1 The Parties will bill each other reciprocal compensation in accordance with the standards set forth in this Agreement at Attachment 12: Compensation.
- 12.2 Billing for mutual compensation will be provided in accordance with mutually agreed to CABS-like data content via current industry process for mutual compensation. The parties will work together to develop an electronic transmission mechanism for mutual compensation data.
- 12.3 The Parties will work cooperatively to establish, not later than January 1, 1997, a method of billing, collecting and remitting for local charges which are billed and collected by one Party but earned by the other Party.

#### **13.0 Pricing**

- 13.1 Charges for the relevant services provided under this Attachment and prices for access to OSS are included in Appendix Pricing-UNE to Attachment 6.

#### **14.0 Applicability of Other Rates, Terms and Conditions**

- 14.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder:

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

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**ATTACHMENT 10: PROVISION OF CUSTOMER USAGE DATA-**  
**UNBUNDLED NETWORK ELEMENTS**

**1.0 Introduction (Unbundled Elements)**

- 1.1 This Attachment 10: Provision of Customer Usage Data-Unbundled Network Elements sets forth the terms and conditions for SWBT's provision of usage data (as defined in this Attachment) to IP Communications Corporation. Usage Data will be provided by SWBT to IP Communications Corporation when IP Communications Corporation purchases Network Elements from SWBT.

**2.0 General Requirements for Usage Data**

- 2.1 SWBT's provision of Usage Data to IP Communications Corporation will be in accordance with the Performance Metrics to be developed by IP Communications Corporation and SWBT during and as part of the implementation and testing process. SWBT's performance based on such Performance Metrics will begin to be measured and reported at the time IP Communications Corporation begins providing local service to customers, but SWBT's provision of Usage Data will not be required to meet such Performance Metrics until six months after IP Communications Corporation begins providing local services to customers.
- 2.2 SWBT will retain Usage Data in accordance with IP Communications Corporation Customer Usage Data Transfer Requirements, March 1996 (Data Requirements), subject to applicable laws and regulations.

**3.0 Usage Data Specifications**

- 3.1 SWBT will provide all usage data for IP Communications Corporation's customers using the SWBT-provided Network Element(s). Usage Data includes, but is not limited to, the following categories of information:
- completed calls;
  - use of CLASS/LASS/Custom Features;
  - calls to information providers reached via SWBT facilities and contracted by SWBT;
  - calls to directory assistance where SWBT provides such service to an IP Communications Corporation customer;

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- calls completed via SWBT-provided operator services where SWBT provides such service to IP Communications Corporation's local service customer;
- records will include complete call detail and complete timing information for unbundled Network Elements.

SWBT will provide Usage Data for completed calls only for Elements that SWBT records (e.g., unbundled local switching, but not loops).

- 3.2 SWBT will provide to IP Communications Corporation Usage Data for IP Communications Corporation end user customers only. SWBT will not submit other carrier local usage data as part of the IP Communications Corporation Usage Data.

#### **4.0 Usage Data Format**

- 4.1 SWBT will provide Usage Data in the BellCore Exchange Message Record (EMR) format and by category, group and record type, as specified in the IP Communications Corporation Customer Usage Data Transfer Requirements, March 1996 ("Data Requirements"), or as otherwise agreed to by the Parties.
- 4.2 SWBT will include the Working Telephone Number (WTN) of the call originator on each EMR call record.
- 4.3 End user customer usage records and station level detail records will be in packs in accordance with EMR standards.
- 4.4 In addition to the IP Communications Corporation usage data transfer requirements defined above, when IP Communications Corporation is providing telecommunications services to its customers through the use of unbundled local switching SWBT will provide to IP Communications Corporation recorded usage data sufficient for IP Communications Corporation to render access bills, to the extent permitted pursuant to this Agreement, for originating interLATA and intraLATA toll calls (to the extent permitted pursuant to this Agreement), with the exception of originating 800 calls. The information required for IP Communications Corporation to render originating 800 access bills and terminating access bills will be handled in accordance with Appendix UNE Pricing, Section 5.2.3.

#### **5.0 Usage Data Reporting Requirements**

- 5.1 SWBT will segregate and organize the Usage Data in a manner agreeable to both Parties.

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- 5.2 SWBT will provide segregated Usage Data to IP Communications Corporation locations as agreed to by the Parties.
- 5.3 SWBT will transmit formatted Usage Data to IP Communications Corporation over Network Data Mover Network using CONNECT:Direct protocol, or otherwise agreed to by the Parties.
- 5.4 IP Communications Corporation and SWBT will test and certify the CONNECT:Direct interface to ensure the accurate transmission of Usage Data.
- 5.5 SWBT will provide Usage Data to IP Communications Corporation daily (Monday through Friday) on a daily time schedule to be determined by the parties.
- 5.6 SWBT will establish a single point of contact to respond to IP Communications Corporation call usage, data error, and record transmission inquiries.
- 5.7 The Usage Data EMR format, content, and transmission process will be tested no later than April 1, 1997 or otherwise as mutually agreed by both Parties.

#### 6.0 Charges

- 6.1 Partial Loss - SWBT will review its daily controls to determine if data has been lost. When there has been a partial loss, actual message and minute volumes will be reported, if possible.
- 6.2 SWBT will bill and IP Communications Corporation will pay the charges set forth in this Agreement. Billing and payment will be in accordance with the applicable terms and conditions set forth in this Agreement.

#### 7.0 Local Account Maintenance

- 7.1 When IP Communications Corporation purchases certain Network Elements from SWBT, SWBT will provide IP Communications Corporation with Local Account Maintenance. When SWBT is acting as the switch provider for IP Communications Corporation, where IP Communications Corporation is employing UNEs to provide local service, SWBT will notify IP Communications Corporation whenever the local service customer disconnects switch port (e.g., WTN) service from local service customer discounts switch port (e.g., WTN) service from IP Communications Corporation to another local service provider. SWBT will provide this notification via a mutually agreeable 4 digit Local Use Transaction Code Status Indicator (TCSI) that will indicate the retail customer is terminating local service with IP Communications Corporation. SWBT will transmit the notification, via the Network Data Mover Network using the CONNECT: Direct

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protocol, within five (5) days of SWBT reprovisioning the switch. The TCSI, sent by SWBT, will be in the 960 byte industry standard CARE record format. IP Communications Corporation will pay to SWBT a per transaction charge of eight cents (\$0.08) for each working telephone number (WTN) transmitted.

- 7.2 SWBT will accept account changes that affect only the pre-subscribed intraLATA and/or interLATA toll provider (PIC) through the following procedure: SWBT will accept an LD "PIC Only" Change via the service Order feed to provision the LD change in SWBT's network. SWBT will convey the confirmation of the "PIC Only" change via the Work Order Completion feed. In addition, SWBT will reject, via the industry standard CARE Record 3148, any Interexchange Carrier initiated change of the Primary Interexchange Carrier (PIC), where SWBT is the switch provider either for the retail local services of SWBT that IP Communications Corporation resells or UNEs of SWBT that IP Communications Corporation employs in providing service.
- 7.3 These procedures are in addition to Service Order Procedures set forth in Attachment 7: Ordering and Provisioning - UNE. SWBT will meet the Local Account Maintenance requirements set out in IP Communications Corporation, Unbundled Network Element: Interconnection Interface Requirements, "Account Maintenance," version 1.0 (September 19, 1996), as updated or as the Parties may otherwise agree.

#### **8.0 Alternatively Billed Calls**

- 8.1 Calls that are placed using the services of SWBT or another LEC or LSP and billed to an unbundled Network Element (e.g., switch port) of IP Communications Corporation are called "Incollects." Calls that are placed using IP Communications Corporation Network Elements (e.g., switch port) and billed to a SWBT line or other LEC or LSP are called "Outcollects."
- 8.2 Outcollects: SWBT will provide to IP Communications Corporation the unrated message detail that originates from an IP Communications Corporation subscriber line but which is billed to a telephone number other than the originating number (e.g., calling card, bill-to-third number, etc.). SWBT has agreed to transmit such data on a daily basis. IP Communications Corporation as the Local Service Provider (LSP) will be deemed the earning company and will be responsible for rating the message at IP Communications Corporation tariffed rates and IP Communications Corporation will be responsible for providing the billing message detail to the billing company for end user billing. IP Communications Corporation will be compensated by the billing company for the revenue it is due. A message charge for SWBT's transmission of Outcollect messages to IP Communications Corporation is applicable, and SWBT will bill IP Communications Corporation for the transmission charge.

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- 8.3 Incollects: For messages that originate from a number other than the billing number and that are billable to IP Communications Corporation customers (Incollects), SWBT will provide the rated messages it receives from the CMDS1 network or which SWBT records (non-ICS) to IP Communications Corporation for billing to IP Communications Corporation's end-users. SWBT will transmit such data on a daily basis. SWBT will credit IP Communications Corporation the Billing and Collection (B&C) fee for billing the Incollects. The B&C credit will be provided in accordance with the procedures set forth in Attachment 4: Connectivity Billing-Resale of the Agreement and the credit will be \$.05 per billed message. IP Communications Corporation and SWBT have stipulated that a per message charge for SWBT's transmission of Incollect messages to IP Communications Corporation is applicable, and SWBT will bill IP Communications Corporation for the transmission charge.

**9.0 Pricing**

- 9.1 Charges for the relevant services provided under this Attachment and prices for access to OSS are included in Appendix Pricing-UNE to Attachment 6.

**10.0 Applicability of Other Rates, Terms and Conditions**

- 10.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation; construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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## **ATTACHMENT 11: NETWORK INTERCONNECTION ARCHITECTURE**

This Attachment 11: Network Interconnection Architecture to the Agreement describes the technical arrangement by which IP Communications Corporation and SWBT will interconnect their networks in the event that IP Communications Corporation is providing its own switching facilities in a given Exchange Area. The arrangements described herein do not apply to the provision and utilization of unbundled Network Elements which are addressed in Attachment 6: Unbundled Network Elements.

- 1.0 The Parties will interconnect their facilities as follows:
  - 1.1 In each SWBT Exchange Area in which IP Communications Corporation offers local exchange service, the Parties will interconnect their network facilities at a minimum of one mutually agreeable Point of Interconnection (POI). Each party will be responsible for providing necessary equipment and facilities on their side of the POI. If IP Communications Corporation establishes collocation at an end office, any direct trunks will be provisioned over the IP Communications Corporation collocation facility. The POI will be identified by street address and Vertical and Horizontal (V & H) Coordinates. This process will continue as IP Communications Corporation initiates exchange service operations in additional SWBT Exchange Areas;
  - 1.2 Where IP Communications Corporation requires ancillary services (e.g., Directory Assistance, Operator Services, 911/E911), additional POIs may be required for interconnection to such ancillary services;
  - 1.3 SWBT will interconnect its network facilities with IP Communications Corporation's facilities under terms and conditions no less favorable than those identified herein.
- 2.0 Where IP Communications Corporation interconnects with SWBT for the purpose of exchanging traffic between networks, IP Communications Corporation may use any of the following interconnection methods, including but not limited to, Physical Collocation Interconnection, Virtual Collocation Interconnection, SONET Based Interconnection, Mid Span Fiber Interconnection, leasing of SWBT facilities or other mutually agreeable methods of interconnection. Appendix Network Interconnection Methods (NIM), attached hereto and incorporated herein, describes such methods.
- 3.0 In addition, the Parties agree to the interconnection and trunking requirements listed in Appendix Interconnection Trunking Requirements (ITR), which is attached hereto and made a part hereof.
- 4.0 The Parties also agree to comply with the terms of Appendix SS7 Interconnection, which is attached hereto and incorporated herein.

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## **APPENDIX INTERCONNECTION TRUNKING REQUIREMENTS (ITR)**

### **1.0 Introduction**

- 1.1 This Appendix Interconnection Trunking Requirements (ITR) to Attachment 11: Network Interconnection Architecture provides descriptions of the trunking requirements for IP Communications Corporation to interconnect any IP Communications Corporation provided switching facility with SWBT facilities. The diagrams in Section 6.0 of this Appendix, which are not necessarily all inclusive, depict trunk groups for message network, E911 and Operator Services interconnection. All references to incoming and outgoing trunk groups are from the perspective of IP Communications Corporation.
- 1.2 If either Party changes the methods by which it trunks and routes traffic within its network, it will afford the other Party the opportunity to trunk and route its traffic in the same manner for purposes of interconnection. The Parties agree to offer and provide to each other B8ZS Extended Superframe and/or 64 Kbps clear channel where it is currently deployed at the time of the request. Any figures or schematics are for convenience of reference only and in no way modify the terms and provisions of this Agreement.
- 1.3 SWBT will allow IP Communications Corporation to use the same physical facilities (e.g., dedicated transport access facilities, dedicated transport UNE facilities) to provision trunk groups that carry Local, intraLATA and interLATA traffic. By April 30, 1999, SWBT and IP Communications Corporation may establish a single two way trunk group to provisioned to carry intraLATA (including local) and interLATA traffic. IP Communications Corporation may have administrative control (e.g., determination of trunk size) of this combined two way trunk group. Prior to April 30, 1999 as referenced above, when traffic is not segregated according to a traffic type (or prior to the Parties' ability to segregate traffic according to traffic type) the Parties will provide a percentage of jurisdictional use factors or an actual measurement of jurisdictional traffic. This arrangement will not be used by IP Communications Corporation to avoid access charges for interLATA traffic that is neither originated by, or terminated to, an IP Communications Corporation local service customer.

### **2.0 Trunk Group Configurations:**

- 2.1 InterLATA Toll, Local Traffic and IntraLATA Interexchange (Toll) Traffic:
  - 2.1.1 IP Communications Corporation Originating (IP Communications Corporation to SWBT):

Subject to Section 1.3 above, interLATA toll traffic and intraLATA toll traffic may be combined with local traffic on the same trunk group when IP Communications Corporation routes traffic to either a SWBT access tandem which serves as a combined

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local and toll tandem or directly to a SWBT end office. When mutually agreed upon traffic data exchange methods are implemented as specified in Section 5.0 of this Appendix, direct trunk group(s) to SWBT end offices will be provisioned as two-way and used as two-way. When there are separate SWBT access and local tandems in an exchange, a separate local trunk group will be provided to the local tandem and a separate intraLATA toll trunk group will be provided to the access tandem. When there are multiple SWBT combined local and toll tandems in an Exchange Area, separate trunk groups will be established to each tandem. Such trunk groups may carry both local, intraLATA toll, and interLATA toll traffic. Trunk groups to the access or local tandem(s) will be provisioned as two-way and used as one-way until such time as it becomes technically feasible to use two-way trunks in SWBT tandems. Trunks will utilize Signaling System 7 (SS7) protocol signaling when such capabilities exist within the SWBT network. Multifrequency (MF) signaling will be utilized in cases where SWBT switching platforms do not support SS7.

2.1.2 IP Communications Corporation Terminating (SWBT to IP Communications Corporation):

Where SWBT has a combined local and access tandem, SWBT will combine the local, interLATA and intraLATA toll traffic over a single trunk group to IP Communications Corporation. The trunk groups will be provisioned as two-way and used as one-way until such time as it becomes technically feasible to use two-way trunks. When SWBT has separate access and local tandems in an exchange area, a separate trunk group will be established from each tandem to IP Communications Corporation. As noted in Section 2.1.1, direct trunk group(s) between IP Communications Corporation and SWBT end offices will be provisioned as two-way and used as two-way. Trunks will utilize SS7 protocol signaling unless the SWBT switching platform only supports MF signaling.

2.2 Access Toll Connecting Traffic:

Access Toll Connecting Traffic will be transported between the SWBT access tandem and IP Communications Corporation over a "meet point" trunk group separate from local, intraLATA toll, and interLATA toll trunk group. This trunk group will be established for the transmission and routing of Exchange Access traffic between IP Communications Corporation's end users and interexchange carriers via a SWBT access tandem. When SWBT has more than one access tandem within an exchange, IP Communications Corporation may utilize a single "meet point" access toll connecting trunk group to one SWBT access tandem within the exchange. This trunk group will be set up as two-way and will utilize SS7 protocol signaling. Traffic destined to and from multiple interexchange carriers (IXCs) can be combined on this trunk group. This arrangement is subject to the time frames referenced in Section 1.0.

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2.4 911 Emergency Traffic:

- 2.4.1 A segregated trunk group will be required to each appropriate E911 tandem within an exchange in which IP Communications Corporation offers Exchange Service. This trunk group will be set up as a one-way outgoing only and will utilize CAMA/ANI MF signaling.
- 2.4.2 Where technically feasible and the PSAP customer agrees, E911 traffic will be routed on a dedicated trunk group directly to the SWBT end office that serves the appropriate PSAP. This trunk group will be set up as one-way outgoing only and will utilize CAMA/ANI MF signaling.

2.5 Mass Calling (Public Response Choke Network):

- 2.5.1 IP Communications Corporation may use call-gapping and software designed networks to control Mass Calling. In addition, a segregated trunk group will be required to the designated Public Response Choke Network tandem in each serving area in which IP Communications Corporation provides service pursuant to this Agreement. This trunk group will be one-way outgoing only and will utilize MF signaling. It is anticipated that this group will be sized as follows, subject to adjustments from time to time as circumstances require:

< 15001 access Lines (AC)	2 trunks (min)
15001 to 25000 AC	3 trunks
25001 to 50000 AC	4 trunks
50001 to 75000 AC	5 trunks
> 75000 AC	6 trunks (max)

- 2.5.2 At the time that IP Communications Corporation establishes a Public Response Choke Network NXX and tandem, SWBT will establish reciprocal mass calling trunks to IP Communications Corporation subject to the requirements set forth in this Section.

2.6 Operator Services

Inward Operator Assistance (Call Code 121) - IP Communications Corporation may choose from two interconnection options for Inward Operator Assistance.

2.6.1 Option 1 - Interexchange Carrier (IXC)

IP Communications Corporation may utilize the Interexchange Carrier Network. IP Communications Corporation will route its calls requiring inward operator assistance through its designated IXC POP to SWBT's TOPS tandem. SWBT will route its calls

requiring inward operator assistance to IP Communications Corporation's Designated Operator Switch (TTC) through the designated IXC POP.

IP Communications Corporation will use the same OSPS platform to provide local and IXC operator services. Where appropriate, IP Communications Corporation will utilize existing trunks to the SWBT TOPS platform that are currently used for existing IXC inward operator services.

#### 2.6.2 Option 2 - IP Communications Corporation Operator Switch

IP Communications Corporation will identify a switch as the Designated Operator Switch (TTC) for its NPA-NXXs. SWBT will route IP Communications Corporation's calls requiring inward operator assistance to this switch. This option requires a segregated one-way (with MF signaling) trunk group from SWBT's Access Tandem to the IP Communications Corporation switch. IP Communications Corporation calls requiring inward operator assistance will be routed to SWBT's operator over an IXC network.

### 3.0 Trunk Design Blocking Criteria

Trunk forecasting and servicing for the local and intraLATA toll trunk groups will be based on the industry standard objective of 2% overall time consistent average busy season busy hour loads 1% from the End Office to the Tandem and 1% from tandem to End Office based on Neal Wilkinson B.01M [Medium Day-to-Day Variation] until traffic data is available. Listed below are the trunk group types and their objectives:

<u>Trunk Group Type</u>	<u>Blocking Objective (Neal Wilkinson B.01M)</u>
Local Tandem	1%
Local Direct	2%
IntraLATA Interexchange Direct	1 %
IntraLATA Interexchange Tandem	0.5%
911	1 %
Operator Services (DA/DACC)	1 %
Operator Services (0+, 0-)	0.5%
InterLATA Tandem	0.5%

### 4.0 Forecasting/Serviceing Responsibilities

- 4.1 SWBT and IP Communications Corporation will be jointly responsible for forecasting and servicing all two-way trunk groups between the two networks. SWBT will be responsible for forecasting and servicing the one-way trunk groups terminating to IP Communications Corporation. IP Communications Corporation will be responsible for forecasting and servicing the one-way trunk groups to SWBT including terminating,

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transit, operator services, directory assistance and E911 trunks. Standard trunk traffic engineering methods will be used as described in Bell Communications Research, Inc. (Bellcore) document SR-TAP-000191, Trunk Traffic Engineering Concepts and Applications or as otherwise mutually agreed to by the Parties.

**5.0 Servicing Objective/Data Exchange**

- 5.1 Each Party agrees to service trunk groups to the blocking criteria listed in Section 3.0. Each party will attempt to service trunk groups in a timely manner when they have sufficient data to determine that the service objectives in Section 3.0 are not being met.
- 5.2 Each Party will make trunk group blockage information available to the other party by mechanized procedures. The existing exchange of data for Access Trunk Groups will be extended to provide data on all joint trunk groups.
- 5.3 When the traffic between the Parties' end offices is forecasted to equal or exceed a DS1 the Parties may mutually agree to establish a direct trunk group.

**6.0 Interconnection Trunking Diagrams**

The attached four diagrams depict the interconnection trunking arrangements described above.

**7.0 Applicability of Other Rates Terms and Conditions**

- 7.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties;

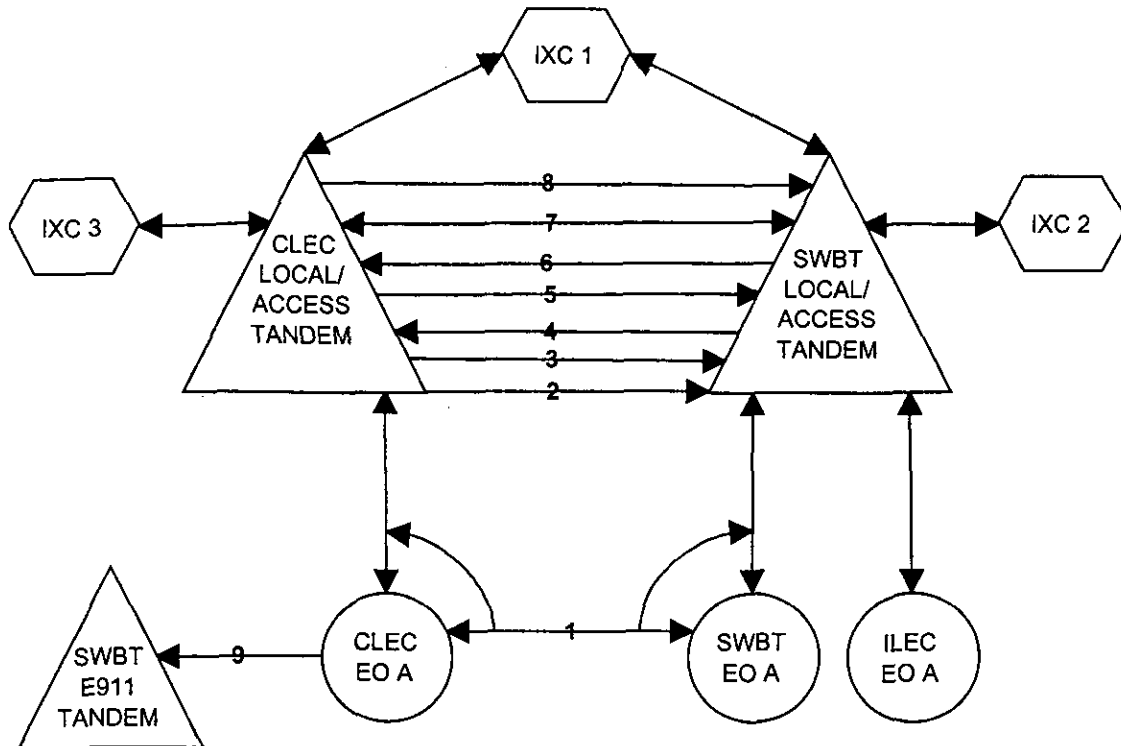
customer inquiries; expenses; conflicts of interest; survival; scope of agreement;  
amendments and modifications; and entire agreement.

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**SINGLE RATE AREA - COMBINED SWBT LOCAL/ACCESS TANDEM  
INTERCONNECTED WITH CLEC LOCAL/ACCESS TANDEM  
(WITH SOME DIRECT END OFFICE TRUNKING)**



TRAFFIC USE/MODIFIER	DESCRIPTION
1. TEJ	LOCAL, INTRALATA & INTERLATA (SS7 SIGNALING) -2-WAY
2. TOCRJ	MASS CALLING (MF SIGNALING)
3. DD800J	INTRALATA 800 (MAXIMIZER 800)(SS7 SIGNALING)#
4. DD800J	INTRALATA 800 (SS7 SIGNALING)%
5. ITJ	LOCAL, INTRALATA and INTERLATA (SS7 SIGNALING)
6. ITJ	LOCAL, INTRALATA and INTERLATA (SS7 SIGNALING)
7. ITJ	INTRALATA and INTERLATA (SS7 SIGNALING)
8. ITJ	INTRALATA and INTERLATA (MF SIGNALING)@
9. ESJ	EMERGENCY SERVICE (MF SIGNALING)

# Required if SWBT does not perform the database query for CLEC

% Required if CLEC does not perform the database query for SWBT.

@ Required at the Dallas 4ESS switch only for 10XXXX# cut through and Feature Group B over D.

Note: When Local, IL & LD traffic is combined on the same truck group, the Traffic Use Code will be ITJ.

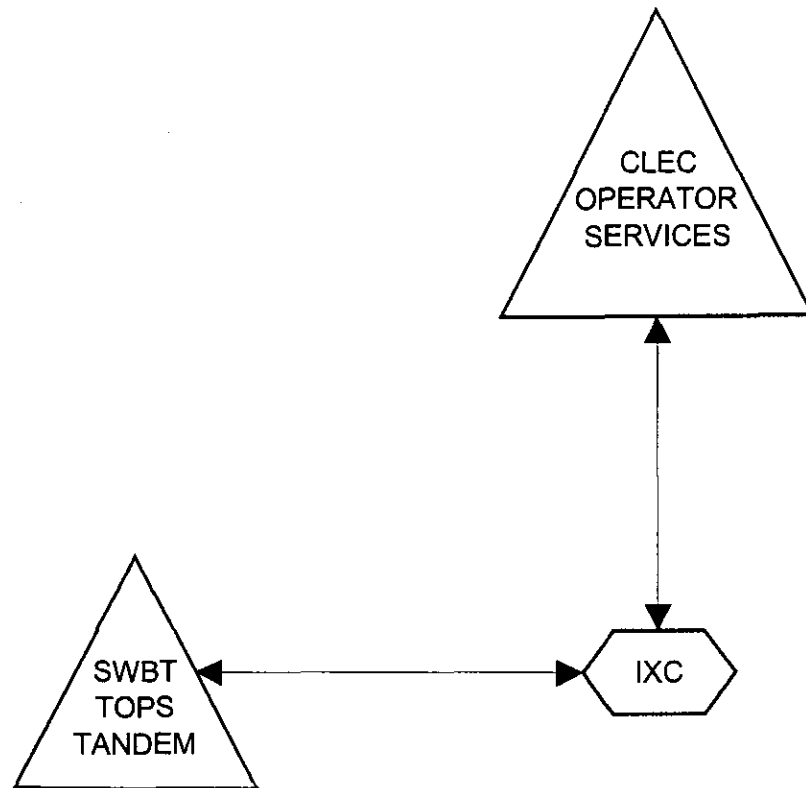
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**OPTION 1**

**SINGLE RATE AREA - COMBINED SWBT LOCAL/ACCESS TANDEM  
WHERE SWBT IS NOT THE OPERATOR SERVICES PROVIDER FOR AT&T**

**121 INWARD OPERATOR ASSISTANCE**

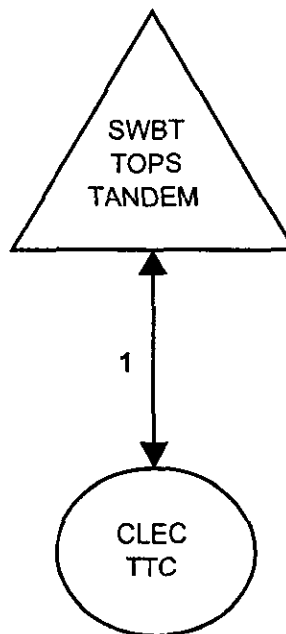


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**Note: This option would use existing Interexchange Carrier Network.**

**OPTION 2**

**SINGLE RATE AREA - COMBINED SWBT LOCAL/ACCESS TANDEM  
WHERE SWBT IS NOT THE OPERATOR SERVICES PROVIDER  
FOR AT&T AND AT&T'S SWITCH IS THE DESIGNATED  
OPERATOR SWITCH (TTC) FOR 121 INWARD ASSISTANCE**



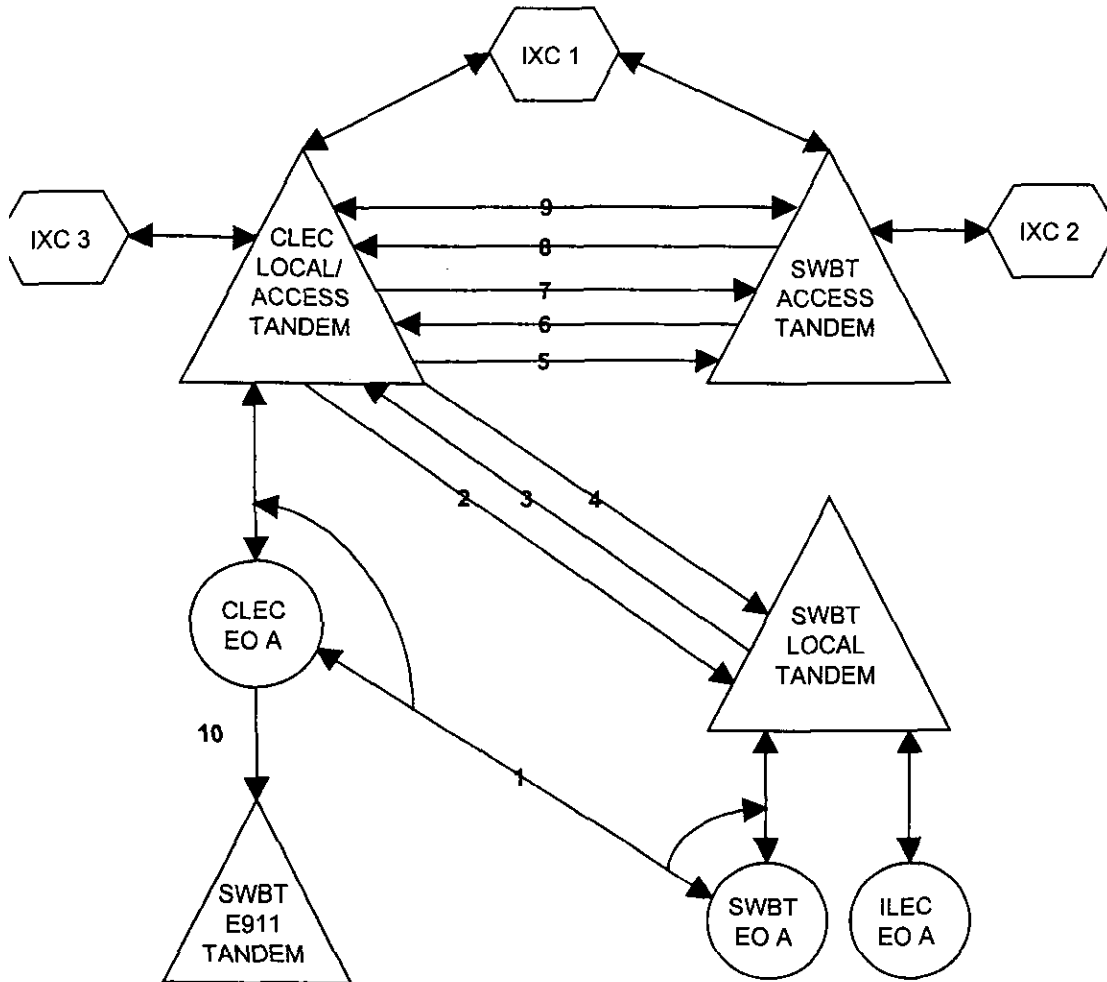
**TRAFFIC USE/MODIFIER**  
**1. OAJ**

**DESCRIPTION**  
**ACCESS TO INWARD OPERATOR (121) (MF SIGNALING)**

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**SINGLE RATE AREA - SEPARATE SWBT LOCAL AND ACCESS TANDEM  
INTERCONNECTED WITH AT&T LOCAL/ACCESS TANDEM (WITH SOME  
DIRECT END OFFICE TRUNKING)**



TRAFFIC USE/MODIFIER	DESCRIPTION
1. TEJ	LOCAL, INTRALATA & INTERLATA(SS7 SIGNALING) -2-WAY
2. MTJ	LOCAL ONLY (SS7 SIGNALING)
3. MTJ	LOCAL ONLY (SS7 SIGNALING)
4. TOCRJ	MASS CALLING (MF SIGNALING)
5. DD800J	INTRALATA 800 (MAXMIZER 800)(SS7 SIGNALING)#
6. DD800J	INTRALATA/INTERLATA 800 (SS7 SIGNALING)%
7. ITJ	INTRALATA / INTERLATA(SS7 SIGNALING
8. ITJ	INTRALATA / INTERLATA(SS7 SIGNALING)
9. ITJ	INTRALATA / INTERLATA (SS7 SIGNALING)
10. ESJ	EMERGENCY SERVICE (MF SIGNALING)

# Required if SWBT does not perform the database query for CLEC.

% Required if CLEC does not perform the database query for SWBT.

Note: This applies to situations where CLEC supplies separate trunks to LT & AT.  
Where CLEC does not, CLEC will send to AT.

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## **APPENDIX NETWORK INTERCONNECTION METHODS (NIM)**

This Appendix NIM to Attachment 11: Network Interconnection Architecture designates Network Interconnection Methods (NIMs) to be used by the Parties. These include, but are not limited to: MidSpan Fiber Interconnection (MSFI); Virtual Collocation Interconnection; SONET Based Interconnection; Physical Collocation Interconnection; and leasing of SWBT facilities.

### **1.0 Mid-Span Fiber Interconnection (MSFI)**

Mid-Span Fiber Interconnection (MSFI) between Southwestern Bell Telephone (SWBT) and IP Communications Corporation can occur at any mutually agreeable, economically and technically feasible point between IP Communications Corporation's premises and a SWBT tandem or end office. This interconnection will be on a point-to-point SONET system over single mode fiber optic cable.

MSFI may be used to provide interconnection trunking as defined in Appendix ITR to Attachment 11: Network Interconnection Architecture.

1.1 There are two basic mid-span interconnection designs:

1.1.1 Design One: IP Communications Corporation's fiber cable and SWBT's fiber cable are connected at an economically and technically feasible point between the IP Communications Corporation location and the last entrance manhole at the SWBT central office.

1.1.1.1 The Parties may agree to a location with access to an existing SWBT fiber termination panel. In these cases, the network interconnection point (POI) shall be designated outside of the SWBT building, even though the IP Communications Corporation fiber may be physically terminated on a fiber termination panel inside of a SWBT building. In this instance, IP Communications Corporation will not incur fiber termination charges and SWBT will be responsible for connecting the cable to the SWBT facility.

1.1.1.2 The Parties may agree to a location with access to an existing IP Communications Corporation fiber termination panel. In these cases, the network interconnection point (POI) shall be designated outside of the IP Communications Corporation building, even though the SWBT fiber may be physically terminated on a fiber termination panel inside of an IP Communications Corporation building. In this instance, SWBT will not incur fiber termination charges and IP Communications Corporation will be responsible for connecting the cable to the IP Communications Corporation facility.

1.1.1.3 If a suitable location with an existing fiber termination panel cannot be agreed upon, IP Communications Corporation and SWBT shall mutually determine provision of a fiber termination panel housed in an outside, above ground cabinet placed at the physical POI.

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Ownership and the cost of provisioning the panel will be negotiated between the two parties.

- 1.1.2 Design Two: IP Communications Corporation will provide fiber cable to the last entrance manhole at the SWBT tandem or end office switch with which IP Communications Corporation wishes to interconnect. IP Communications Corporation will provide a sufficient length of fiber optic cable for SWBT to pull the fiber cable to the SWBT cable vault for termination on the SWBT Fiber Distribution Frame (FDF). In this case the POI shall be at the manhole location.
  - 1.1.2.1 Each Party is responsible for designing, provisioning, ownership and maintenance of all equipment and facilities on its side of the POI. Each Party is free to select the manufacturer of its Fiber Optic Terminal (FOT). Neither Party will be allowed to access the Data Communication Channel (DCC) of the other Party's FOT.
- 1.2 The Parties will mutually agree upon the precise terms of each mid-span interconnection facility. These terms will cover the technical details of the interconnection as well as other network interconnection, provisioning and maintenance issues.
- 1.3 The IP Communications Corporation location includes FOTs, multiplexing and fiber required to take the optical signal handoff from SWBT for interconnection trunking as outlined in Appendix ITR.
- 1.4 The fiber connection point may occur at several locations:
  - 1.4.1 a location with an existing SWBT fiber termination panel. In this situation, the POI shall be outside the SWBT building which houses the fiber termination panel;
  - 1.4.2 a location with access to an existing IP Communications Corporation fiber termination panel. In these cases, the network interconnection point (POI) shall be designated outside of the IP Communications Corporation building, even though the SWBT fiber may be physically terminated on a fiber termination panel inside of an IP Communications Corporation building;
  - 1.4.3 a location with no existing SWBT fiber termination panel. In this situation, SWBT and IP Communications Corporation will negotiate provisioning, maintenance and ownership of a fiber termination panel and above ground outside cabinet as a POI and for connection of the fiber cables;
  - 1.4.4 a manhole outside of the SWBT central office. In this situation, IP Communications Corporation will provide sufficient fiber optic cable for SWBT to pull the cable into the SWBT cable vault for termination on the SWBT FDF. The POI will be at the manhole and SWBT will assume maintenance responsibility for the fiber cabling from the manhole to the FDF.

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- 1.5 The SWBT tandem or end office switch includes all SWBT FOT, multiplexing and fiber required to take the optical signal hand-off provided from IP Communications Corporation for interconnection trunking as outlined in Appendix ITR. This location is SWBT's responsibility to provision and maintain.
- 1.6 In both designs, IP Communications Corporation and SWBT will mutually agree on the capacity of the FOT(s) to be utilized. The capacity will be based on equivalent DS1s that contain trunks and interLATA traffic. Each Party will also agree upon the optical frequency and wavelength necessary to implement the interconnection. The Parties will develop and agree upon methods for the capacity planning and management for these facilities, terms and conditions for over-provisioning facilities, and the necessary processes to implement facilities as indicated below. These methods will meet quality standards as mutually agreed to by IP Communications Corporation and SWBT.

## **2.0 Avoidance of Over-Provisioning**

Underutilization is the inefficient deployment and use of the network due to forecasting a need for more capacity than actual usage requires and results in unnecessary costs for SONET systems. To avoid over-provisioning, the Parties will agree to joint facility growth planning as detailed below.

## **3.0 Joint Facility Growth Planning**

- 3.1 The initial fiber optic system deployed for each interconnection shall be the smallest standard available. For SONET this is an OC-3 system. The following lists the criteria and processes needed to satisfy additional capacity requirements beyond the initial system.
- 3.2 Criteria:
  - 3.2.1 Investment is to be minimized;
  - 3.2.2 Facilities are to be deployed in a "just in time" fashion.
- 3.3 Processes:
  - 3.3.1 discussions to provide relief to existing facilities will be triggered when either Party recognizes that the overall system facility (DS1s) is at 90% capacity;
  - 3.3.2 both Parties will perform a joint validation to ensure current trunks have not been over-provisioned. If any trunk groups are over-provisioned, trunks will be turned down as appropriate. If any trunk resizing lowers the fill level of the system below 90%, the growth planning process will be suspended and will not be reinitiated until a 90% fill :

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level is achieved. Trunk design blocking criteria described in Appendix ITR will be used in determining trunk group sizing requirements and forecasts;

- 3.3.3 if based on the forecasted equivalent DS1 growth, the existing fiber optic system is not projected to exhaust within one year, the Parties will suspend further relief planning on this interconnection until a date one year prior to the projected exhaust date. If growth patterns change during the suspension period, either Party may re-initiate the joint planning process;
- 3.3.4 if the placement of a minimum size FOT will not provide adequate augmentation capacity for the joint forecast over a two year period, and the forecast appears reasonable based upon history, the next larger system may be deployed. In the case of a SONET system, the OC-3 system could be upgraded to an OC-12. If the forecast does not justify a move to the next larger system, another minimal size system (such as on OC-3) could be placed. This criteria assumes both Parties have adequate fibers for either scenario. If adequate fibers do not exist, both Parties would negotiate placement of additional fibers;
- 3.3.5 both Parties will negotiate a project service date and corresponding work schedule to construct relief facilities in an effort to achieve "just in time" deployment;
- 3.3.6 the joint planning process/negotiations should be completed within two months of identification of 90% fill.

#### **4.0 Virtual Collocation Interconnection**

The description of Virtual Collocation Interconnection is contained in SWBT's Virtual Collocation tariffs (i.e., SWBT's Tariff F.C.C. No. 73).

#### **5.0 SONET-Based Interconnection**

The description of SONET-Based Interconnection is contained in SWBT's SONET-Based Interconnection tariffs (i.e., SWBT's Tariff F.C.C. No. 73).

#### **6.0 Physical Collocation Interconnection**

The terms and conditions governing Physical Collocation Interconnection are contained in Appendix Collocation to Attachment 13: Ancillary Functions of this Agreement.

#### **7.0 Leasing of SWBT's Facilities**

IP Communications Corporation's leasing of SWBT's facilities for purposes of Attachment 11: Network Interconnection Architecture will be subject to the mutual agreement of the Parties. IP Communications Corporation will have the option to lease



interconnection facilities at an amount equal to the rates found in Appendix Pricing UNE - Schedule of Prices.

**8.0 Applicability of Other Rates, Terms and Conditions**

\*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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## **APPENDIX SS7 INTERCONNECTION**

### **1.0 Introduction**

- 1.1 For the purposes of signaling for the exchange of traffic under this Agreement between the Parties' networks, within each LATA the Parties will connect their signaling networks in accordance with the technical terms of Section 9 of Attachment 6: Unbundled Network Elements.

### **2.0 Applicability of Other Rates, Terms and Conditions**

- 2.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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## **ATTACHMENT 12: COMPENSATION**

### **1.0 Introduction**

- 1.1 For purposes of compensation under this Agreement, the telecommunications traffic traded between IP Communications Corporation and SWBT will be classified as either Local Traffic, Transit Traffic, IntraLATA Interexchange Traffic, InterLATA Interexchange Traffic, FGA Traffic, or Cellular Traffic. The compensation arrangement for terminating calls from a Cellular provider (as defined in Appendix Cellular) to IP Communications Corporation or SWBT end users is set forth in Appendix Cellular, attached hereto and incorporated by reference. The compensation arrangement for the joint provision of Feature Group A (FGA) Services is covered in Appendix FGA, attached hereto and incorporated by reference. The Parties agree that, notwithstanding the classification of traffic under this Agreement, either Party is free to define its own "local" calling area(s) for purposes of its provision of telecommunications services to its end users. The provisions of this Attachment apply to calls originated over the originating carrier's facilities or, unless otherwise provided in this Agreement, over unbundled Network Elements. The provisions of this Attachment do not apply to traffic originated over services provided under local Resale services.
- 1.2 Calls originated by IP Communications Corporation's end users and terminated to SWBT's end users (or vice versa) will be classified as "Local Traffic" under this Agreement if: (i) the call originates and terminates in the same SWBT exchange area; or (ii) originates and terminates within different SWBT Exchanges that share a common mandatory local calling area, e.g., mandatory Extended Area Service (EAS), or other like types of mandatory expanded local calling scopes; or (iii) originates and terminates within Metropolitan Calling Areas (MCA) that share either mandatory or optional calling scopes.
- 1.3 The Parties will notify each other of the date when the first commercial call is terminated in Missouri between SWBT and IP Communications Corporation pursuant to this Section.

### **2.0 Responsibilities of the Parties**

- 2.1 Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the respective Parties involved.
- 2.2 Each Party will include in the information transmitted to the other for each call being terminated on the other's network (where available), the originating Calling Party Number (CPN).

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2.3 The type of originating calling number transmitted depends on the protocol of the trunk signaling used for interconnection. Traditional toll protocol will be used with Multi-Frequency (MF) signaling, and Automatic Number Identification (ANI) will be sent either from the originating Parties end office switch to the terminating Parties tandem or end office switch.

2.4 Where one Party is passing CPN but the other Party is not properly receiving information, the Parties will cooperatively work to correctly rate the traffic.

**3.0 Reciprocal Compensation for Termination of Local Traffic**

3.1 The compensation set forth below will apply to all Local Traffic as defined in Section 1.2 of this Attachment.

**3.2 Applicability of Rates:**

3.2.1 The rates, terms, conditions in this Section 3.0 apply only to the termination of Local Traffic, except as explicitly noted.

3.2.2 The Parties agree to compensate each other for the termination of Local Traffic on a minute of use (MOU) basis.

**3.3 Rate Elements:**

3.3.1 A Tandem Served rate element is applicable to Tandem Routed Local Traffic on a terminating local MOU basis and includes compensation for the following sub-elements:

3.3.1.1 Tandem Switching - compensation for the use of tandem switching functions.

3.3.1.2 Tandem Transport - compensation for the transmission facilities between the local tandem and the end offices subtending that tandem.

3.3.1.3 End Office Switching - compensation for the local end office switching and line termination functions necessary to complete the transmission.

3.3.2 An End Office Served rate element applies to direct-routed Local Traffic on a terminating local MOU basis and includes compensation for End Office Switching. This includes direct-routed Local Traffic that terminates to offices that have combined tandem and end office functions.

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3.4 The following prices are for Local Interconnect :

	<u>Prices</u>
<u>Tandem Switching</u>	\$0.00151/MOU
<u>Tandem Common Transport</u>	
Facility Cost per Minute, per Mile:	
Zone 1	\$0.000002
Zone 2	\$0.000007
Zone 3	\$0.000015
Zone 4	\$0.000001
Interzone	\$0.000003
Cost per Minute of Use	
Zone 1	\$0.000190/MOU
Zone 2	\$0.000285/MOU
Zone 3	\$0.000302/MOU
Zone 4	\$0.000162/MOU
Interzone	\$0.000332/MOU
<u>End Office Switching</u>	
Zone 1	\$0.001988/MOU
Zone 2	\$0.002391/MOU
Zone 3	\$0.003444/MOU
Zone 4	\$0.002934/MOU

4.0 Reciprocal Compensation for the Termination of Transit Traffic

4.1 Transit Traffic (also known as Through-put) is a switching and transport function only, which allows one Party to send Local Traffic, as defined in Section 1.2, to a third party network through the other Party's tandem. Therefore, a Transit Traffic rate element applies to all MOUs between a Party and third party networks that transit the other Party's tandem switch. The originating Party is responsible for the appropriate rates unless otherwise specified. The following prices apply for the termination of transit traffic. The Transit Traffic rate element is only applicable when calls do not originate with (or terminate to) the transit Party's end user.

4.2 Transit Traffic:

<u>Tandem Switching</u>	\$0.00151/MOU
-------------------------	---------------

Tandem Common Transport

Facility Cost per Minute, per Mile:

Zone 1	\$0.000002
Zone 2	\$0.000007
Zone 3	\$0.000015
Zone 4	\$0.000001
Interzone	\$0.000003

Cost per Minute of Use

Zone 1	\$0.000190/MOU
Zone 2	\$0.000285/MOU
Zone 3	\$0.000302/MOU
Zone 4	\$0.000162/MOU
Interzone	\$0.000332/MOU

**5.0 Reciprocal Compensation For Termination Of IntraLATA Interexchange Traffic**

- 5.1 Except as otherwise provided in this Agreement, for intrastate intraLATA traffic compensation for termination of intercompany traffic will be at access rates as set forth in each Party's own applicable intrastate access tariffs. For mandatory extended area service (EAS), or other like types of mandatory expanded local calling scopes; or traffic that originates and terminates within Metropolitan Calling Areas (MCA) that share either mandatory or optional calling scopes, compensation will be applied pursuant to Section 1.2 above.
- 5.2 For intrastate interLATA interexchange service traffic, compensation for termination of intercompany traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge, as set forth in each Party's intrastate access service tariff. For interstate intraLATA service, compensation for termination of intercompany traffic will be at terminating access rates for MTS and originating access rates for 800 Service including the CCL charge, as set forth in each party's interstate access service tariff.

**6.0 Compensation for Origination and Termination of Switched Access Service Traffic to or from an Interexchange Carrier (IXC) (Meet-Point Billing (MPB) Arrangements)**

- 6.1 For interLATA traffic and intraLATA traffic, compensation for termination of intercompany traffic will be at access rates as set forth in each Party's own applicable interstate or intrastate access tariffs.

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- 6.2 The Parties will establish MPB arrangements in order to provide Switched Access Services to Interexchange Carriers via a Party's access tandem switch, in accordance with the MPB guidelines adopted by and contained in the Ordering and Billing Forum's MECOD and MECAB documents. Except as modified herein, MPB will be determined during joint network planning.
- 6.3 The Parties will maintain provisions in their respective federal and state access tariffs, or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff, sufficient to reflect this MPB arrangement, including MPB percentages.
- 6.4 As detailed in the MECAB document, the Parties will exchange all information necessary to accurately, reliably and promptly bill third parties for Switched Access Services jointly handled by the parties via the MPB arrangement. The Parties will exchange the information in Exchange Message Record (EMR) format, on magnetic tape or via a mutually acceptable electronic file transfer protocol. Where the EMR records cannot be transferred due to a failure of the Connect: Direct, records can be provided via magnetic tape, under the specifications contained in Attachment 4: Connectivity Billing and Recording. The initial billing company (IBC) will provide the information to the subsequent billing company within ten (10) working days of sending the IBC's bills.
- 6.5 Initially, billing to interexchange carriers for the Switched Access Services jointly provided by the parties via the MPB arrangement will be according to the multiple bill single tariff method. As described in the MECAB document each Party will render a bill in accordance with its tariff for its portion of the service. Each Party will bill its own network access service rates to the IXC. The residual interconnection charge (RIC), if any, will be billed by the Party providing the End Office function.
- 6.6 MPB will also apply to all jointly provided traffic bearing the 900, 800 and 888 NPAs or any other non-geographical NPAs which may likewise be designated for such traffic where the responsible party is an IXC.
- 7.0 **Billing Arrangements for Compensation for Termination of IntraLATA, Local, Transit, and Optional Calling Area Traffic**
- 7.1 The Parties agree to the measuring and billing procedures in Section 7.0 of this Attachment. In any circumstance not addressed in those Sections, or where the Parties are unable to agree upon a measurement and billing method, the Parties will report the Percentage Local Usage (PLU) to each other for the purposes of measurement and billing for Local Traffic as defined in Section 1.2. SWBT and IP Communications Corporation will work together to determine the appropriate PLU method. If the audit process

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associated with the PLU method becomes problematic, the Parties will use the dispute resolution method set out in Section 9.4.2 of the General Terms and Conditions of this Agreement.

- 7.2 Other than for traffic described in Section 6 above, each Party will deliver monthly settlement statements for terminating the other Party's traffic based on a mutually agreed schedule as follows:
  - 7.2.1 On a monthly basis, each Party will record its originating minutes of use including identification of the originating and terminating NXX for all intercompany calls.
  - 7.2.2 Each Party will transmit the summarized originating minutes of use from Section 7.2.1 above to the transiting and/or terminating Party for subsequent monthly intercompany settlement billing.
  - 7.2.3 Bills rendered by either Party will be paid within 30 days of receipt subject to subsequent audit verification.
  - 7.2.4 Detailed technical descriptions and requirements for the recording, record exchange and billing of traffic are included in the Technical Exhibit Settlement Procedures (TESP), a copy of which has been provided to IP Communications Corporation by SWBT.
- 7.3 MOUs for the rates contained in this Attachment will be measured in seconds by call type, and accumulated each billing period into one minute increments for billing purposes in accordance with industry rounding standards.
- 7.4 Each Party will multiply the tandem routed and end office routed terminating MOUs by the appropriate rate contained in this Attachment to determine the total monthly billing to the other Party.
- 7.5 Through March 31, 1998, if the percentage of calls passed with CPN is greater than ninety percent (90%), all calls exchanged without CPN information will be billed as either Local Traffic or IntraLATA Toll Traffic in direct proportion to the minutes of use (MOU) of calls exchanged with CPN information. Effective April 1, 1998, if the percentage of calls passed with CPN is less than 90%, all calls passed without CPN will be billed as IntraLATA Toll Traffic.

#### **8.0 Compensation for Terminating Cellular Traffic**

- 8.1 Appendix Cellular sets forth the terms and conditions under which the Parties will distribute revenue from their joint provision of Wireless Interconnection Service for mobile to landline traffic terminating through the Parties' respective wireline switching networks within a LATA. If one Party enters into an interconnection agreement with a

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Commercial Mobile Radio Service (CMRS) provider, Appendix Cellular shall no longer be applicable between the Parties with respect to such CMRS providers, and the other Party shall be obligated within a reasonable length of time to enter into an agreement with such CMRS provider for the termination of wireless to landline traffic.

- 8.2 IP Communications Corporation will pay the Local Transit Traffic rate to SWBT for calls that originate on IP Communications Corporation's network and are sent to SWBT for termination to a CMRS Provider as long as such Traffic can be identified as wireless traffic. SWBT will pay the Local Transit Traffic rate to IP Communications Corporation for such calls that originate on SWBT's network and are sent through IP Communications Corporation for termination on a CMRS Provider's network. Each Party shall be responsible for interconnection agreements with CMRS providers for terminating compensation regarding traffic originating on the Party's network and terminating on the CMRS provider's network. The Parties agree to cooperate with each other regarding third party compensation issues.
- 8.3 When traffic is originated by either Party to a CMRS Provider, and the traffic cannot be specifically identified as wireless traffic for purposes of compensation between SWBT and IP Communications Corporation, the traffic will be rated either as Local or Access and the appropriate compensation rates shall be paid by the originating Party to the transiting Party.

**9.0 Interim Number Portability (INP)**

- 9.1 The Parties agree that under INP, the net terminating compensation on calls to INP numbers will be received by each end user's chosen local service provider as if each call to the end user had been originally addressed by the caller to a telephone number bearing an NPA-NXX directly assigned to the end user's chosen local service provider. In order to accomplish this objective where INP is employed, the Parties will utilize the process set forth below in this Section (or other mutually developed and agreed to arrangement) whereby the net terminating compensation on calls subject to INP will be passed from the Party (the Performing Party) which performs the INP to the other Party (the Receiving Party) for whose end user the INP is provided.
- 9.2 The Parties will treat all ported calls as two separate call segments in the interLATA and intraLATA access billing and local interconnection settlement billing systems.
- 9.3 The Performing Party will quantify the total monthly terminating ported minutes of use to the Receiving Party for each end office of each Performing Party.
- 9.4 The Performing Party will quantify the total monthly interstate, intrastate, and local minutes of use in those Performing Party's end offices in accordance with Section 9.3 above in order to determine the jurisdictional percentages. The Receiving Party has the

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right to audit those percentages, not to exceed once per quarter. The Performing Party will provide the Receiving Party with detailed summary reporting on a total calling area basis each month.

- 9.5 Each month, using the percentages developed pursuant to Section 9.4 above, the Performing Party will calculate by end office the interstate and intrastate access adjustment amounts from the initial billing amounts under Section 9.2 for subsequent payment to the Receiving Party. This adjustment will be based on the Performing Party's interstate and intrastate access rates utilizing the applicable rate elements, i.e., carrier common line (CCL), residual interconnection charge (RIC), local switching (LS), local transport termination (LTT), and local transport facility (LTF).
- 9.6 Each month the Performing Party will calculate a local interconnection settlement billing credit related to the interstate and intrastate (non-local) ported calls from the initial billing amounts under Section 9.2. The billing credit for these non-local calls will be included with the calculation under Section 9.5 for subsequent reimbursement to the Performing Party on a net payment basis by the Receiving Party.

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## APPENDIX CELLULAR

This Appendix to Attachment 12: Compensation sets forth the terms and conditions under which the Parties will distribute revenue from their joint provision of Cellular Interconnection Service for calls terminating through the Parties' respective wireline switching networks within a Local Access and Transport Area (LATA). The Parties will be compensated under this Appendix only to the extent that they have not already been compensated under other tariffs, settlement agreements or contracts. This Appendix is subject to the terms and conditions of applicable tariffs.

### **1.0 Definitions**

- 1.1 Cellular Interconnection Service - Origination and termination of calls between a Cellular Mobile Carrier's (CMC's) Mobile Telephone Switching Office (MTSO) through SWBT's or IP Communications Corporation's point of switching for the interchange of traffic with the network
- 1.2 Cellular Geographic Service Area ("CGSA") - The geographic area within which the cellular carrier is authorized to provide service under a single license under Part 22 of the FCC Rules and Regulations.
- 1.3 Cellular Mobile Carrier ("CMC") - A radio common carrier provider of domestic public cellular telecommunication service, as defined in Part 22, Subpart K, of the FCC Rules and Regulations or any other CMRS provider as defined by the FCC's Rules and Regulations.
- 1.4 End Office - A SWBT or IP Communications Corporation switching system where exchange service customer loops are terminated for the purpose of interconnection to each other and to the network.
- 1.5 End Office Rate Center - An end office selected by the CMC for rating or measuring purposes of type 2A cellular interconnection.
- 1.6 Local Access and Transport Area ("LATA") - A geographic area marking the boundaries beyond which a Bell Operating Company formerly could not carry telephone calls pursuant to the terms of the Modification of Final Judgment (MFJ), U.S. vs. American Tel. & Tel. Co., 552 F.Supp. 131 (D.D.C. 1983), affirmed sub nom. Maryland v. United States, 460 U.S. 1001 (1983).
- 1.7 Local Calling Area or Local Calling Scope - That area in which the message telephone exchange service between two or more end offices, without a toll charge, is provided.

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- 1.8 Minutes of Use (MOU) - For the purposes of this Appendix, MOU means the Terminating Traffic as recorded by the Primary Company.
- 1.9 Mobile Telephone Switching Office ("MTSO") - A CMC's switching equipment or terminal used to provide the CMC's switching services or, alternatively, any other point of termination designated by the CMC. The MTSO directly connects the CMC's customers within its CGSA to the Primary Company's facilities.
- 1.10 Primary Company - The Party that provides the End Office or Tandem Office where the CMC chooses to connect terminating traffic. The Primary Company also bills the CMC for Cellular Interconnection Service.
- 1.11 Revenues - Those monies the Primary Company bills and collects from the CMC for jointly provided Cellular Interconnection Service, using the Primary Company's applicable Cellular Interconnection Service tariffs or contracts.
- 1.12 Secondary Company - The Party that receives Terminating Traffic from the Primary Company.
- 1.13 Tandem Office - A Party's switching system that provides an intermediate switching point for traffic between end offices or the network.
- 1.14 Terminating Traffic - That traffic which is delivered by a CMC to the Primary Company for termination at a point on the intraLATA wireline switching network.

## **2.0 Administration of Revenue Distribution**

- 2.1 The Primary Company will compute, bill, collect and distribute the revenue for jointly provided Cellular Interconnection Service for calls terminating within a LATA. On jointly provided Cellular Interconnection Service, the Primary Company will share the Local Transport (LT) Revenues as described below with the Secondary Company. The Primary Company will distribute applicable Local Switching (LS) and Carrier Common Line (CCL) charges which are collected from the CMC to the Secondary Company, as described below.
- 2.2 When SWBT is the Secondary Company, distribution of revenues will be computed using the rate elements as defined in SWBT's applicable cellular interconnection tariff.
- 2.3 When IP Communications Corporation is the Secondary Company, distribution of revenues will be computed using the rate elements as defined in SWBT's applicable cellular interconnection tariff.

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- 2.4 For Terminating Traffic, actual monthly cellular MOU for each office in the LATA will be measured by the Primary Company or provided to the Primary Company by the CMC in those cases where the Primary Company is unable to measure the actual terminating usage.
- 2.5 Each month, the amount of CCL and LS revenue (based on the rates in the Primary Company's applicable tariffs) due the Secondary Company from the Primary Company will be determined by totaling the actual terminating MOUs associated with each of the Secondary Company's end offices and multiplying those MOUs by the appropriate rates as set out above. The LT revenues due to the Secondary Company will be determined for each Secondary Company end office by multiplying the billed MOUs by the appropriate LT rate multiplied by the applicable end office percentage ownership of facilities listed in Exhibit A to this Appendix.
- 2.6 The Primary Company will prepare a revenue and usage statement on a monthly basis. Within 90 calendar days after the end of each billing period, except in cases of disputes, the Primary Company will remit the compensation amount due the Secondary Company. When more than one compensation amount is due, they may be combined into a single payment. No distribution will be made for the revenue the Primary Company is unable to collect.
- 2.7 The revenue and usage statement will contain the following information:
- 2.7.1 The number of MOU for each of the Secondary Company's end offices, the corresponding rate elements to be applied to the MOU for each end office, and the resulting revenues;
- 2.7.2 The total of the MOU and revenues for the Secondary Company;
- 2.7.3 The percent ownership factor used to calculate the distribution of Local Transport revenues; and,
- 2.7.4 Adjustments for uncollectibles.
- 2.8 The Parties agree that revenue distribution under this Appendix will apply as of the effective date of the Agreement. The Primary Company will start revenue distribution on usage within 60 calendar days from the date this Appendix is effective.
- 3.0 Termination Provisions**
- 3.1 This Appendix shall remain in effect until terminated by either Party upon a minimum of 30 calendar days written notice by such Party to the designated representative of the other.

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- 3.2 This Appendix may be terminated by an order of an appropriate regulatory commissioner a court of competent jurisdiction.

**4.0 Miscellaneous Provisions**

- 4.1 Exhibit A to this Appendix is attached and incorporated into this Appendix by reference. From time to time, by written agreement of both parties, new Exhibits may be substituted for the attached Exhibit A, superseding and canceling the Exhibit A previously in effect.
- 4.2 Each party will, promptly upon request, furnish to the other such information as may reasonably be required to perform under this Appendix.

**5.0 Applicability of Other Rates, Terms and Conditions**

- 5.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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EXHIBIT A TO APPENDIX CELLULAR

End Office Percent Ownership  
of Local Transport Facilities

CLLI Code

NPA-NXX

% Ownership of  
Transport Facilities

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## **APPENDIX FGA**

This Appendix to Attachment 12: Compensation sets forth the terms and conditions under which the Parties will distribute revenue from the joint provision of Feature Group A (FGA) Switched Access Services.

These services will be provided within a Local Access and Transport Area (LATA) and/or an Extended Area Service (EAS) arrangement. The Primary Company will compensate the Secondary Company only to the extent that it has not already been compensated under its interstate or intrastate access service tariffs or other settlement/contract arrangements. This Appendix is subject to applicable tariffs.

### **1.0 Definitions**

- 1.1 Local Access and Transport Area (LATA) means a pre-established geographic area encompassing one or more local exchange areas within which a Party may provide telecommunications services.
- 1.2 The term Extended Area Service (EAS) as used in this Appendix means the provision of message telephone exchange service between two or more local exchange service areas without a toll charge.
- 1.3 Subscriber Access Lines will mean a communication facility provided under a general and/or exchange service tariff extended from a customer premise to a central office switch which may be used to make and receive exchange service calls, intrastate toll service or interstate toll service calls.
- 1.4 Feature Group A Switched Access Service includes all facilities and services rendered in furnishing FGA access service, both in EAS and non-EAS (i.e., LATA wide terminations) areas, in accordance with the schedule or charges, regulations, terms and conditions stated in the interstate or intrastate access service tariffs of the Parties.
- 1.5 The Primary Company denotes the Party with the Primary office(s).
- 1.6 The Primary Office is an office which: (1) directly or jointly connects to an interexchange carrier and /or end user; and (2) provides joint FGA switched access service to that interexchange carrier and/or end user with other end offices.
- 1.7 The Secondary Company denotes the Party with the secondary office(s).

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- 1.8 The Secondary Office is any office involved in providing joint FGA switched access to an Interexchange carrier and /or end user through the switching facilities of the Primary office.
- 1.9 Revenues under this Appendix are those FGA Switched Access amounts due the Primary and Secondary Companies under their applicable tariffs, less uncollectible revenues. Revenues for any other services are not included. Uncollectible revenues are those revenues the Primary Company is unable to collect, using its regular established collection procedures. The Primary Company may offset uncollectibles against current revenue distribution.
- 1.10 Access Minutes or Minutes of Use (MOUs) are those minutes of use as described in Part 69 of the Federal Communications Commission's Rules, and are limited to those FGA MOUs which originate and /or terminate in the Secondary Office(s) covered by this Appendix.
- 1.11 Currently Effective Tariff Rate means the approved tariff rate effective on the first day of the month for which compensation is being calculated.

## **2.0 Undertaking of the Parties**

- 2.1 The Secondary Company will notify the Primary Company of all tariff rate revisions, affecting this Appendix which the FCC or other appropriate regulatory authority allows to take effect, at least 30 days in advance of their effective date. Revenue distribution will be based on the revised rates 45 days after the effective date of the tariff revisions. However, if the secondary Company fails to notify the Primary Company of a new rate within 30 days of its effective date, the Primary Company may delay implementation of the new rate until the next months revenue distribution cycle, and will not be required to adjust the previous bills retroactively.
- 2.2 Each Party will furnish to the other such information as may reasonably be required for the administration, computation and distribution of revenue, or otherwise to execute the provisions of this Appendix.

## **3.0 Administration of Revenue Distribution**

The Primary Company will be responsible for the administration, computation and distribution of the FGA access service revenues collected on behalf of the Secondary Company.

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**4.0 Minutes of Use (MOUs) Development**

- 4.1 The Parties will calculate the amount of FGA revenues due each Party, by determining the amount of FGA MOUs attributable to each Party as described below. The Primary Company will then multiply the MOUs by the rates in the Secondary Company's applicable tariff to determine the amounts tentatively due to the Secondary Company.

**4.2 Terminating MOUs Development**

- 4.2.1 Actual monthly premium (charged at equal access end office) and non-premium (charged at non-equal access end offices) terminating FGA access MOUs for each office in the LATA or a FGA access EAS area will be measured by the Primary Company.
- 4.2.2 Where the Primary Company cannot measure or identify the terminating FGA MOUs by end office, terminating MOUs will be total unmeasured MOUs allocated to the LATA. In this event, those MOUs will be distributed based upon the ratio of each Party's subscriber access lines, as identified in Exhibit B, which is attached hereto and made a part hereof, to the total subscriber access lines in the FGA access area as determined by the Primary Company.

**4.3 Originating MOUs Development**

- 4.3.1 The Primary Company will derive and distribute monthly originating FGA access MOUs, billed by the Primary Company, to each Secondary Company's end office in the EAS calling area, as identified in Exhibit A, which is attached hereto and made a part hereof, based upon a ration of each Party's subscriber access lines to the total subscriber access lines in the appropriate EAS area as determined by the Primary Company.
- 4.3.2 The parties recognize that since originating non-EAS calls to the FGA service area are rated and billed as intraLATA toll, such usage is assumed to be minimal. Therefore, originating FGA access MOUs will not be distributed to end offices outside an EAS calling area.

**5.0 Calculation of Revenue Distribution**

- 5.1 The amount of premium or non-premium revenues due each party each month will be equal to the sum of Originating and Terminating premium or non-premium revenue for each end office. These revenues will be calculated by the Primary Company by multiplying each of the Secondary Company's effective interstate and/or intrastate FGA switched access tariff rate elements (except the Local Transport element described below) by the appropriate MOU calculation under Sections 4.2.1 and 4.2.2.

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- 5.2 Local Transport (or its equivalent under the Secondary Company's tariff and called Transport in this agreement) compensation will be determined for each company by multiplying each of the Secondary Company's Transport rates by the appropriate MOUs (as calculated under Sections 4.2.1 and 4.2.2.) by the Secondary Company's percentage ownership of facilities agreed on by the Parties and set out in Exhibit B, which is attached hereto and made a part hereof.

**6.0 Revenue Distribution Amounts, Monthly Statements And Payments**

- 6.1 The Primary Company each month will calculate and prepare a monthly compensation statement reflecting the revenue distribution amounts for FGA, both EAS and non-EAS, access service due the Secondary Company.
- 6.2 The monthly compensation statement will show, for each Secondary Office, separately:
- 6.2.1 The total number of non-premium or premium terminating MOUs and revenue.
- 6.2.2 The total number on non-premium or premium originating MOUs and revenues.
- 6.2.3 The total compensation due the Secondary Company, by rate element.
- 6.2.4 The number of terminating MOUs recorded by the Primary Company.
- 6.2.5 The number of originating MOUs estimated by the Primary Company pursuant to Section
- 6.2.6 The number of access lines used to prorate originating usage pursuant to Section 4.2.1 and 4.2.2.
- 6.2.7 The percent ownership factor, if any, used to prorate Local Transport revenues.
- 6.2.8 Adjustments for uncollectibles.
- 6.3 Within 60 Calendar days after the end of each billing period, the Primary Company will remit the compensation amount due the Secondary Company. Where more than one compensation amount is due, they may be combined into a single payment.

**7.0 Miscellaneous Provisions**

- 7.1 This Appendix will remain in effect until terminated by thirty (30) calendar days notice by either Party to the other.

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**8.0 Applicability of Other Rates, Terms and Conditions**

- 8.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments; amendments and modifications; and entire agreement.

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**EXHIBIT A**

**EAS Locations for Originating and Terminating**

**Feature Group A Access Service**

Primary Office Company		Secondary Office Company		
CLLI CODE	NPA-NXX	CLLI CODE	NPA-NXX	ACCESS
LINE				

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**EXHIBIT B**

Location for LATA Wide Termination  
of Feature Group A Access Service in  
Non-EAS Calling Areas

**SECONDARY OFFICE COMPANY**

CLLI CODE	NPA-NXX	Access Line	% Ownership of Transport Facilities	LATA
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## **ATTACHMENT 13: ANCILLARY FUNCTIONS**

### **1.0 Introduction**

- 1.1 This Attachment 13: Ancillary Functions, and its Appendices set forth the Ancillary Functions that SWBT agrees to offer to IP Communications Corporation under this Agreement, and the requirements associated therewith. SWBT will offer these Ancillary Functions to IP Communications Corporation on rates, terms and conditions that are just, reasonable, and non-discriminatory and in accordance with the terms and conditions of this Agreement.

### **2.0 Collocation**

- 2.1 Certain provisions applicable to the Parties' rights and obligations pertaining to physical collocation are set forth in Appendix Collocation, attached hereto.

### **3.0 Rights of Way (ROW), Conduits and Pole Attachments**

- 3.1 The provisions concerning IP Communications Corporation's access to and use of space on or within a pole, duct, conduit, or right-of-way owned or controlled by SWBT are set forth in Appendix Poles, Conduits, and Rights-Of-Way, attached hereto.

### **4.0 Applicability of Other Rates, Terms and Conditions**

- 4.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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## **APPENDIX COLLOCATION**

This Appendix Collocation to Attachment 13: Ancillary Functions, sets forth terms and conditions applicable to the Parties' rights and obligations pertaining to physical collocation.

### **1.0 Introduction**

- 1.1 SWBT is an incumbent local exchange carrier having a statutory duty to provide for "physical collocation" of "equipment necessary for interconnection or access to unbundled network elements" at its Eligible Structures. 47 U.S.C. 251(c)(6).
- 1.2 IP Communications Corporation wishes to locate certain of its equipment within the Eligible Structures of SWBT (as defined herein) and thereby connect with SWBT and with other Local Service Providers (as specified in Section 10.6 below).
- 1.3 This Appendix will govern IP Communications Corporation's collocation of its equipment within SWBT's Eligible Structures, subject also to the provisions of the Agreement to which this Appendix is included.

### **2.0 Allocation of Collocated Space within Eligible Structures**

- 2.1 "Eligible Structures," as used herein, include all SWBT central offices, tandem offices and serving wire centers and all buildings and similar structures owned or leased by SWBT that house SWBT network facilities and, all structures that house SWBT facilities on public or private rights-of-way, controlled environmental vaults (CEVs), huts, and cabinets.
- 2.2 Space within an Eligible Structure containing any IP Communications Corporation collocated equipment is referred to herein as "Collocated Space."
- 2.3 Subject to this Appendix, SWBT grants to IP Communications Corporation access to and use of Collocated Space within its Eligible Structures.
- 2.4 SWBT may retain a limited amount of floor space for defined future uses within its eligible structures. SWBT will allocate other space within its Eligible Structures on a nondiscriminatory, "first-come, first-served" basis among itself, IP Communications Corporation, and other collocators, provided that there is space and power available for collocation and for reasonable security arrangements and subject to any other limitations provided by law.
- 2.5 The determination whether there is insufficient space to accommodate physical collocation at a particular Eligible Structure will be made initially by SWBT. If IP Communications Corporation disputes SWBT's determination, IP Communications Corporation can elect a

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review to be made by a third-party engineer, under a nondisclosure agreement. Both parties will agree upon the selection of an engineer the cost of which would be shared equally by both parties. The engineer selected will take into consideration SWBT's specific requirements of the eligible structure under review.

- 2.6 Subject to Sections 2.4 and 2.5 above, SWBT will make contiguous space available in response to an IP Communications Corporation request to expand existing Collocated Space.
- 2.7 SWBT will provide IP Communications Corporation with virtual collocation rather than physical collocation under the following circumstances:
  - 2.7.1 When sufficient space is not available for physical collocation at a particular Eligible Structure as determined under Section 2.5, SWBT will not deny virtual collocation for a particular Eligible Structure to IP Communications Corporation, unless virtual collocation is not technically feasible.
  - 2.7.2 Upon request from IP Communications Corporation, so long as technically feasible and space is available, SWBT will provide IP Communications Corporation with virtual collocation pursuant to applicable tariffs.

### **3.0 Application for Collocated Space.**

- 3.1 To apply for a particular Collocated Space within SWBT's Eligible Structures, IP Communications Corporation will provide to SWBT a completed "Physical Collocation Application Form" (Rev. 11/19/96 or as subsequently modified) and will pay to SWBT an "Engineering Design Charge" ("EDC"). The Physical Collocation Application Form will contain a list of all forecasted equipment and facilities to be placed within the Collocated Space, with the associated power requirements, floor loading, and heat release of all pieces of forecasted equipment and facilities; as specified further in Section 10.2 below. The Engineering Design Charge will be specified in SWBT's current technical publication for physical collocation.
- 3.2 Upon receipt of IP Communications Corporation's application for Collocated Space, SWBT will begin to prepare a price quotation for the Collocated Space. SWBT will provide IP Communications Corporation with the price quotation within thirty-five (35) business days of receipt of IP Communications Corporation's Physical Collocation Application Form and Engineering Design Charge. When sufficient space is not available for physical collocation at a particular Eligible Structure as determined under Section 2.5, SWBT will refund the unused portion of the Engineering Design Charge to IP Communications Corporation within thirty-five (35) business days of that determination.

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- 3.3 SWBT's price quotation will consist of a "Preparation Charge," "Monthly Charge, " and "Completion Interval."
- 3.3.1 The Preparation Charge will represent a one-time charge for SWBT's preparation of the Collocated Space and related modifications to the Eligible Structure. The Preparation Charge will consist of two Components: (i) the charge to IP Communications Corporation associated with modifying the Eligible Structure to provide physical collocation ("Common Charge"), as set forth in Section 4.3.1, and (ii) the charge associated with preparing the Collocated Space ("Collocated Space Charge"). SWBT will quote the portion of the Preparation Charge that consists of charges for subcontracted work ("Subcontractor Charges").
- 3.3.2 The Monthly Charge will consist of, the monthly charges for floor space, power usage, maintenance, administration, and taxes for equipment charged by SWBT to IP Communications Corporation for use of the Collocated Space. Additional monthly charges may be added to this list upon approval of the state commission at the time the ICB is submitted for approval.
- 3.3.3 The Completion Interval will consist of SWBT's estimate of the amount of time required for it to prepare the Collocated Space to comply with IP Communications Corporation's collocation application.
- 3.4 SWBT's price quotation will be calculated using an actual cost methodology for nonrecurring charges and a Missouri PSC approved forward-looking costing methodology for recurring charges. SWBT's price quotation will be sufficient to cover SWBT's reasonable costs and will be no greater than necessary for SWBT to earn a reasonable profit. IP Communications Corporation will have 65 calendar days to accept or reject the price quotation. Upon acceptance, IP Communications Corporation may ask the State Commission to review any of SWBT's charges for conformity with the above standards. However, IP Communications Corporation remains committed to occupy the space regardless of the Commission's decision concerning pricing.
- 3.5 Prior to any obligation for IP Communications Corporation to accept or reject SWBT's price quotation, SWBT will permit IP Communications Corporation to inspect the Collocated Space to determine its suitability for IP Communications Corporation's intended uses. Such inspection shall be made with a SWBT employee escort, the cost of which will be billed to IP Communications Corporation at SWBT's then current loaded labor rate for a first level management employee. Subject to an appropriate non-disclosure agreement, SWBT will permit IP Communications Corporation to review the construction plans as they exist at that time and to inspect supporting documents for the Preparation Charge, including the Common Charge (if IP Communications Corporation is the first entity to which SWBT provides physical collocation in an Eligible Structure), the Collocated Space Charge, and any Custom Work

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charge. During this review, IP Communications Corporation may request changes to the plans for the Collocated Space and to the extent possible, SWBT will incorporate the changes into the construction plans and the associated charges.

- 3.6 SWBT's price quotation will constitute a firm offer that IP Communications Corporation may accept in writing within sixty-five (65) days of IP Communications Corporation's receipt of the price quotation, subject only to the true-up procedure specified in Section 5.8 below. SWBT will not reserve the Collocated Space for IP Communications Corporation during this sixty-five day period. If IP Communications Corporation does not accept the price quotation in writing within sixty-five (65) days of IP Communications Corporation's receipt of the price quotation, the price quotation will be automatically rescinded. Within thirty business days following acceptance, payment will be made pursuant to paragraphs 4.2 and 4.3. Failure to make such payment will be deemed a withdrawal of IP Communications Corporation's acceptance.
- 3.7 IP Communications Corporation may better SWBT's, quoted Collocated Space Charge, or quoted Completion Interval for the collocated space by subcontracting the preparation of the Collocated Space with contractors approved by SWBT. SWBT's approval of contractors will be based on the same criteria that it uses in approving contractors for its own purposes, which approval will not be unreasonably withheld. IP Communications Corporation will be responsible for the cost of its own contractors; SWBT will adjust the Preparation Charge to account for IP Communications Corporation's provision of its own contractors.
- 3.8 If IP Communications Corporation accepts SWBT's price quotation for a particular Collocated Space, the Parties will submit for regulatory approval whatever documentation is required by the State Commission for the State Commission's approval of the Parties' collocation arrangement. The Parties will cooperate to file the necessary documentation as soon as practicable. If the Commission fails to give unqualified approval to the Parties' collocation arrangement, then SWBT's price quotation, and IP Communications Corporation's acceptance thereof, will be automatically rescinded unless otherwise agreed to by SWBT and IP Communications Corporation.

#### **4.0 Preparation of the Collocated Space.**

- 4.1 SWBT agrees, at IP Communications Corporation's sole cost and expense as set forth herein, to prepare the Collocated Space in accordance with working drawings and specifications prepared by SWBT. The preparation will be arranged by SWBT in compliance with all applicable codes, ordinances, resolutions, regulations and laws. Only after IP Communications Corporation has made the initial payments required by Sections 4.2 and 4.3 and regulatory approval is obtained in accordance with Section 3.8 hereof (unless IP Communications Corporation chooses to invoke the procedure specified in Section 4.4 below), SWBT will pursue diligently the preparation of the Collocated Space for use by IP Communications Corporation.

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- 4.2 Prior to any obligation on SWBT to start any preparation of the Collocated Space, IP Communications Corporation will pay SWBT fifty percent (50%) of the Collocated Space Charge and eighty-five percent (85%) of any custom work charge required to create or vacate any entrance facility for IP Communications Corporation ("Custom Work"). The remainder of the Collocated Space Charge and any Custom Work charge are due upon completion and prior to occupancy by IP Communications Corporation.
- 4.3 In addition and prior to any obligation on SWBT to start any preparation of the Eligible Structure for physical collocation, IP Communications Corporation will pay SWBT fifty percent (50%) of the Common Charge, as described in Section 4.3.1 below. The other fifty percent (50%) of the Common Charge is due upon completion and prior to occupancy by IP Communications Corporation.
- 4.3.1 The first entity to which SWBT provides physical collocation in an Eligible Structure will be responsible for all costs incurred by SWBT associated with the preparation of that Eligible Structure to provide physical collocation in the initial space where physical collocation is to be located ("Initial Common Charge"). The next three subsequent collocators that share such common elements as, but not limited to, HVAC systems, electrical power panels, conduits, and security systems, at the same Eligible Structure will pay a "Common Charge" equal to the Initial Common Charge multiplied by a fraction, the numerator of which is one and the denominator of which is the total number of collocators in the same Eligible Structure. Each time additional collocator(s) use(s) physical collocation in the same Eligible Structure, within thirty-six (36) months of the first billing date of the initial monthly charge for the physical collocator in that Eligible Structure, each previous collocator will receive a prorated refund of its previously paid Initial Common Charge or Common Charge. The prorated refund to each previous collocator will consist of the Common Charge paid by the most recent collocator (the one who, in a particular instance, will not receive a refund) divided by the total number of previous collocators, using the following schedule:

<u>Collocator(s)</u>	<u>Common Charge</u>	<u>Prorated Refund to Previous Collocator(s)</u>
1 <sup>st</sup>	100%	N/A
2 <sup>nd</sup>	50%	50%
3 <sup>rd</sup>	33 1/3%	16 2/3%
4 <sup>th</sup>	25%	8 1/3%
5 <sup>th</sup> and beyond	0%	0%

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No interest will be paid on refunds. Refunds shall be based on the Initial Common Charge actually paid by the first physical collocater instead of the price quotation.

- 4.3.2 Notwithstanding the above, SWBT will have no obligation to remit any amount that would result in SWBT being unable to retain the full amount of the Initial Common Charge or to remit any amount based upon charges not actually collected.
- 4.4 At the written election of IP Communications Corporation, and upon payment of the sums described above in Sections 4.2 and 4.3, SWBT will begin preparing the Collocated Space for IP Communications Corporation prior to receiving the regulatory approval required by Section 3.8 above. Payment to SWBT of the remaining charges under these sections shall be due upon completion. If the Commission fails to give unqualified approval to the Parties' collocation arrangement as required by Section 3.8, and the Parties do not otherwise agree to continue the collocation arrangement for the Collocated Space, IP Communications Corporation will pay to SWBT, within a reasonable time after the Commission's decision, an amount equal to SWBT's Non-recoverable costs less net salvage and less the amount already paid to SWBT. Non-recoverable charges include, the non-recoverable cost of equipment and material ordered, provided, or used; trued-up Subcontractor Charges, the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided, or used; labor, transportation and any associated costs. If the amounts already paid to SWBT plus the net salvage exceed SWBT's non-recoverable costs, SWBT will refund to IP Communications Corporation the excess amount within a reasonable time after the Commission's decision.
- 4.5 SWBT will provide costs for the preparation of the collocated space. SWBT will allow IP Communications Corporation to evaluate those costs and make a decision as to whether IP Communications Corporation wishes to obtain their own contractor for the preparation of the collocated space.
- 4.6 SWBT will contract for or perform the preparation of the working drawings and specifications for the modification of the Eligible Structure and the preparation of the Collocated Space. Prior to SWBT commencing any construction or preparation activities on the collocated space, SWBT will provide copies of the working drawings and specifications to IP Communications Corporation, and IP Communications Corporation must approve these working drawings and specifications within seven days of receipt. Upon IP Communications Corporation's request, SWBT will modify the working drawings and specifications in accord with IP Communications Corporation's requested alterations. SWBT will provide copies of the modified working drawings and specifications to IP Communications Corporation and IP Communications Corporation must approve these modified working drawings and specifications within seven days of receipt. The Completion Interval will be abated between SWBT's provision of the working drawings and specifications to IP Communications Corporation and IP Communications Corporation's approval of those working drawings and specifications.

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- 4.7 IP Communications Corporation may better SWBT's bids by subcontracting the preparation of the Collocated Space with contractors approved by SWBT. SWBT's approval of contractors will be based on the same criteria that it uses in approving contractors for its own purposes, which approval will not be unreasonably withheld. IP Communications Corporation will be responsible for the cost of its own contractors; SWBT will adjust the Preparation Charge to account for IP Communications Corporation's provision of its own contractors.
- 4.8 Except for construction and preparation activities performed by IP Communications Corporation's own contractors, SWBT or SWBT's subcontractors will perform the construction and preparation activities underlying the Preparation Charge, including the Common Charge, the Collocated Space Charge, and the Subcontractor Charges, and any Custom Work charges, using same or consistent practices that are used by SWBT for other construction and preparation work performed in the Eligible Structure.
- 4.9 SWBT will provide to IP Communications Corporation ordinary construction documentation submitted to and received from contractors or its internal engineering or installation work force, including but not limited to as-built drawings, for any work related to construction of the Collocated Space.
- 4.10 SWBT will permit IP Communications Corporation to inspect the ongoing preparation of the Collocated Space at regular intervals. At a minimum, SWBT will permit IP Communications Corporation to inspect the Collocated Space when construction is approximately 25% completed, when construction is approximately 50% completed, and when construction is approximately 75% completed. During such inspections, IP Communications Corporation shall be escorted by a SWBT employee to be charged to IP Communications Corporation at the loaded labor rate of a first line management employee. Should IP Communications Corporation's inspections reveal that SWBT or SWBT's subcontractors have deviated from the approved working drawings and specifications in the construction of the Collocated Space, SWBT will correct those deviations as soon as reasonably practicable.
- 4.11 SWBT will notify IP Communications Corporation when construction of the Collocated Space is 50% completed. SWBT will confirm its Completion Interval, if possible; otherwise SWBT will notify IP Communications Corporation of all jeopardies that could delay the preparation of the Collocated Space .
- 4.12 SWBT will exercise due diligence to prepare the Collocated Space in a reasonable time period, not to exceed three months from IP Communications Corporation's acceptance of SWBT's price quotation, unless otherwise mutually agreed to in writing by IP Communications Corporation and SWBT. In the event that SWBT is not able to prepare the Collocated Space within the quoted Completion Interval, SWBT will provide IP Communications Corporation with a revised Completion Interval within seven (7) working days after SWBT ascertains that the original Completion Interval cannot be met. If the revised Completion Interval is

objectionable to IP Communications Corporation, and the parties cannot resolve IP Communications Corporation's objection, the issue may be presented to the State Commission for review. Alternatively, if the revised Completion Interval is objectionable to IP Communications Corporation, IP Communications Corporation may individually subcontract the further preparation of the Collocated Space with contractors approved by SWBT. SWBT's approval of contractors will be based on the same criteria that it uses in approving contractors for its own purposes, which approval will not be unreasonably withheld. IP Communications Corporation will be responsible for the cost of its own contractors; SWBT will, however, reduce the Preparation Charge by IP Communications Corporation's cost of providing its own contractors.

- 4.13 If SWBT is not able to prepare the Collocated Space within the quoted Completion Interval, SWBT will be liable to IP Communications Corporation for liquidated damages in the amount of \$1,000.00 for each day between the expiration of the quoted Completion Interval and the completion of the Collocated Space. This provision is subject to the Force Majeure clause in Paragraph 13 of the General Terms and Conditions of this Agreement.
- 4.14 SWBT will notify IP Communications Corporation within five (5) days after preparation is complete that preparation of the Collocated Space has been completed.

**5.0 Occupancy of the Collocated Space**

- 5.1 The "Commencement Date" for a particular Collocated Space shall be the first day after which IP Communications Corporation has been notified that the Collocated Space is complete.
- 5.2 On or after the Commencement Date, IP Communications Corporation will be permitted to access the Collocated Space and Eligible Structure for the limited purpose of inspecting the collocation space. At IP Communications Corporation's request and at SWBT's expense, SWBT will correct all errors in SWBT's preparation of the Collocated Space as soon as reasonably practicable. After IP Communications Corporation has approved both SWBT's preparation of the Collocated Space, and paid all applicable charges in accordance with paragraph 4.3, IP Communications Corporation may occupy the Collocated Space.
- 5.3 SWBT will provide a drawing that details the layout of a POTS frame provided by SWBT, if any, at the time of completion of the collocated space.
- 5.4 SWBT will provide IP Communications Corporation, at the time of the price quotation, sufficient detailed information that will enable IP Communications Corporation to determine the amount of cable required to reach from the SWBT designated manhole to IP Communications Corporation's collocated space within the Eligible Structure.

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- 5.5 Unless there are unusual circumstances, IP Communications Corporation must place telecommunications equipment in the Collocated Space within sixty (60) days after IP Communications Corporation is permitted to occupy the Collocated Space under Sections 5.1 and 5.2 above, provided, however, that this sixty (60) day period will not begin until the ICB is approved by the Commission. If IP Communications Corporation fails to comply with this requirement, SWBT may offer the Collocated Space to another collocator provided, however, that SWBT may extend an additional ninety (90) days to IP Communications Corporation upon a demonstration by IP Communications Corporation that it exercised its best effort to comply with this requirement and that circumstances beyond IP Communications Corporation's reasonable control that prevented IP Communications Corporation from complying with this requirement.
- 5.6 Beginning on the first date of occupancy of the Collocated Space, IP Communications Corporation will pay the Monthly Charge to SWBT for each month that IP Communications Corporation occupies the Collocated Space. The Monthly Charge may be increased upon thirty (30) days' notice by SWBT.
- 5.7 In the event that IP Communications Corporation cancels a request for Collocated Space or fails to occupy a Collocated Space in the time provided under Section 5.5 above, then in addition to any other remedies that SWBT might have, IP Communications Corporation will owe to SWBT its reasonable non-recoverable costs less estimated net salvage and less the amounts already paid to SWBT. Non-recoverable costs include the non-recoverable cost of equipment and material ordered, provided or used; trued-up Subcontractor Charges, the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided or used; labor; transportation and any other associated costs. If the amounts already paid to SWBT plus the estimated net salvage exceed SWBT's reasonable nonrecoverable costs, SWBT will refund to IP Communications Corporation the excess amount within thirty (30) days of the cancellation of the request. SWBT will provide to IP Communications Corporation's third party accounting firm under a nondisclosure agreement a detailed invoice itemizing its non-recoverable costs.
- 5.8 Within one hundred twenty (120) days of the completion date of the Collocated Space, SWBT will perform a true-up of all Subcontractor Charges using the actual amounts billed by subcontractors. Any amounts incurred above the Subcontractor Charges will be billed to IP Communications Corporation or, alternatively, any amount below such Charges will be remitted to IP Communications Corporation.
- 6.0 Billing and Payment of Collocation Charges.**
- 6.1 Billing shall occur on or about the 25th day of each month with payment due thirty (30) days from the bill date. Payment of a bill does not waive IP Communications Corporation's right to dispute the charges contained therein.

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- 6.2 Charges for interconnection shall be as set forth in any interconnection agreement between SWBT and IP Communications Corporation and in any applicable tariffs.

**7.0 Relocation of Collocated Space**

- 7.1 Notwithstanding Section 2.3 above, in the event that SWBT determines it necessary for the Collocated Space to be moved within an Eligible Structure or to another Eligible Structure, IP Communications Corporation is required to do so. In such an event, IP Communications Corporation shall be responsible for the preparation of the new Collocated Space at the new location if such relocation arises from circumstances beyond the reasonable control of SWBT, including condemnation or government order or regulation that makes the continued occupancy of the Eligible Structure uneconomical or when an unsafe or hazardous condition makes abandonment of a central office necessary. Otherwise SWBT shall be responsible for any such preparation and will bear all SWBT and IP Communications Corporation costs associated with the preparation and relocation. If Collocated Space is relocated under this Section 7.1, SWBT and IP Communications Corporation will cooperate to insure that IP Communications Corporation will not experience out of service conditions beyond reasonable cut-over intervals while collocated equipment is relocated, reconnected, and tested. SWBT will not be required to maintain a building strictly for the purposes of providing collocation.
- 7.2 In the event that IP Communications Corporation requests that the Collocated Space be moved within an Eligible Structure or to another Eligible Structure, SWBT shall permit IP Communications Corporation to relocate the Collocated Space, subject to the availability of space. IP Communications Corporation shall be responsible for all applicable charges associated with the move, including the reinstallation of its equipment and facilities and the preparation of the new Collocated Space and the new Eligible Structure as applicable.

**8.0 Fiber Optic Cable and Demarcation Point.**

- 8.1 IP Communications Corporation may use single mode dielectric fiber optic cable as a transmission medium, or other technically-appropriate media as may be approved by SWBT. Said approval shall not be unreasonably withheld. IP Communications Corporation may use copper cable or coaxial cable only where IP Communications Corporation can demonstrate that interconnection of copper or coaxial cable will not impair SWBT's ability to serve its own customers or other collocators. IP Communications Corporation may use microwave transmission facilities as a transmission medium to the Eligible Structure where Collocated Space is located, except where microwave transmission facilities are not practical for technical reasons or because of space limitations. SWBT will provide at least two separate points of entry to the Eligible Structure wherever there are at least two entry points for SWBT's cable facilities and at which space is available for new facilities in at least two of those entry points. Where such space is not immediately available, if SWBT makes additional entry points

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available for SWBT's use, SWBT will size such separate points of entry to accommodate IP Communications Corporation's use of such entry points. In each instance, where SWBT performs such work in order to accommodate its own needs and those specified by IP Communications Corporation's written request, IP Communications Corporation and SWBT will share the costs of sizing the entry points incurred by SWBT by prorating those costs using the number of cables to be placed in the entry point by each of the two parties in the first twelve (12) months thereafter.

- 8.2 IP Communications Corporation and SWBT agree that the demarcation point between SWBT's network and IP Communications Corporation's network for interconnection and access to unbundled network elements will be within IP Communications Corporation's Collocated Space (e.g., point-of-termination frame) unless determined otherwise by IP Communications Corporation and SWBT. Both IP Communications Corporation and SWBT are responsible for equipment maintenance and other ownership obligations and responsibilities on their side of that demarcation point.

## **9.0 Technical Requirements**

- 9.1 Other than reasonable security restrictions, SWBT will place no restriction on access to the IP Communications Corporation Collocated Space by IP Communications Corporation's employees and designated agents. Such space will be available to IP Communications Corporation employees and designated agents twenty-four (24) hours per day each day of the week.
- 9.2 Subject to the other provisions hereof, IP Communications Corporation may collocate the amount and type of telecommunications equipment necessary in its Collocated Space for access to SWBT's unbundled network elements and for interconnection to SWBT and, subject to Section 10.6 hereof, other collocators. All IP Communications Corporation equipment placed in the Collocated Space will conform to the equipment standards set forth in this Agreement and be operated in a manner not inconsistent with SWBT's network. Except as provided herein or as otherwise agreed in writing by the Parties, IP Communications Corporation shall only collocate and use equipment as allowed by applicable law. Where space permits and for the purposes set forth in this Section 9.3, SWBT shall allow IP Communications Corporation to locate remote switching module equipment in the Collocated Space if the Collocated Space is within a SWBT central office or tandem office; provided, however, that SWBT shall have no requirement to provide remote switching module equipment on a virtual collocation basis. No power-generating or external power-storage equipment, but in no event lead acid batteries, shall be placed in the Collocated Space. The point of termination (POT) bay will be located inside the caged area, equipped and cabled as requested by IP Communications Corporation to minimize cable additions on an ongoing basis.

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- 9.3 Subject to the other provisions hereof, including Section 11.1, IP Communications Corporation may select its own vendors for all required engineering and installation services associated with its collocated equipment. SWBT will not require IP Communications Corporation to use SWBT's internal engineering or installation work forces for the engineering and installation of IP Communications Corporation's collocated equipment.
- 9.4 SWBT will provide adequate lighting, ventilation, power, heat, air conditioning, and other environmental conditions for IP Communications Corporation's space and equipment using the same standards that SWBT uses for those elements for its own similar space and equipment, or using other standards to which IP Communications Corporation and SWBT may agree in writing.
- 9.5 Where security will permit, and where available, SWBT will provide access to eyewash stations, shower stations, bathrooms, and drinking water within the Eligible Structure. Whenever possible, SWBT will design Collocated Space to allow for such access on a twenty-four (24) hour per day, seven (7) day per week basis.
- 9.6 SWBT will provide transmission and power cabling diversity to the Collocated Space under the same guidelines then used for diversity cabling for SWBT within the Eligible Structure. On a custom work order basis, SWBT will consider IP Communications Corporation's special cabling needs and will implement them where possible.
- 9.7 SWBT will notify IP Communications Corporation prior to the scheduled start dates of all construction activities (including power additions or modifications) in the general area of IP Communications Corporation's Collocated Space with potential to disrupt IP Communications Corporation's services. If possible, SWBT will provide such notification to IP Communications Corporation at least fourteen (14) days before the scheduled start date of such construction activity. SWBT will inform IP Communications Corporation as soon as practicable by telephone of all emergency-related activities that SWBT or its subcontractors are performing in the general area of the IP Communications Corporation Collocated Space, or in the general area of the AC and DC power plants which support IP Communications Corporation equipment. If possible, notification of any emergency-related activity will be made immediately prior to the start of the activity so that IP Communications Corporation may take reasonable actions necessary to protect IP Communications Corporation's Collocated Space.
- 9.8 SWBT will comply with all federal and state laws regarding environmental, health and safety issues as applicable to SWBT. SWBT is required to provide IP Communications Corporation a copy of any environmental, health and safety questionnaires that SWBT has previously completed or is required to complete in the future for its own purposes.

**10.0 Use of Collocated Space**

- 10.1 The Collocated Space is to be used by IP Communications Corporation for access to SWBT's unbundled network elements and for interconnection to SWBT and, subject to Section 10.6 hereof, other collocators. Consistent with the nature and the environment of the Eligible Structure and Collocated Space, IP Communications Corporation shall not use the Collocated Space for office, retail, or sales purposes. No signage or markings of any kind by IP Communications Corporation shall be permitted on the Eligible Structure or on the SWBT grounds surrounding the Eligible Structure. IP Communications Corporation may, however, place signage and markings on the inside of its Collocated Space.
- 10.2 IP Communications Corporation will list all of its equipment and facilities that will be placed within the Collocated Space, with the associated power requirements, floor loading, and heat release of each piece on the "Physical Collocation Application Form." IP Communications Corporation warrants that this list is complete and accurate. Any incompleteness or inaccuracy may be a material breach of the particular physical collocation arrangement to which that list was associated. IP Communications Corporation shall not place or leave any equipment or facilities within the Collocated Space beyond those listed on the Physical Collocation Application Form without the express written consent of SWBT, as specified in Section 10.2.1 below.
- 10.2.1 In the event that, subsequent to the submission of the Physical Collocation Application Form, IP Communications Corporation desires to place in the Collocated Space any equipment or facilities not listed on the Physical Collocation Application Form, IP Communications Corporation shall furnish to SWBT a written list and description of the equipment or facilities substantially in the same form. SWBT may provide such written consent or may condition any such consent on necessary additional charges arising from the subsequent request, including any engineering design charges and any additional requirements such as power and environmental requirements for such listed and described equipment and/or facilities. SWBT will not unreasonably withhold consent under this Section 10.2.1.
- 10.2.2 Except as may be required by law, including state and federal regulations, the foregoing imposes no obligation upon SWBT to purchase additional plant or equipment, relinquish used or forecasted space or facilities, or to undertake the construction of new quarters or to construct additions to existing quarters in order to satisfy a subsequent request for additional space or the placement of additional equipment or facilities.
- 10.3 IP Communications Corporation may use the Collocated Space for placement of equipment and facilities only. IP Communications Corporation's employees, agents and contractors shall be permitted access to the Collocated Space at all times, provided that IP Communications Corporation's employees, agents and contractors comply with SWBT's policies and practices pertaining to fire, safety and security. IP Communications Corporation agrees to comply

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promptly with all laws, ordinances and regulations affecting the use of the Collocated Space. Upon IP Communications Corporation's termination of the use of the Collocated Space, IP Communications Corporation shall surrender the Collocated Space to SWBT, in the same condition as when first occupied by IP Communications Corporation, ordinary wear and tear excepted.

- 10.4 IP Communications Corporation equipment or operating practices representing a significant demonstrable technical threat to SWBT's network or facilities, including the Eligible Structure, are strictly prohibited.
- 10.5 Notwithstanding any other provision hereof, the characteristics and methods of operation of any equipment or facilities placed in Collocated Space shall not interfere with or impair service over any facilities of SWBT or the facilities of any other person or entity located in the Eligible Structure; create hazards for or cause damage to those facilities or to the Eligible Structure; impair the privacy of any communications carried in, from, or through the Eligible Structure; or create hazards or cause physical harm to any individual or the public. Any of the foregoing events in this Section may be a material breach of the particular physical collocation arrangement.
- 10.6 To the extent that SWBT is required by law, SWBT will permit IP Communications Corporation to interconnect its network with that of another collocated party at the same Eligible Structure pursuant to this Section 10.6 and its subsections.
  - 10.6.1 Upon IP Communications Corporation's written request and as soon as practicable, SWBT will provide the connection between collocation arrangements on a time and materials basis whenever IP Communications Corporation and another collocater cannot for technical reasons provide the connection for themselves by passing the facility through the cage wall(s). SWBT will provide nothing more than the labor and physical structure(s) necessary for the collocater(s) to pull facilities provided by one collocater from its cage to the cage of another collocater. If the collocaters are not located on the same floor and cannot physically pull the cable themselves through the SWBT provided structure(s), SWBT will perform the cable pull on an time and materials basis. At no time will the collocaters be allowed access to any portion of the central office other than the collocation area. SWBT will not make the physical connection within the collocater's cage, SWBT will not accept any liability for the cable or the connections, and SWBT will not maintain any records concerning these connections.
- 10.7 Subject to this Appendix, IP Communications Corporation may place or install in or on the Collocated Space such fixtures and equipment as it shall deem desirable for the conduct of business. Personal property, fixtures and equipment placed by IP Communications Corporation in the Collocated Space shall not become a part of the Collocated Space, even if nailed, screwed otherwise fastened to the Collocated Space, but shall retain their status as personality and may be removed by IP Communications Corporation at any time. Any damage caused to

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the Collocated Space by the removal of such property shall be promptly repaired by IP Communications Corporation at its expense.

- 10.8 In no case shall IP Communications Corporation or any person purporting to be acting through or on behalf of IP Communications Corporation make any rearrangement, modification, improvement, addition, repair, or other alteration to Collocated Space or the Eligible Structure without the advance written permission and direction of SWBT, which permission and direction will not be unreasonably withheld. SWBT will consider a modification, improvement, addition, repair, or other alteration requested by IP Communications Corporation, provided that SWBT will have the right to reject or modify any such request to the extent permitted by law. The cost of any such construction shall be paid by IP Communications Corporation in accordance with SWBT's then-standard custom work order process.

**11.0 Standards**

- 11.1 This Appendix and the physical collocation provided hereunder is made available subject to and in accordance with the standards set forth in (i) Bellcore Network Equipment Building System (NEBS) Generic Requirements (GR-63-CORE and GR-1089-CORE), as may be amended at any time and from time to time, and any successor documents; (ii) SWBT's Emergency Operating Procedures, as may be amended from time to time; and (iii) any statutory and/or regulatory requirements in effect at the execution of this Agreement or that subsequently become effective and then when effective. IP Communications Corporation shall strictly observe and abide by the standards set forth in each; SWBT shall strictly observe and abide by the standards set forth in SWBT's Emergency Operating Procedures and the statutory and/or regulatory requirements referenced above. IP Communications Corporation acknowledges the standards set forth in SWBT's publications entitled "Interconnector's Technical Publication for Physical Collocation" dated February 1997 and "Technical Publication 76300, Installation Guide," and IP Communications Corporation will follow those publications, except as those publications are modified by this Appendix. In the event of any inconsistency between this Appendix and SWBT's "Interconnector's Technical Publication for Physical Collocation" and "Technical Publication 76300, Installation Guide," and any revision of the foregoing publications (whether or not objected to by IP Communications Corporation), this Appendix will control.
- 11.2 Within ninety (90) days of the effective date of the Interconnection Agreement, IP Communications Corporation may object in writing to any of the provisions in SWBT's "Interconnector's Technical Publication for Physical Collocation," "Technical Publication 76300, Installation Guide," or SWBT's Emergency Operating Procedures, providing therewith an explanation for each such objection. At IP Communications Corporation's discretion, IP

Communications Corporation may pursue such objections informally with SWBT, may pursue them with the State Commission, or may invoke the applicable dispute resolution provisions of this Appendix.

- 11.3 Any revision to SWBT's Technical Publication for Physical Collocation, its Technical Publication 76300, or its Emergency Operating Procedures shall become effective and thereafter applicable under this Appendix thirty (30) days after such revision is released by SWBT. At IP Communications Corporation's discretion, IP Communications Corporation may pursue objections to these revisions informally with SWBT or with the State Commission, or may invoke the applicable dispute resolution provisions of this Agreement. Notwithstanding the foregoing, any revision made to address situations potentially harmful to SWBT's network, the Eligible Structure, or the Collocated Space, or to comply with statutory and/or regulatory requirements shall become effective immediately. SWBT will immediately notify IP Communications Corporation of any such revisions, and IP Communications Corporation may object to those revisions in the manner and with the effect specified in this section 11.3.
- 11.4 IP Communications Corporation warrants and represents compliance with the Bellcore Network Equipment Building System (NEBS) Generic Requirements (GR-63-CORE and GR-1089-CORE) for all equipment and facilities placed in the Collocated Space unless otherwise permitted by SWBT in writing on a case-by-case basis. IP Communications Corporation also warrants and represents that any equipment or facilities that may be placed in the Collocated Space pursuant to Section 10.2.1 or otherwise shall be so compliant. DISCLOSURE OF ANY NON-COMPLIANT ITEM IN THE PHYSICAL COLLOCATION APPLICATION FORM, PURSUANT TO SECTION 10.2.1, OR OTHERWISE, SHALL NOT QUALIFY THIS ABSOLUTE CERTIFICATION IN ANY MANNER.

## **12.0 Responsibilities of the Parties**

- 12.1 IP Communications Corporation and SWBT each are responsible for providing to the other's personnel a contact number for technical personnel who are reasonably accessible 24 hours a day, 7 days a week and who are knowledgeable regarding the technical implementation of the collocation provided for in the particular Eligible Structure.
- 12.2 IP Communications Corporation and SWBT are each responsible for providing trouble report upon request from the other.
- 12.3 IP Communications Corporation is responsible for bringing the transmission media permitted by Section 8.1 to the points of entry to the Eligible Structure designated by SWBT, and for leaving sufficient cable length in order for SWBT to fully extend the IP Communications Corporation-provided cable through the cable vault to the Collocated Space. The cost of extending the cable to the collocation space will be identified in the estimated price quotation. SWBT shall base the cost upon the loaded labor rate multiplied by the number of work hours

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required to perform the task and other charges that may be appropriate and specific to the work project in question.

- 12.4 Upon reasonable notice to SWBT, SWBT will fully extend the IP Communications Corporation-provided cable through the cable vault to the Collocated Space on the same day that IP Communications Corporation brings the IP Communications Corporation-provided cable to the points of entry to the Eligible Structure designated by SWBT. While performing this operation, SWBT will be liable for any damage to the IP Communications Corporation-provided cable that results from the placing operation. As used in this section, "same day" means same business day, provided that IP Communications Corporation makes cables available at the points of entry to the Eligible Structure designated by SWBT by noon; otherwise, "same day" means the same time that the cable is made available on the next business day.
- 12.5 IP Communications Corporation is responsible for removing any equipment, property or other items that it brings into the Collocated Space or any other part of the Eligible Structure. If IP Communications Corporation fails to remove any equipment, property, or other items from the Collocated Space within thirty (30) days after discontinuance of use, SWBT may perform the removal and shall charge IP Communications Corporation on a time and materials basis applicable to custom work. Further, in addition to the other provisions herein, IP Communications Corporation shall indemnify and hold SWBT harmless from any and all claims, expenses, fees, or other costs associated with any such removal by SWBT.
- 12.6 IP Communications Corporation is solely responsible for the design, engineering, testing, performance, and maintenance of the equipment and facilities used by IP Communications Corporation in the Collocated Space. IP Communications Corporation will be responsible for servicing, supplying, repairing, installing and maintaining the following facilities within the Collocated Space: (a) its fiber optic, coaxial, or copper cable(s), as applicable; (b) its equipment; (c) required point of termination cross connects; (d) point of termination maintenance, including replacement of fuses and circuit breaker restoration, if and as required; and (e) the connection cable and associated equipment which may be required within the Collocated Space to the point(s) of termination. SWBT NEITHER ACCEPTS NOR ASSUMES ANY RESPONSIBILITY WHATSOEVER IN ANY OF THESE AREAS.
- 12.7 IP Communications Corporation and SWBT each are responsible for immediate verbal notification to the other of significant outages or operations problems which could impact or degrade the other's network, switches, or services, and for providing an estimated clearing time for restoral. In addition, written notification must be provided within twenty-four (24) hours.
- 12.8 IP Communications Corporation and SWBT are each responsible for coordinating with the other to ensure that services are installed in accordance with the service request.

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- 12.9 IP Communications Corporation is responsible for testing to identify and clear a trouble when the trouble has been isolated to an IP Communications Corporation-provided facility or piece of equipment. SWBT is responsible for testing to identify and clear a trouble when the trouble has been isolated to a SWBT-facility or piece of equipment.

**13.0 Services, Utilities, Maintenance, and Facilities**

- 13.1 SWBT shall maintain for the Eligible Structure customary building services and utilities (excluding telephone facilities), including janitor and elevator services, 24 hours a day. IP Communications Corporation shall be permitted a single-line business telephone service for the Collocated Space. If technically feasible for IP Communications Corporation in the Collocated Space, IP Communications Corporation may provide its own telephone service; otherwise, SWBT will provide that service subject to applicable SWBT tariffs. Upon IP Communications Corporation's request, such SWBT service shall be available at the IP Communications Corporation Collocated Space on the day that the space is turned over to IP Communications Corporation by SWBT.
- 13.2 SWBT will provide negative DC and AC power, back-up power, heat, air conditioning and other environmental support necessary for IP Communications Corporation's equipment, in the same manner that it provides such support items for its own equipment within its Eligible Structures.
- 13.3 SWBT shall maintain the exterior of the Eligible Structure and grounds, and all entrances, stairways, passageways, and exits used by IP Communications Corporation to access the Collocated Space.
- 13.4 SWBT agrees to make, at its expense, all changes and additions to the Eligible Structure required by laws, ordinances, orders or regulations of any municipality, county, state, or other public authority including the furnishing of required sanitary facilities and fire protection facilities, except fire protection facilities specially required because of the installation of telephone or electronic equipment and fixtures in the Collocated Space.
- 13.5 SWBT will provide IP Communications Corporation with access to, and use of, electrical power where available (e.g., 48 volt D/C, 110 volt A/C convenience outlets) at the Collocated Space. At a minimum, SWBT will supply power to IP Communications Corporation at parity with that provided by SWBT to itself or to any third party. If SWBT performance, availability, or restoration falls below industry standards, SWBT will bring itself into compliance with such industry standards as soon as technologically feasible. All D/C power to the Collocated Space will be from protected power sources. Upon IP Communications Corporation's request, SWBT will provide requested A/C power to the Collocated Space from protected power sources.

- 13.5.1 "Power" as referenced in this document refers to any electrical power source supplied by SWBT for IP Communications Corporation equipment, and it includes all superstructure, infrastructure, and overhead facilities for the delivery of power, including, but not limited to, cable, cable racks and bus bars.
- 13.5.2 Central office power supplied by SWBT into an IP Communications Corporation Collocated Space shall be supplied in the form of power feeders (cables) on cable racking as required. SWBT will provide in the Collocated Space a ground electrode that is connected to a central office ground and/or an isolated ground, where requested and where technically feasible. The power feeders (cables) will support the requested quantity and capacity of IP Communications Corporation equipment. The location of the termination and the ground electrode will be as requested by IP Communications Corporation or as mutually agreed to by the parties. The number of feeder cables will be specified by IP Communications Corporation in writing based on the manufacturer's recommendation for the equipment and facilities collocated by IP Communications Corporation.
- 13.5.3 SWBT power equipment supporting IP Communications Corporation's equipment will: (1) comply with applicable industry standards (e.g., Bellcore NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout; (2) provide feeder capacity and quantity to support the ultimate equipment layout for IP Communications Corporation equipment in accordance with IP Communications Corporation's collocation request; and (3) provide electrical safety procedures and devices in conformance with the OSHA or industry guidelines.

#### **14.0 Quiet Enjoyment**

- 14.1 Subject to the other provisions of this Appendix, SWBT covenants that it has full right and authority to permit the use of the Collocated Space by IP Communications Corporation and that, so long as IP Communications Corporation performs all of its obligations under this Appendix, IP Communications Corporation may peaceably and quietly enjoy the Collocated Space during the term of this Appendix.

#### **15.0 Assignment**

- 15.1 IP Communications Corporation may permit, with the written approval of SWBT any third party to jointly occupy IP Communications Corporation's Collocated Space for the purposes of interconnecting with the SWBT network and/or UNEs. Such approval of SWBT will not be unreasonably withheld. In such instance, IP Communications Corporation will retain its obligation to pay a monthly charge to SWBT for the Collocated Space. IP Communications Corporation may interconnect with other collocators at the same Eligible Structure, in accord with Section 10.6 above.

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**16.0 Casualty Loss**

- 16.1 If the Collocated Space is damaged by fire or other casualty, and the Collocated Space is not rendered untenable in whole or in part, SWBT shall repair the Collocated Space at its expense (as hereafter limited) and the Monthly Charge will not be abated.
- 16.2 If the Collocated Space is damaged by fire or other casualty, and the Collocated Space is rendered untenable in whole or in part and such damage or destruction can be repaired within a reasonable time, SWBT has the option to repair the Collocated Space at its expense (as hereafter limited) and the Monthly Charge shall be abated while IP Communications Corporation is deprived of use of the Collocated Space. If the Collocated Space cannot be repaired within a reasonable time, or SWBT opts not to rebuild, then the collocation arrangement with respect to that Collocated Space will terminate. Upon IP Communications Corporation's written request, SWBT will provide to IP Communications Corporation a comparable suitable collocation arrangement at another mutually agreeable location.
- 16.3 Any obligation on the part of SWBT to repair the Collocated Space shall be limited to repairing, restoring, and rebuilding the Collocated Space as prepared by SWBT for IP Communications Corporation and shall not include any obligation to repair, restore, rebuild or replace any alterations or improvements made by IP Communications Corporation or by SWBT on request of IP Communications Corporation; or any fixture or other equipment installed in the Collocated Space by IP Communications Corporation or by SWBT on request of IP Communications Corporation. The limitation contained in this section will not apply to any damage resulting from intentional misconduct or a negligent act or omission by SWBT, its employees, or agents.
- 16.4 In the event that an Eligible Structure is so damaged by fire or other casualty that closing, demolition, or substantial alteration or reconstruction of that Eligible Structure shall be advisable in SWBT's opinion, then, notwithstanding that any particular Collocated Space in the same Eligible Structure may not be damaged, SWBT, at its option, may terminate the collocation arrangement with respect to a Collocated Space in the same Eligible Structure by giving IP Communications Corporation ten (10) days prior written notice within thirty (30) days following the date of such occurrence.

**17.0 Re-entry**

- 17.1 If IP Communications Corporation materially breaches any of its obligations under this Appendix with respect to a particular Collocated Space, and the breach shall continue for forty-five (45) days after IP Communications Corporation's receipt of written notice of breach, SWBT may, immediately or at any time thereafter, without notice or demand, enter and repossess that particular Collocated Space, expel IP Communications Corporation and any person or entity claiming under IP Communications Corporation, remove IP Communications

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Corporation's property, forcibly if necessary, and terminate the collocation arrangement with respect to that particular Collocated Space, without prejudice to any other remedies SWBT might have. SWBT must notify IP Communications Corporation by facsimile that it has repossessed a Collocated Space within twenty-four (24) hours of its repossession of that Collocated Space. Thereafter, until the breach is cured or otherwise resolved by the parties, SWBT may also refuse additional applications for collocation and/or refuse to complete any pending orders for additional space by IP Communications Corporation in the Eligible Structure where that Collocated Space is located.

- 17.2 If IP Communications Corporation is declared bankrupt or insolvent or makes an assignment for the benefit of creditors, SWBT may, immediately or at any time thereafter, without notice or demand, enter and repossess any and all Collocated Spaces, expel IP Communications Corporation and any person or entity claiming under IP Communications Corporation, remove IP Communications Corporation's property, forcibly if necessary, and terminate all collocation arrangements with respect to those Collocated Spaces, without prejudice to any other remedies SWBT might have. SWBT must notify IP Communications Corporation by facsimile that it has repossessed a Collocated Space within twenty-four (24) hours of its repossession of that Collocated Space. SWBT may also refuse additional applications for service and/or refuse to complete any pending orders for additional space or service by IP Communications Corporation at any time thereafter.
- 17.3 SWBT may refuse requests for additional space in Eligible Structures if IP Communications Corporation is in material breach for forty-five days or more of this Appendix, including IP Communications Corporation's owing any past due charges hereunder. In any and each such event, IP Communications Corporation hereby releases and shall hold SWBT harmless from any duty to negotiate with IP Communications Corporation or any of its affiliates for any additional space or physical collocations.

**18.0 SWBT's Right of Access**

- 18.1 SWBT, its agents, employees, and other SWBT-authorized persons shall have the right to enter Collocated Space at any reasonable time on three days advance notice of the time and purpose of the entry to examine its condition, make repairs required to be made by SWBT hereunder, and for any other purpose deemed reasonable by SWBT. SWBT may access the Collocated Space for purpose of averting any threat of harm imposed by IP Communications Corporation or its equipment or facilities upon the operation of SWBT equipment, facilities and/or personnel located outside of the Collocated Space; in such case, SWBT will immediately notify IP Communications Corporation by telephone of that entry and will leave written notice of entry in the Collocated Space. If routine inspections are required, they shall be conducted at a mutually agreeable time.

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**19.0 Limitation of Liability**

- 19.1 Limitation of liability provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions portion of this Agreement.
- 19.2 IP Communications Corporation acknowledges and understands that SWBT may provide space in or access to its Eligible Structures to other persons or entities ("Others"), which may include competitors of IP Communications Corporation; that such space may be close to the Collocated Space, possibly including space adjacent to the Collocated Space and/or with access to the outside of the Collocated Space; and that the cage around the Collocated Space is a permeable boundary that will not prevent the Others from observing or even damaging IP Communications Corporation's equipment and facilities.

**20.0 Indemnification**

- 20.1 Indemnification provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions Portion of the Agreement.

**21.0 Dispute Resolution**

- 21.1 All disputes arising under this Appendix will be resolved in accordance with the dispute resolution procedures set forth in the General Terms and Conditions portion of this Agreement, with the exception that disputes relating to SWBT's price quotation or Completion Interval may be brought to the Commission for resolution, as set forth in this Appendix, and that disputes relating to the content of SWBT's technical publications related to collocation will be resolved in accordance with Section 11.2 above.

**22.0 Insurance**

- 22.1 IP Communications Corporation shall, at its sole cost and expense procure, maintain, pay for and keep in force the insurance coverage specified below and any additional insurance and/or bonds required by law and underwritten by insurance companies having a BEST Insurance rating of A+VII or better, and which are authorized to do business in the state of Missouri. SWBT shall be named as an ADDITIONAL INSURED on IP Communications Corporation's general liability policy. IP Communications Corporation may meet the insurance coverage requirements specified below utilizing its captive insurer or by establishing that it is authorized under the laws of the state of Missouri to self-insure for any of the coverage requirements specified below.
- 22.2 IP Communications Corporation shall maintain Comprehensive General Liability insurance including Products/Completed Operations Liability insurance including the Broad Form Comprehensive General Liability endorsement (or its equivalent(s)) with a Combined Single

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limit for Bodily Injury and Property Damage of \$1,000,000. Said coverage shall include the contractual, independent contractors products/completed operations, broad form property, personal injury and fire legal liability.

- 22.3 IP Communications Corporation shall maintain, if use of an automobile is required or if IP Communications Corporation is provided or otherwise allowed parking space by SWBT in connection with this Appendix, automobile liability insurance with minimum limits of \$1 million each accident for Bodily Injury, Death and Property Damage combine. Coverage shall extend to all owned, hired and non-owned automobiles. IP Communications Corporation hereby waives its rights of recovery against SWBT for damage to IP Communications Corporation's vehicles while on the grounds of the Eligible Structure and IP Communications Corporation will hold SWBT harmless and indemnify it with respect to any such damage or damage to vehicles of IP Communications Corporation's employees, contractors, invitees, licensees or agents.
- 22.4 IP Communications Corporation shall maintain Workers' Compensation insurance with benefits afforded in accordance with the laws of the state of Missouri.
- 22.5 IP Communications Corporation shall maintain Employer's Liability insurance with minimum limits of \$100,000 for bodily injury by accident, \$100,000 for bodily injury by disease per employee and \$500,000 for bodily injury by disease policy aggregate.
- 22.6 IP Communications Corporation shall maintain Umbrella/Excess liability coverage in an amount of \$5 million excess of coverage specified above.
- 22.7 IP Communications Corporation shall maintain all Risk Property coverage on a full replacement cost basis insuring all of IP Communications Corporation's personal property situated on or within the Eligible Structure or the Collocated Space. IP Communications Corporation releases SWBT from and waives its right of recovery, claim, action or cause of action against SWBT, its agents, directors, officers, employees, independent contractors, and other representatives for any loss or damage that may occur to equipment or any other personal property belonging to IP Communications Corporation or located on or in the space at the instance of IP Communications Corporation by reason of fire or water or the elements or any other risks would customarily be included in a standard all risk property insurance policy covering such property, regardless of cause or origin, including negligence of SWBT, its agents, directors, officers, employees, independent contractors, and other representatives. Property insurance on IP Communications Corporation's fixtures and other personal property shall contain a waiver of subrogation against SWBT, and any rights of IP Communications Corporation against SWBT for damage to IP Communications Corporation's fixtures or personal property are hereby waived.
- 22.8 SWBT has no liability for loss of profit or revenues should an interruption of service occur.

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- 22.9 The limits set forth above may be increased by SWBT from time to time during the term of occupancy to at least such minimum limits as shall then be customary in respect of comparable situations within the existing SWBT Eligible Structures.
- 22.10 All policies purchased by IP Communications Corporation shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by SWBT.
- 22.11 All insurance must be in effect on or before occupancy date and shall remain in force as long as any of IP Communications Corporation's facilities or equipment remain within the Collocated Space or the Eligible Structure. If IP Communications Corporation fails to maintain the coverage, SWBT may pay the premiums thereon and, if so, shall be reimbursed by IP Communications Corporation.
- 22.12 IP Communications Corporation shall submit certificates of insurance and copies of policies reflecting the coverages specified above prior to the commencement of the work called for in this Appendix. IP Communications Corporation shall arrange for SWBT to receive thirty (30) days advance written notice from IP Communications Corporation's insurance company(ies) of cancellation, non-renewal or substantial alteration of its terms.
- 22.13 IP Communications Corporation must also conform to the recommendation(s) made by SWBT's Property Insurance Company which IP Communications Corporation has already agreed to or to such recommendations as it shall hereafter agree to. With respect to recommendations for which SWBT seeks IP Communications Corporation's agreement, SWBT will provide IP Communications Corporation copies of recommendations and compliance requirements by its Property Insurer for IP Communications Corporation's review.
- 22.14 Failure to comply with the provisions of this section will be deemed a material violation of this Appendix.
- 22.15 Through this Appendix, IP Communications Corporation is placing telecommunications equipment and facilities on SWBT property for the purpose of access to SWBT's unbundled network elements and for interconnection to SWBT and, subject to section 10.6 hereof, other collocators. The parties agree that this Appendix does not constitute, and shall not be asserted to constitute, an admission or waiver or precedent with any State commission, the Federal Communications Commission, any other regulatory body, and State and Federal Court, or in any other form that SWBT has agreed or acquiesced that any piece of IP Communications Corporation equipment or facility is Aequipment necessary for interconnection or access to unbundled network elements under 47 U.S.C. 251(c)(6).

**23.0 Miscellaneous**

- 23.1 If IP Communications Corporation constitutes more than one person, partnership, corporation, or other legal entities, the obligation of all such entities under this Appendix is joint and several.
- 23.2 This Appendix may not be modified by the Parties except by a subsequent written document executed by the Parties.
- 23.3 Whenever this Appendix requires the consent of a party, any request for such consent shall be in writing.
- 23.4 Neither party shall be deemed to have waived or impaired any right, authority, or option reserved by this Appendix (including the right to demand exact compliance with every term, condition and covenant herein, or to declare any breach hereof to be a default and to terminate this Appendix prior to the expiration of its term), by virtue of any custom or practice of the parties at variance with the terms hereof or any failure, refusal or neglect to exercise any right under this Appendix or to insist upon exact compliance by the other with its obligations hereunder, including any rule or procedure, or any waiver, forbearance, delay, failure or omission by SWBT to exercise any right, power or option, whether of the same, similar or different nature, with respect to one or more other collocators.
- 23.5 No remedy herein conferred upon is intended to be exclusive of any other remedy in equity, provided by law, or otherwise, but each shall be in addition to every other such remedy.
- 23.6 The IP Communications Corporation and all persons acting through or on behalf of IP Communications Corporation shall comply with the provisions of the Fair Labor Standards Act, the Occupational Safety and Health Act, and all other applicable federal, state, county, and local laws, ordinances, regulations and codes (including identification and procurement of required permits, certificates, approvals and inspections) in its performance hereunder.

**24.0 Applicability of Other Rates, Terms and Conditions**

- 24.1 \*Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and

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warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

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**APPENDIX POLES, CONDUITS, AND RIGHTS-OF-WAY**  
**MASTER AGREEMENT FOR ACCESS**  
**TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY**

This Appendix is made by and between Southwestern Bell Telephone Company ("SWBT") and IP Communications Corporation Communications of the Southwest, Inc. ("IP Communications Corporation"). As provided in this Appendix, SWBT will provide IP Communications Corporation nondiscriminatory access, in accordance with the Pole Attachment Act, the Telecommunications Act of 1996, and applicable rules, regulations, and commission orders, to poles, ducts, conduits, and rights-of-way owned or controlled by SWBT and located in this state.

**ARTICLE 1: PARTIES**

1.01 Southwestern Bell Telephone Company. Southwestern Bell Telephone Company ("SWBT") is a corporation chartered in the State of Missouri. SWBT's principal office is located at 1010 Pine Street, St. Louis, Missouri 63101.

1.02 IP Communications Corporation. IP Communications Corporation is a corporation chartered in the State of Texas. IP Communications Corporation maintains an office in Texas at 17300 Preston Road, Suite 300, Dallas, Texas 75252. IP Communications Corporation is more fully described in EXHIBIT II ("Identification of IP Communications Corporation").

**ARTICLE 2: PURPOSE OF APPENDIX**

The Communications Act of 1934, as amended by the Telecommunications Act of 1996, states that each local exchange carrier has the duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier on rates, terms, and conditions that are consistent with the Pole Attachment Act, 47 U.S.C. §224, as amended by the Telecommunications Act of 1996. The Missouri Public Service Commission has stated that the FCC's First Report and Order in CC Docket No. 96-98 clearly requires a utility to provide access that does not favor itself over new entrants and that nondiscriminatory access means more than requiring incumbent local exchange carriers to treat all new entrants equally. This Appendix has been drafted and shall be construed to effectuate these principles. This Appendix is intended by the parties to implement, rather than abridge, their respective rights and remedies under federal and state law.

**ARTICLE 3: DEFINITIONS**

3.01 Definitions in general. As used in this Appendix, the terms defined in this article shall have the meanings set forth below in Sections 3.02 to 3.48 except as the context otherwise requires.

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3.02 Anchor. The term "anchor" refers to a device, structure, or assembly which stabilizes a pole and holds it in place. An anchor assembly may consist of a rod and fixed object or plate, typically embedded in the ground, which is attached to a guy strand or guy wire which, in turn, is attached to the pole. The term "anchor" does not include the guy strand which connects the anchor to the pole.

3.03 Appendix. When capitalized, the term "Appendix" refers to this Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way by and between SWBT and IP Communications Corporation.

3.04 Assigned. When used with respect to pole, duct, conduit, or right-of-way space, the term "assigned" refers to space that is occupied by, or has been designated for occupancy by, either party or by another telecommunications carrier, cable television system, provider of telecommunications services, governmental entity, or other person or entity having occupancy rights. Except as otherwise specifically provided in this Appendix, no person or entity shall have the right to occupy space assigned to another person or entity (other than on a temporary basis in the event of emergency) until the assignment has been released or lapsed. Assignment is further described in Section 8.02 of this Appendix.

3.05 Authorized contractor. "Authorized contractors" are contractors selected by IP Communications Corporation who may, subject to IP Communications Corporation's direction and control, perform facilities modification or make-ready work which would ordinarily be performed by SWBT or persons acting on SWBT's behalf. As used in this Appendix, the term "authorized contractor" does not refer to contractors performing routine installation, maintenance, or repair work on IP Communications Corporation's behalf or other contractors who may be selected by IP Communications Corporation to perform work on IP Communications Corporation's behalf without SWBT's approval. More specifically, the term "authorized contractor" refers only to those contractors included on a list of contractors mutually approved by IP Communications Corporation and SWBT to perform one or more of the following tasks within a specified SWBT construction district: (a) installation of those sections of IP Communications Corporation's ducts or facilities which connect to SWBT's conduit system as provided in Section 6.08(c); (b) installation of inner duct as provided in Section 10.02(b); (c) excavation work in connection with the removal of retired or inactive (dead) cables as provided in Section 10.02(c); or (d) make-ready work as provided in Sections 10.04 and 10.05. A person or entity approved as an authorized contractor is only an authorized contractor with respect to those tasks for which such person or entity has been approved by both parties and is an authorized contractor only in those SWBT construction districts agreed to by both parties. Designation of an authorized contractor for a specific category of tasks shall not be deemed to be the designation of such person or entity as an authorized contractor for other purposes, nor shall approval of an authorized contractor by one SWBT construction district constitute approval of such authorized contractor for the

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area served by a different SWBT construction district; provided, however, that if a specific construction job extends beyond the boundaries of a single construction district, an authorized contractor shall, for the purposes of that job, be deemed to have been approved by all SWBT construction districts in which the work is to be performed. IP Communications Corporation shall be considered to be an authorized contractor for all tasks specified in this section as tasks which may be performed by an authorized contractor.

3.06 Available. When used with respect to pole, duct, conduit, and right-of-way space, the term "available" refers to space that is not occupied or assigned. In conduit systems owned or controlled by SWBT, maintenance ducts shall not be considered "available" for assignment. All other unassigned ducts, inner ducts, sub-ducts, and partitioned conduits in a conduit system owned or controlled by SWBT shall be deemed available for assignment.

3.07 Cables. The term "cable" includes but is not limited to twisted-pair copper, coaxial, and fiber optic cables. Cables are transmissions media which may be attached to or placed in poles, ducts, conduits, and rights-of-way but are not themselves poles, ducts, conduits, or rights-of-way. Nothing contained in this Appendix shall be construed as a grant of access to cables attached to SWBT's poles or placed in SWBT's ducts, conduits, or rights-of-way.

3.08 Conduit. The term "conduit" refers to all conduits subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, conduits are tubes or structures, usually underground or on bridges, containing one or more ducts used to enclose cables, wires, and associated transmission equipment. Except as the context otherwise requires, the term "conduit" refers only to conduit owned or controlled by SWBT, including the re-enterable manholes and handholes used to connect ducts and provide access to the cables, wires, and facilities within the ducts. As used in this Appendix, the term "conduit" refers only to conduit structures (including ducts, manholes, and handholes) and space within those structures and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other SWBT structures (such as huts and cabinets) which branch off from SWBT's conduit.

3.09 Conduit occupancy. The term "conduit occupancy" refers to the presence of wire, cable, optical conductors, or other facilities within any part of SWBT's conduit system.

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3.10 Conduit system. The term "conduit system" refers to any combination of ducts, conduits, manholes, and handholes joined to form an integrated whole. As used in this Appendix, the term "conduit system" refers only to conduit systems owned or controlled by SWBT and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other SWBT structures (such as huts and cabinets) which branch off from SWBT's conduit.

3.11 Construction District. The term "construction district" refers to the SWBT organization responsible for outside plant construction in a specified geographic area. The term "construction district" connotes responsibility for handling a function and not to the official name of the organization responsible for outside plant construction matters.

3.12 Cost/Cost-based. The terms "cost" and "costs" refer to costs determined in a manner consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders. The term "cost-based" refers to rates, fees, and other charges which are based on costs and determined in a manner consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders.

3.13 Duct. The term "duct" refers to all SWBT ducts subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, a duct is a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other facilities. As used in this Appendix, the term "duct" includes "inner ducts" created by subdividing a duct into smaller channels. Except as the context otherwise requires, the term "duct" refers only to ducts owned or controlled by SWBT and space within those ducts and does not include cables and other telecommunications equipment located within such ducts.

3.14 Exhibit. The capitalized term "EXHIBIT" refers to one of the following exhibits to this Appendix.

EXHIBIT I:	Reserved for future use.
EXHIBIT II:	Identification of IP Communications Corporation
EXHIBIT III:	Administrative Forms and Notices
SW-9433:	Pole Attachments
SW-9434:	Access Application and Make-Ready Authorization Work
SW-9435:	Conduit Occupancy

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SW-9436A: Notification of Surrender or  
Modification of Pole Attachment  
License by Licensee

SW-9436B: Notification of Surrender or  
Modification of Conduit  
Occupancy License by  
IP Communications Corporation

SW-9436C: Notification of Unauthorized  
Attachments by IP  
Communications Corporation

EXHIBIT IV: Insurance Requirements

EXHIBIT V: Nondisclosure Agreement

EXHIBIT VI: Reserved for future Notices to IP  
Communications Corporation

EXHIBIT VII: Notices to SWBT

EXHIBIT VIII: Identification of Utility Liaison  
Supervisor (ULS)

3.15 Facilities. The terms “facility” and “facilities” refer to any property, equipment, or items owned or controlled by any person or entity.

3.16 FCC. The acronym “FCC” refers to the Federal Communications Commission.

3.17 First Interconnection Order. The term “First Interconnection Order” refers to the First Report and Order adopted by the FCC on September 1, 1996, and released on September 8, 1996, in CC Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and CC Docket No. 95-185, In the Matter of Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers. Access to poles, ducts, conduits, and rights-of-way is addressed in the First Interconnection Order in Paragraphs 1119-1240.

3.18 Handhole. The term “handhole” refers to a structure similar in function to a manhole, but which is too small for personnel to enter. As used in this Appendix, the term “handhole” refers only to handholes which are part of SWBT’s conduit system and does not refer to handholes which provide access to buried cables not housed within

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SWBT ducts or conduits. As used in this Appendix, the term "handhole" refers only to handhole structures owned or controlled by SWBT and does not include cables and other telecommunications equipment located within handhole structures.

3.19 Hazardous substances. The term "hazardous substances" refers to hazardous and toxic substances, waste, pollutants, contaminants, and materials as defined in the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601(14), as amended, and other federal, state, and local health, safety, and environmental laws, ordinances, statutes, rules, and regulations applicable to sites subject to this Appendix, including but not limited to the Occupational Safety and Health Act ("OSHA").

3.20 Interconnection agreement. The term "interconnection agreement" refers to the interconnection agreement, if any, to which this Appendix has been made an appendix, attachment, or exhibit, or, as the context may require, any other interconnection agreement between the parties.

3.21 Jacket. The term "jacket" refers to a single enclosed outer covering containing communications wires, fibers, or other communications media. As used in this Appendix, the term "jacket" refers to the outermost sheath or jacket of a cable.

3.22 Joint user. The term "joint user" refers to any person or entity which has entered or may enter into an agreement or arrangement with SWBT permitting it to attach its facilities to SWBT's poles or anchors or place its facilities in SWBT's conduit system.

3.23 License. The term "license" refers to a written instrument confirming that SWBT has afforded IP Communications Corporation or another joint user access to specific space on or within a pole, duct, conduit, or right-of-way owned or controlled by SWBT in accordance with applicable federal and state laws and regulations. The term "license" includes licenses issued by SWBT pursuant to this Appendix and may, if the context requires, refer to licenses issued by SWBT prior to the date of this Appendix.

3.24 Local service provider ("LSP"). The terms "local service provider" and "LSP" refer to telecommunications carriers authorized by applicable federal and state laws and regulations to provide local exchange service. As used in this Appendix, these terms include SWBT.

3.25 Maintenance duct. The term "maintenance duct" generally refers to a full-sized duct (typically three inches in diameter or larger) which may be used by SWBT and joint users (including IP Communications Corporation) on a short-term basis for maintenance, repair, or emergency restoration activities. Maintenance ducts will be available, on a nondiscriminatory basis, to all persons and entities (including SWBT, IP Communications Corporation, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located for (a) short-term

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emergency repairs as provided in Article 15 of this Appendix and (b) short-term non-emergency maintenance or repair activities as provided in Articles 12 and 13 of this Appendix. No more than one full-sized duct within any given conduit system cross-section shall be designated by SWBT as the maintenance duct. In those locations where, on the effective date of this Appendix, there is not a full-sized duct available to be used as a maintenance duct, SWBT will designate an inner duct, if one is available, as the maintenance duct although such inner duct may be too small to accommodate some of the cables occupying the conduit section in which such inner duct is located. The term "maintenance duct" does not include ducts and conduits extending from a SWBT manhole to customer premises. Maintenance ducts shall not be considered "available" (as defined in Section 3.07) for assignment to SWBT, IP Communications Corporation, or joint users for purposes other than short-term use as contemplated in this section; provided, however, that SWBT may assign the duct currently designated as a maintenance duct if another suitable full-sized duct will be made available to serve as a replacement maintenance duct and may assign an inner duct currently designated as a maintenance duct if another inner duct will be made available to serve as a replacement maintenance duct. Maintenance duct designations may change from time to time and may or may not be reflected in SWBT's outside plant records. When only one usable full-sized duct remains in a conduit section, that duct shall be deemed to be the maintenance duct.

**3.26 Make-ready work.** The term "make-ready work" refers to all work performed or to be performed to prepare SWBT's poles, ducts, conduits, and rights-of-way and related facilities for the requested occupancy or attachment of IP Communications Corporation's facilities. Make-ready work does not include the actual installation of IP Communications Corporation's facilities. "Make-ready work" includes, but is not limited to, clearing obstructions (e.g., by "rodding" ducts to ensure clear passage), the rearrangement, transfer, replacement, and removal of existing facilities on a pole or in a conduit system where such work is required to accommodate IP Communications Corporation's facilities (as contrasted from work performed on SWBT's behalf in furtherance of SWBT's own business needs, or convenience). "Make-ready work" may require "dig-ups" of existing facilities and may include the repair, enlargement or modification of SWBT's facilities (including, but not limited to, conduits, ducts, handholes and manholes), consolidating services into fewer cables, or the performance of other work required to make a pole, anchor, duct, conduit, manhole, handhole or right-of-way usable for the initial placement of IP Communications Corporation's facilities.

**3.27 Manhole.** The term "manhole" refers to an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron, cast aluminum, steel, or concrete manhole cover, which personnel may enter and use for the purpose of installing, operating, and maintaining facilities in a conduit. The term "handhole" refers

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to a structure similar in function to a manhole, but which is usually too small for personnel to enter. As used in this Appendix, the term "manhole" refers only to manhole structures owned or controlled by SWBT and does not include cables and other telecommunications equipment located within manhole structures.

**3.28Occupancy.** The term "occupancy" refers to the physical presence of cables or other facilities on a pole, in a conduit or duct, or within a right-of-way.

**3.29Overlashing.** The term "overlashing" refers to the practice of placing an additional cable or inner duct by lashing such cable or inner duct with spinning wire over existing cable(s) and strands.

**3.30Person acting on IP Communications Corporation's behalf.** The terms "person acting on IP Communications Corporation's behalf," "personnel performing work on IP Communications Corporation's behalf," and similar terms include both natural persons and firms and ventures of every type, including, but not limited to, corporations, partnerships, limited liability companies, sole proprietorships, and joint ventures. The terms "person acting on IP Communications Corporation's behalf," "personnel performing work on IP Communications Corporation's behalf," and similar terms specifically include, but are not limited to, IP Communications Corporation, its officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, and other persons or entities performing services at the request of or as directed by IP Communications Corporation and its respective officers, directors, employees, agents, and representatives. An authorized contractor selected by IP Communications Corporation to perform make-ready work shall be deemed to be a person acting on IP Communications Corporation's behalf while performing such work at IP Communications Corporation's request.

**3.31Person acting on SWBT's behalf.** The terms "person acting on SWBT's behalf," "personnel performing work on SWBT's behalf," and similar terms include both natural persons and firms and ventures of every type, including but not limited to corporations, partnerships, limited liability companies, sole proprietorships, and joint ventures. The terms "person acting on SWBT's behalf," "personnel performing work on SWBT's behalf," and similar terms specifically include, but are not limited to, SWBT, its officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, and other persons or entities performing services at the request or on behalf of SWBT and its respective officers, directors, employees, agents, and representatives. An authorized contractor selected by SWBT to perform make-ready work shall be deemed to be a person acting on SWBT's behalf while performing such work at SWBT's request.

**3.32Pole.** The term "pole" refers to all SWBT poles subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). Except as the context otherwise requires, the

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term "pole" refers only to utility poles and anchors which are either owned or controlled by SWBT and does not include cables and other telecommunications equipment attached to pole structures.

3.33 Pole Attachment. As defined in the Pole Attachment Act, 47 U.S.C. §224(a)(4), the term "pole attachment" refers to "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility." In this Appendix, except as the context otherwise requires, the term "pole attachment" refers to any attachment by a cable television system or provider of telecommunications service to a pole (and associated anchors) owned or controlled by SWBT. The term "pole attachment" includes all such facilities attached to or supported by a SWBT pole, including but not limited to cables, risers and U-guards, equipment boxes, drop wires, anchors, bolts, clamps, drive rings, guys, hooks, strands, and other hardware affixed to the pole. Groupings of associated pole attachments for billing purposes shall be consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders. Except as otherwise authorized by applicable FCC rules, regulations, or orders, IP Communications Corporation's pole attachments occupying the same usable space (or otherwise associated with facilities occupying the same usable space on a pole) shall be treated as a single attachment for billing purposes.

3.34 Pole Attachment Act. The term "Pole Attachment Act" refers to those provisions of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, now codified as 47 U.S.C. § 224, as those provisions may be amended from time to time.

3.35 Pre-license survey. The term "pre-license survey" refers to work and activities performed or to be performed by SWBT or by persons acting on SWBT's behalf for the primary purpose of:

- (a) confirming or determining the existing availability and capacity of a pole, duct, conduit or right-of-way and identifying capacity, safety, reliability, or engineering concerns, if any, relating to IP Communications Corporation's application;
- (b) confirming or determining the extent, if any, to which modifications to SWBT's poles, ducts, conduits, or rights-of-way are required to accommodate IP Communications Corporation's facilities;
- (c) confirming or determining what make-ready work, if any, will be required to prepare SWBT's poles, ducts, conduits, or rights-of-way to accommodate IP Communications Corporation's facilities; and

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- (d) estimating the costs, if any, that IP Communications Corporation will be required to pay for any such make-ready work or facilities modifications.

3.36Pre-occupancy survey. The term “pre-occupancy survey” refers to work and activities performed or to be performed by IP Communications Corporation or persons acting on behalf of IP Communications Corporation for the primary purpose of enabling IP Communications Corporation to determine:

- (a) whether SWBT’s poles, ducts, conduits, or rights-of-way, in their existing condition, are suitable for IP Communications Corporation’s intended use;
- (b) the extent, if any, to which modifications of SWBT’s poles, ducts, conduits, or rights-of-way will be proposed by IP Communications Corporation to expand the capacity of SWBT’s poles, ducts, conduits, or rights-of-way to accommodate IP Communications Corporation’s facilities; and
- (c) what other make-ready work, if any, will be proposed by IP Communications Corporation to prepare SWBT’s poles, ducts, conduits, and rights-of-way to accommodate IP Communications Corporation’s facilities.

3.37Primary point of contact. The term “primary point of contact” refers to the persons designated by IP Communications Corporation and SWBT, respectively, to coordinate arrangements for IP Communications Corporation’s access to SWBT’s poles, ducts, conduits, and rights-of-way and records relating to such poles, ducts, conduits, and rights-of-way. SWBT’s designated primary point of contact shall be the Utility Liaison Supervisor unless the parties have arranged for that function to be performed by a designated account representative who will serve as an intermediary between IP Communications Corporation and the Utility Liaison Supervisor.

3.38Rights-of-way. The term “rights-of-way” refers to all SWBT rights-of-way subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, rights-of-way are legal rights to pass over or use the land of another for limited purposes as defined in a statute, ordinance, easement, grant or other conveyance. Rights-of-way include, but are not limited to, (a) public rights-of-way authorizing SWBT to locate facilities on, under, or over public lands and roadways and (b) servitudes created by private easements or obtained through the exercise of eminent domain authority enabling SWBT to pass over, place facilities on, and have rights of ingress and egress to the land of another. Rights-of-way also include easements which, at the time of land development or subdivision, were dedicated for use by public or private utilities and are being occupied, in whole or in part,

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by SWBT's facilities. Except as the context otherwise requires, the term "rights-of-way" refers only to rights-of-way owned or controlled by SWBT. As used in this Appendix, the term "rights-of-way" does not include cables, telecommunications equipment, and structures (such as controlled environment vaults, huts and cabinets) buried or otherwise placed on rights-of-way.

3.39Sheath. The term "sheath" refers to an enclosed covering containing communications wires, fibers, or other communications media. A cable may include both inner and outer sheaths.

3.40Spinning. The term "spinning" refers to a method of attaching a cable or inner-duct to a supporting strand. "Spinning" is sometimes referred to as "lashing."

3.41State. When capitalized, the term "State" (as used in terms such as "this State") refers to the State of Missouri.

3.42State Commission. The term "State Commission" refers to the Missouri Public Service Commission.

3.43Strand. The term "strand" refers to supporting wires, typically stranded together, or other devices attached to a pole and connecting that pole to an anchor or to another pole for the purpose of increasing pole stability or supporting wires, cables, and associated facilities. The term "strand" includes, but is not limited to, strands sometimes referred to as "anchor strands," "anchor/guy strands," "down guys," "guy strands," "pole-to-pole guys," and "messengers."

3.44Telecommunications Act of 1996. The term "Telecommunications Act of 1996" refers to the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, enacted February 8, 1996.

3.45Third party. The terms "third party" and "third parties" refer to persons and entities other than the parties to this Appendix (that is, persons and entities other than IP Communications Corporation and SWBT).

3.46Utility Liaison Supervisor ("ULS"). The terms "Utility Liaison Supervisor" and "ULS" refer to the person or persons designated by SWBT to be responsible for handling and processing requests for access to SWBT's poles, ducts, conduits, and rights-of-way in this State. The term "ULS" connotes responsibility for handling a function and is not a job title. Except as otherwise specifically provided in this Appendix or in the parties' interconnection agreement, the ULS shall serve as IP Communications Corporation's single point of contact for arranging access to SWBT's poles, ducts, conduits, and rights-of-way and access to SWBT's records relating to SWBT's poles, ducts, conduits, and rights-of-way. The Utility Liaison Supervisor for this State is identified in EXHIBIT VIII.

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3.47 Vault. The term "vault" includes central office vaults and controlled environment vaults ("CEVs"). Vaults may be connected to, but are not considered part of, SWBT's conduit system. Access, if any, to vaults (and to ducts, conduits, and risers which serve no purpose other than to provide a means of entry to and exit from such vaults) shall be governed by the tariffs, agreements, or commission orders, if any, establishing arrangements for interconnection, collocation, and access to unbundled network elements, and not by this Appendix.

3.48 "Vicinity of ...". When used in terms such as "vicinity of SWBT's conduit system," "vicinity of SWBT's poles," "vicinity of SWBT's rights-of-way," or "vicinity of SWBT's poles, ducts, conduits, or rights-of-way," the term "vicinity of ..." includes sites on, within, near to, surrounding, or adjoining SWBT's poles, ducts, conduits, and rights-of-way. These sites include, but are not limited to, all sites within a distance of 10 feet of any SWBT pole, duct, conduit, or right-of-way.

#### **ARTICLE 4: NATURE AND SCOPE OF AGREEMENT**

4.01 Scope of Agreement. This Appendix establishes procedures for grants of non-discriminatory access to SWBT poles, ducts, conduits, and rights-of-way located within this State, without regard to whether the site is located on public or private property. SWBT will provide IP Communications Corporation and other telecommunications carriers, cable television systems, and competing providers of telecommunications services with nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by SWBT and located within this State on rates, terms, and conditions that are consistent with the Pole Attachment Act, 47 U.S.C. §224. Separate agreements or tariffs, including other portions of the parties' Interconnection Agreement, and not this Appendix, shall govern IP Communications Corporation's access, if any, to the following facilities which require special security, technical, and construction arrangements outside the scope of this Appendix: (a) SWBT's central office vaults and ducts, conduits, and risers entering and exiting SWBT's central offices; (b) controlled environment vaults, huts, cabinets, and other similar outside plant structures housing SWBT's telecommunications equipment other than cables and ancillary non-terminating distribution equipment, and the ducts, conduits, and risers entering such vaults, huts, cabinets, and structures; and (c) ducts, conduits, and risers located within or entering SWBT buildings.

4.02 No Transfer of Property Rights. Nothing contained in this Appendix or any license subject to this Appendix shall create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other. The payment of fees and charges as provided by this Appendix and licenses subject to this Appendix shall not create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other. No use, however extended, of SWBT's poles, ducts, conduits, or

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rights-of-way shall create or vest (or be construed as creating or vesting) in IP Communications Corporation any right, title, or interest in or to any real or personal property owned by SWBT, and the placement of IP Communications Corporation's facilities on or in SWBT's poles, ducts, conduits and rights-of-way shall not create or vest in SWBT any right, title, or interest in such facilities.

4.03 No Effect on SWBT's Rights to Manage its Poles, Ducts, Conduits, and Rights-of-Way. Subject to IP Communications Corporation's rights under this Appendix and applicable federal and state laws, rules, regulations, and commission orders, SWBT may (a) locate, relocate, move, replace, modify, maintain, and remove all poles, ducts, conduits, and rights-of-way subject to this Appendix at any time and in any manner as SWBT deems appropriate and (b) enter into new agreements or arrangements with other persons or entities permitting them to attach facilities to SWBT's poles or place facilities in or on SWBT's ducts, conduits, or rights-of-way.

4.04 Third-party Beneficiaries. Except as specifically set forth in Section 8.02(g), this Appendix does not provide and shall not be construed to provide third parties with any remedy, claim, right of reimbursement, cause of action, or other privilege.

4.05 Required Franchises, Permits, Certificates, and Licenses. This Appendix shall not be construed as relieving either party from any obligations it may have to obtain legal authority to construct, operate, maintain, repair, and remove its facilities on public or private property (including but not limited to any required franchises, permits, certificates, licenses, easements, or the like) from all appropriate public authorities and private persons or entities.

## **ARTICLE 5: ACCESS TO RIGHTS-OF-WAY**

5.01 Public Rights-of-Way. SWBT and IP Communications Corporation agree that neither party has the right to restrict or interfere with the other party's access to public rights-of-way. Except as specifically provided in Section 5.03 below, SWBT and IP Communications Corporation shall each be responsible for obtaining their own rights-of-way and permission to use real or personal property owned or controlled by any governmental body.

5.02 Private Rights-of-Way Not Owned or Controlled by SWBT. SWBT and IP Communications Corporation agree that neither party has the right to restrict or interfere with the other party's access to private rights-of-way not owned or controlled by SWBT. Each party shall make its own, independent legal assessment of its right to enter upon or use the land or property of third-party property owners and shall bear all expenses, including legal expenses, involved in making such determinations, subject to the procedures set forth in Section 5.03 below.

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5.03 Access to Associated Rights-of-Way. Each pole attachment and conduit occupancy license made under this Appendix shall include access to and use of all associated rights-of-way, including, but not limited to, rights-of-way required by IP Communications Corporation for ingress, egress, or other access to any sites where SWBT's solely or partly owned or controlled poles, manholes, conduit, ducts, or other parts of SWBT's solely or partly owned or controlled conduit system are located, but only to the extent, if any, that SWBT has the legal authority to grant such access and use. SWBT also agrees to provide nondiscriminatory access to rights-of-way containing Controlled Environment Vaults (CEVs), huts, cabinets, and other similar structures to the extent that collocation to such facilities is agreed or required by order of any court or governmental agency having jurisdiction over the subject matter. SWBT agrees that it shall place no restrictions on IP Communications Corporation's ability to construct, maintain, and monitor its facilities at these sites that are more restrictive than those SWBT places on itself. Such access to these sites shall be provided by SWBT in an expeditious manner. This section relates only to access to the rights-of-way and not to the CEVs, huts, cabinets, and similar structures placed by SWBT on such rights-of-way. Neither this section nor any other part of this Appendix establish collocation rights with respect to CEVs, huts, cabinets, and similar structures.

- (a) Although SWBT shall afford access to rights-of-way owned or controlled by it and permit IP Communications Corporation to utilize SWBT's rights-of-way to the extent that SWBT has legal authority to do so, IP Communications Corporation acknowledges that SWBT may not own or control certain rights-of-way to the extent necessary to permit IP Communications Corporation full access to such rights-of-way. The following general principles shall be applied with respect to access to rights-of-way on third-party real estate:

- (1) IP Communications Corporation shall first attempt to obtain right-of-way directly from the property owner.
- (2) If SWBT has legal authority to permit access by IP Communications Corporation to a right-of-way on third-party property, SWBT will not restrict IP Communications Corporation's use of the right-of-way.
- (3) If IP Communications Corporation has the right of eminent domain under state law, IP Communications Corporation shall independently attempt to obtain the right-of-way it seeks through the exercise of that right.

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- (4) If IP Communications Corporation is unable to obtain access to a right-of-way under paragraphs (1), (2), and (3) above, IP Communications Corporation will request in writing that SWBT exercise its right of eminent domain to condemn the right-of-way for IP Communications Corporation's use and SWBT shall respond to IP Communications Corporation's written request within 45 days. SWBT shall exercise its right of eminent domain on IP Communications Corporation's behalf only if permitted to do so under applicable state law, and only if IP Communications Corporation agrees to bear all costs and expenses, including but not limited to legal fees arising out of or in connection with the condemnation proceedings.

5.04 Access to Certain Exclusive Rights-of-Way. At locations where SWBT has obtained exclusive rights-of-way from third party property owners or otherwise controls the right-of-way, SWBT shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Applicant and third parties on a nondiscriminatory, first-come, first-served basis, provided that the underlying agreement with the property owner permits SWBT to provide such access, and provided further that Applicant agrees to indemnify, on request defend, and hold SWBT harmless from any injury, loss, damage, claim, or liability arising out of or in connection with such access or use. Such access shall be granted, on a case-by-case basis, in the form of a license, sub-license, sub-easement, or other mutually acceptable writing. Except as otherwise agreed to by the parties, SWBT's charges for such access (obtained from SWBT rather than from the third-party property owner) shall include (a) a pro rata portion of the charges (including but not limited to one-time charges and recurring charges), if any, paid by SWBT to obtain the right-of-way plus (b) a pro rata portion of any other documented legal, administrative, and engineering costs incurred by SWBT in obtaining the right-of-way and processing Applicant's request for access. Applicant's pro rata portion of the charge paid by SWBT shall be negotiated on a nondiscriminatory, case-by-case basis and shall take into account size of the area used by Applicant and the number of users occupying the right-of-way.

## ARTICLE 6: SPECIFICATIONS

6.01 Compliance with Requirements, Specifications, and Standards. IP Communications Corporation agrees that IP Communications Corporation's facilities attached to SWBT's poles or occupying space in SWBT's ducts, conduits, and rights-of-way shall be attached, placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Appendix.



6.02 Design to Minimize the Need for Access to SWBT's Poles and Conduits. The parties shall each design their facilities to minimize the need for the parties to access SWBT's poles, ducts, or conduits.

6.03 Infrequent Construction Techniques and Connectivity Solutions. Unless precluded by documented engineering criteria or written guidelines SWBT applied to itself as of January 1, 1996, consistent with considerations of safety, reliability, and/or engineering practices, SWBT agrees to permit IP Communications Corporation at its own expense to utilize the following techniques to avoid high or unusual expenditures: (a) placement of pole attachments on both the "field" side and "road" side of a pole; (b) placement of extension arms or stand-off brackets on poles; and (c) building conduit branches into SWBT's conduit systems. IP Communications Corporation acknowledges that use of the above techniques will be rare and will be permitted only on a case-by-case basis, and must be performed in a manner which does not jeopardize the structural integrity of SWBT's facilities. Except as otherwise agreed to by the parties in writing, extension arms or stand-off brackets, if utilized, shall be installed as make-ready work in accordance with SWBT's specifications and at IP Communications Corporation's expense. Once installed, extension arms and stand-off brackets shall become part of the pole and shall be owned by SWBT. Unused capacity on any such extension arms or stand-off brackets shall be deemed "available" (as defined in Section 3.07) for assignment and be considered as capacity expansion.

6.04 Published Standards. SWBT and IP Communications Corporation agree that the following standards equally apply to either party with respect to facilities attached to or placed in SWBT's poles, ducts, conduits, and rights-of-way and further agree that facilities shall be placed, constructed, maintained, repaired, and removed in accordance with, current (as of the date when such work is performed) editions of the following publications:

- (a) the Blue Book Manual of Construction Procedures, Special Report SR-TAP-001421, published by Bell Communications Research, Inc. ("Bellcore"), and sometimes referred to as the "Blue Book";
- (b) the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE"); and
- (c) the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA").

6.05 Additional Electrical Design Specifications: Conduit. The parties agree that, in addition to the specifications and requirements referred to in Sections 6.01-6.04 above, facilities placed in SWBT's conduit system after the effective date of this Appendix shall meet the electrical design specifications set forth in this section.

- (a) No facilities shall be placed in SWBT's conduit system in violation of FCC regulations, including regulations relating to electrical interference. In addition, neither party shall place any facility in SWBT's conduit system which causes or may cause electrical interference with the facilities of the other party or joint users sufficient to jeopardize network integrity or degrade the quality of any communications services offered by either party or a joint user. If either party is notified by the other party or a joint user that its facilities are causing, or have the potential to cause, unacceptable levels of electrical interference, the party notified shall either correct the problem, remove the facility, or initiate good faith negotiations with the complaining party or joint user to resolve the issue.
- (b) Facilities placed in SWBT's conduit system shall not be designed to use the earth as the sole conductor for any part of the circuits.
- (c) Facilities placed in SWBT's conduit system and carrying more than 50 volts AC (rms) to ground or 135 volts DC to ground shall be enclosed in an effectively grounded sheath or shield.
- (d) No coaxial cable shall be placed in SWBT's conduit system unless such cable meets the voltage limitations of Article 820 of the National Electrical Code.
- (e) Coaxial cable placed in SWBT's conduit system may carry continuous DC voltages up to 1800 volts to ground where the conductor current will not exceed one-half ampere and where such cable has two separate grounded metal sheaths or shields and a suitable insulating jacket over the outer sheath or shield. The power supply shall be so designed and maintained that the total current carried over the outer sheath shall not exceed 200 microamperes under normal conditions. Conditions which would increase the current over this level shall be cleared promptly.
- (f) Neither party shall circumvent the corrosion mitigation measures of the other party or joint users.

6.06 Additional Physical Design Specifications: Conduit. Facilities placed in SWBT's conduit system following the effective date of this Appendix shall meet all of the following physical design specifications:

- (a) Except as otherwise specifically agreed in this Appendix or licenses, IP Communications Corporation's facilities shall enter SWBT's conduit system at locations consistent with the physical

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design specifications that SWBT applies to itself (typically through a manhole) or at such other designated locations agreed upon, in writing, (e.g. through the licensing process) by the parties in accordance with Section 6.03 (which deals with infrequent construction techniques and connectivity solutions).

- (b) Cables bound or wrapped with cloth or having any kind of fibrous coverings or impregnated with an adhesive material shall not be placed in SWBT's conduit or ducts.
- (c) The integrity of SWBT's conduit system and overall safety of personnel require that "dielectric cable" be used within SWBT's conduit system when a cable facility utilizes a duct or route shared in the same trench by any electric transmissions facility such as the facilities of a power utility.
- (d) New construction splices in cables (including but not limited to fiber optic and twisted pair cables) shall be located in manholes, pull boxes or handholes.

6.07 Efficient Use of Conduit. To ensure efficient use of conduits, SWBT will, when cable diameters permit, install inner ducts in multiples that fully utilize duct space (typically 3 or 4 inner ducts in a full 4-inch duct) as needed for SWBT's own business purposes and to accommodate IP Communications Corporation and other joint users; provided, however, that SWBT shall not be required to install inner duct in anticipation of potential future requests for access by IP Communications Corporation and other joint users. In addition, the parties shall, in accordance with SWBT's duct selection standards, install cables in inner duct when cable diameters permit.

6.08 Specifications Applicable to Connections Conduit. Except as otherwise specifically agreed in this Appendix or licenses, or as mutually agreed upon by the parties in writing, the following specifications apply to connections of IP Communications Corporation's conduit to SWBT's conduit system:

- (a) IP Communications Corporation shall not bore, make, or enlarge any hole in, or otherwise structurally modify or alter any manhole, handhole, duct, conduit, or other facility which is part of SWBT's conduit system except as provided in this Appendix or licenses, or as mutually agreed upon by the parties in writing.
- (b) Nothing contained in subsection (a) shall be construed as precluding IP Communications Corporation or an authorized contractor from

reattaching cable racks or performing similar routine work which is minor in nature and associated with the placement and splicing of IP Communications Corporation's cable.

- (c) Where IP Communications Corporation's duct or facility physically connects with SWBT's manhole, the section of IP Communications Corporation's facility which connects to SWBT's manhole shall be installed by SWBT or its contractor at IP Communications Corporation's expense (which shall be SWBT's actual costs or the price charged SWBT by the contractor). SWBT will perform this work in an interval consistent with the intervals SWBT performs the same or similar types of work for itself. If SWBT's interval for beginning or completing this work does not meet IP Communications Corporation's needs, IP Communications Corporation as an authorized contractor may perform the work itself or arrange for the work to be performed by an authorized contractor selected by IP Communications Corporation from a list, jointly developed by IP Communications Corporation and SWBT, of mutually agreed contractors qualified to perform such work. Work performed on SWBT's facilities by an authorized contractor selected by IP Communications Corporation to perform work under this subsection shall be performed in accordance with SWBT's standards and practices.
- (d) SWBT shall have the option to monitor the entrance and exit of IP Communications Corporation's facilities into SWBT's conduit system and the physical placement of IP Communications Corporation's facilities in any part of SWBT's conduit system. Notice requirements for, and expenses associated with, this monitoring are addressed in Section 6.11 of this Appendix.
- (e) If IP Communications Corporation constructs or utilizes a duct connected to SWBT's conduit system, the duct and all connections between that duct and SWBT's conduit system shall be sealed to prevent the entry of gases or liquids into SWBT's conduit system. If IP Communications Corporation's duct enters a building, it shall also be sealed where it enters the building and at all other locations necessary to prevent the entry of gases and liquids from the building into SWBT's conduit system.

6.09 General Requirements Relating to Personnel, Equipment, Materials, and Public Safety. The parties contemplate that IP Communications Corporation, its contractors, and other persons acting on its behalf will perform work for IP Communications Corporation on, within, and in the vicinity of SWBT's poles, ducts,

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conduits, and rights-of-way. The provisions of this section are intended to protect the integrity of the networks, facilities and operations of SWBT, IP Communications Corporation and joint users, to protect the health and safety of persons working on, within, or in the vicinity of SWBT's poles, ducts, conduits, and rights-of-way, and to protect the public at large.

- (a) Neither party nor any person acting on such party's behalf shall permit any person to climb or work on SWBT's poles or in the vicinity of SWBT's poles, or enter SWBT's manholes or work within or in the vicinity of SWBT's conduit system, unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to the pole or conduit system and to perform the work safely.
- (b) Neither party nor any person acting on such party's behalf shall permit any person acting on its behalf to perform any work on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way without first verifying, to the extent practicable, on each date when such work is to be performed, that conditions at the work site (including but not limited to the physical condition of the pole or any part of SWBT's conduit system) are safe enough for the work to be performed. If IP Communications Corporation or any person acting on IP Communications Corporation's behalf determines that the condition of the pole, duct, conduit, or right-of-way is not sufficiently safe for the work to be performed, IP Communications Corporation shall notify SWBT of conditions at the site and shall not proceed with the work until IP Communications Corporation is satisfied that the work can be safely performed.
- (c) Neither party nor any person acting on such party's behalf shall knowingly permit defective equipment or materials to be used on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way.
- (d) When IP Communications Corporation or personnel performing work on its behalf are working on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way located within, under, over, adjacent to, or in the vicinity of streets, highways, alleys or other traveled rights-of-way, IP Communications Corporation and all personnel performing work on IP Communications Corporation's behalf shall follow procedures which IP Communications Corporation deems appropriate for the protection of persons and property. IP Communications

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Corporation and/or its contractors shall be responsible, at all times, for determining and implementing the specific steps required to protect persons and property at the site. IP Communications Corporation or its designated contractor will provide all traffic control and warning devices required to protect pedestrian and vehicular traffic, workers, and property from danger. IP Communications Corporation and/or its contractors shall have sole responsibility for the safety of all personnel performing work on IP Communications Corporation's behalf, for the safety of bystanders, and for insuring that all operations conform to current OSHA regulations and all other governmental rules, ordinances or statutes.

- (e) Neither party nor any persons acting on such party's behalf shall engage in any conduct which damages public or private property in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way or creates a hazard or nuisance on such property (including but not limited to a hazard or nuisance resulting from any abandonment of or failure to remove its facilities or any construction debris from the property, failure to erect warning signs or barricades as may be necessary to exclude others from the premises or give notice to others of unsafe conditions on the premises while work performed on its behalf is in progress, or failure to restore the property to a safe condition after such work has been completed).
- (f) IP Communications Corporation shall promptly suspend activities on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way (other than sites owned or controlled by IP Communications Corporation) if notified by SWBT that such activities create an unreasonable risk of injury to persons or property (including unreasonable risks of service interruptions). IP Communications Corporation shall not resume such activities on or in the vicinity of SWBT's poles or rights-of-way until IP Communications Corporation is satisfied that the work may safely proceed and that any hazardous conditions at the site have been rectified and shall not resume such activities within or in the vicinity of SWBT's conduit system until both IP Communications Corporation and SWBT are satisfied that the work may safely proceed and that any hazardous conditions at the site have been rectified. In the event that SWBT requires IP Communications Corporation to suspend work activities and it is later determined that there was no reasonable basis for the work suspension, SWBT agrees to compensate IP Communications Corporation for the cost resulting from the delay.

- (g) SWBT shall promptly suspend activities on, within, or in the vicinity of its poles, ducts, or conduits if notified by IP Communications Corporation that such activities create an unreasonable risk of injury to persons or property (including unreasonable risks of service interruptions to IP Communications Corporation's customers). SWBT shall not resume such activities on or in the vicinity of its poles until it is satisfied that the work may safely proceed and that any hazardous conditions at the site have been rectified and shall not resume such activities within or in the vicinity of SWBT's conduit system until both IP Communications Corporation and SWBT are satisfied that the work may safely proceed and that any hazardous conditions at the site have been rectified. In the event that IP Communications Corporation requires SWBT to suspend work activities and it is later determined that there was no reasonable basis for the work suspension, IP Communications Corporation agrees to compensate SWBT for the cost resulting from the delay.
- (h) All personnel acting on IP Communications Corporation's behalf shall, while working on or in SWBT's poles, ducts, conduits, or rights-of-way, carry with them suitable identification and shall, upon the request of any SWBT employee or representative, produce such identification.
- (i) IP Communications Corporation (and any person acting on IP Communications Corporation's behalf) may report unsafe conditions on, within, or in the vicinity of SWBT's poles or conduit system to SWBT.

6.10 Specific Requirements Relating to Personnel, Equipment, Materials, and Construction Practices Within or in the Vicinity of SWBT's Conduit Systems. When SWBT or IP Communications Corporation, their contractors, and other persons acting on their behalf perform work on, within, or in the vicinity of SWBT's ducts, conduits, and rights-of-way where such ducts or conduits are located, they will be guided by the following:

- (a) Except as may be mutually agreed upon by the parties in writing, IP Communications Corporation shall not "rod" or clear any duct or inner duct in SWBT's conduit system other than a duct or inner duct assigned to IP Communications Corporation. Following the assignment of a specific duct or inner duct to IP Communications Corporation, IP Communications Corporation may request that SWBT rod or clear the duct or inner duct. If the duct or inner duct cannot be cleared, SWBT shall assign the next available duct or

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inner duct to IP Communications Corporation. IP Communications Corporation's request for assignment of the next available duct shall be in writing, may be transmitted to SWBT via fax or other transmission media mutually agreed upon by the parties, and shall be processed within the same intervals applicable to the processing of similar requests by SWBT's own personnel.

- (b) Personnel performing work within SWBT's conduit system on either party's behalf shall not climb on, step on, or otherwise disturb the cables, air pipes, equipment, or other facilities located in any manhole or other part of SWBT's conduit system.
- (c) Personnel performing work within or in the vicinity of SWBT's conduit system (including any manhole) on either party's behalf shall, upon completing their work, make reasonable efforts to remove all tools, unused materials, wire clippings, cable sheathing and other materials brought by them to the work site.
- (d) All of IP Communications Corporation's facilities shall be firmly secured and supported in accordance with Bellcore and industry standards and any applicable construction standards adopted by SWBT and applicable to SWBT's own facilities.
- (e) IP Communications Corporation's facilities shall be plainly identified with IP Communications Corporation's name in each manhole with a firmly affixed permanent tag that meets the identification standards set by SWBT for its own facilities.
- (f) Manhole pumping and purging required in order to allow work operations to proceed shall be performed in accordance with the requirements of Sections 6.14 and 6.15.
- (g) Planks or other types of platforms shall be supported only by cable racks.
- (h) Any leak detection liquid or device used by IP Communications Corporation or personnel performing work on IP Communications Corporation's behalf within or in the vicinity of SWBT's conduit system shall be of a type approved by SWBT and included on SWBT's then-current list of approved types of leak-detection liquids and devices; provided, however, that IP Communications Corporation may use any type of leak detection liquid or device which meets Bellcore's published standards if SWBT has not provided IP Communications Corporation SWBT's list of approved

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types of leak detection liquids or devices at least 60 days in advance of IP Communications Corporation's work.

- (i) IP Communications Corporation and its contractors shall be responsible for providing proper ventilation while work is being performed in SWBT's conduit system on IP Communications Corporation's behalf. Except for protective screens, no temporary cover shall be placed over an open manhole unless it is at least four feet above the surface level of the manhole opening.
- (j) Smoking or the use of any open flame is prohibited in manholes, in any other portion of the conduit system, or within 10 feet of any open manhole entrance.
- (k) Artificial lighting, when required by IP Communications Corporation, will be provided by IP Communications Corporation. Only explosion-proof lighting fixtures shall be used.
- (l) Neither SWBT nor IP Communications Corporation nor personnel performing work on either party's behalf shall allow any combustible gas, vapor, liquid, or material to accumulate in SWBT's conduit system (including any manhole) during work operations performed within or in the vicinity of SWBT's conduit system.
- (m) IP Communications Corporation shall comply with the standards set by SWBT for its own personnel restricting the use of spark-producing tools, equipment, and devices (including but not limited to such tools as electric drills and hammers, meggers, breakdown sets, induction sets, and the like) in manholes and other portions of SWBT's conduit system, provided that such standards have been communicated in writing to IP Communications Corporation at least 60 days in advance of IP Communications Corporation's work.
- (n) Cable lubricants used in conduit systems shall be of a type or types approved by SWBT and included on SWBT's then-current list of approved types of cable lubricants; provided, however, that IP Communications Corporation may use any type of cable lubricant which meets Bellcore's published standards if SWBT has not provided IP Communications Corporation SWBT's list of approved types of cable lubricants at least 60 days in advance of IP Communications Corporation's work.

6.11 Opening of Manholes and Access to Conduit. The following requirements apply to the opening of SWBT's manholes and access to SWBT's conduit system.

- (a) IP Communications Corporation will notify SWBT not less than 48 hours in advance before entering SWBT's conduit system to perform non-emergency work operations. Such operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed. As a courtesy, IP Communications Corporation shall, when feasible, provide SWBT with 10 working days' advance notice before entering SWBT's conduit system.
- (b) An authorized employee or representative of SWBT may be present at any time when IP Communications Corporation or personnel acting on IP Communications Corporation's behalf enter or perform work within SWBT's manhole.
- (c) The parties contemplate that IP Communications Corporation may need to perform operations in SWBT's conduit system other than during normal business hours and may occasionally require access to manholes on shorter notice than contemplated in subsection (a) above. Under these circumstances, IP Communications Corporation shall notify SWBT as soon as is reasonably possible of its intent to enter and perform work in the conduit system and SWBT shall not, without due cause and justification, insist on literal compliance with the scheduling requirements of subsection (a) in such circumstances. SWBT will establish procedures enabling SWBT to receive notices from IP Communications Corporation under this subsection 24 hours a day, seven days a week.
- (d) Each party must obtain any necessary authorization from appropriate authorities to open manholes for such party's own conduit work and operations therein.
- (e) As ordered by the Public Service Commission of Missouri, when SWBT considers it necessary to be present during IP Communications Corporation's access to manholes and CEVs, SWBT may, at its option, send its employees to review IP Communications Corporation's installation, maintenance, and similar routine work. IP Communications Corporation and SWBT will share the cost of a single SWBT employee present during such work on an equal basis (50 percent/50 percent). IP Communications Corporation shall not compensate SWBT for any additional SWBT employees present.

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- (f) If the presence of SWBT personnel at the site is requested by IP Communications Corporation or in IP Communications Corporation's opinion, is integral to successful completion of IP Communications Corporation's work, IP Communications Corporation shall pay the costs of having such personnel present.

6.12 OSHA Compliance. Each party agrees that:

- (a) its facilities attached to SWBT's poles or placed in SWBT's ducts, conduits, and rights-of-way shall be constructed, placed, maintained, repaired, and removed in accordance with the Occupational Safety and Health Act (OSHA) and all rules and regulations promulgated thereunder; and
- (b) all persons acting on such party's behalf shall, when working on, within, or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way shall comply with OSHA and all rules and regulations thereunder.

6.13 Hazardous Substances. IP Communications Corporation acknowledges that, from time to time, hazardous substances (as defined in Section 3.20 of this Appendix) may enter SWBT's conduit system and accumulate in manholes or other conduit facilities and that hazardous substances may be present at other sites where SWBT's poles, ducts, conduits, or rights-of-way are located.

- (a) IP Communications Corporation may, at its expense, perform such inspections and tests at the site of any pole, duct, conduit, or right-of-way occupied by or assigned to IP Communications Corporation as IP Communications Corporation may deem necessary to determine the presence at such sites of hazardous substances. SWBT will assist IP Communications Corporation, at IP Communications Corporation's request and expense, in the performance of such inspections and tests.
- (b) SWBT makes no representations to IP Communications Corporation or personnel performing work on IP Communications Corporation's behalf that SWBT's poles, ducts, conduits, or rights-of-way will be free from hazardous substances at any particular time. Before entering a manhole or performing any work within or in the vicinity of SWBT's conduit system or any other site subject to access under this Appendix, IP Communications Corporation or personnel acting on IP Communications Corporation's behalf shall independently determine, to their satisfaction, whether such

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hazardous substances are present and conduct their work operations accordingly.

- (c) Each party shall promptly notify the other of hazardous substances known by such party to be present on, within or in the vicinity of poles, ducts, conduits, or rights-of-way occupied by or assigned to IP Communications Corporation pursuant to this Appendix if, in the sole judgment of such party, such hazardous substances create a serious danger to (1) the health or safety of personnel working within or in the vicinity of the conduit or (2) the physical condition of the other party's facilities placed or to be placed within the conduit.
- (d) Nothing contained in this Appendix (including but not limited to the acknowledgments and representations set forth in this section) shall relieve either party from its responsibility to comply with all applicable environmental laws or its responsibility for any liability arising out of such party's failure to comply with such laws. Nothing contained in this Appendix shall be construed as relieving SWBT of liability for hazardous substances present at any site subject to this Appendix or as relieving either party of liability for introducing hazardous substances to the site or causing or contributing to the release of any such substances.

6.14 Compliance with Environmental Laws and Regulations. IP Communications Corporation and SWBT agree to comply with the following provisions relating to compliance with environmental laws and regulations:

- (a) Facilities attached by either party to SWBT's poles or placed in SWBT's ducts, conduits, and rights-of-way following the effective date of this Appendix shall be constructed, placed, maintained, repaired, and removed by such party in accordance with all applicable federal, state, and local environmental statutes, ordinances, rules, regulations, and other laws.
- (b) All persons acting on IP Communications Corporation's or SWBT's behalf, including but not limited to IP Communications Corporation's or SWBT's employees, agents, contractors, and subcontractors, shall, when working on, within or in the vicinity of SWBT's poles, ducts, conduits, or rights-of-way, comply with all applicable federal, state, and local environmental laws, including but not limited to all environmental statutes, ordinances, rules, and regulations.

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