

PAGING FACILITIES AGREEMENT

by and between

American Messaging Services, LLC

and

**Illinois Bell Telephone Company d/b/a AT&T Illinois,
Indiana Bell Telephone Company Incorporated d/b/a AT&T
Indiana,**

**Michigan Bell Telephone Company d/b/a AT&T Michigan,
Nevada Bell Telephone Company d/b/a AT&T Nevada,
The Ohio Bell Telephone Company d/b/a AT&T Ohio,
Pacific Bell Telephone Company d/b/a AT&T California,
The Southern New England Telephone Company d/b/a AT&T
Connecticut,**

**Southwestern Bell Telephone, L.P. d/b/a AT&T Arkansas, AT&T
Kansas, AT&T Missouri, AT&T Oklahoma and/or AT&T Texas,
Wisconsin Bell, Inc. d/b/a AT&T Wisconsin**

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PAGING INTERCONNECTION AGREEMENT

This Agreement is by and between Illinois Bell Telephone Company d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company d/b/a AT&T Michigan, Nevada Bell Telephone Company d/b/a AT&T Nevada, The Ohio Bell Telephone Company d/b/a AT&T Ohio, Pacific Bell Telephone Company d/b/a AT&T California, The Southern New England Telephone Company d/b/a AT&T Connecticut, Southwestern Bell Telephone, L.P. d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and AT&T Texas, and Wisconsin Bell, Inc. d/b/a AT&T Wisconsin ("Telco") and American Messaging Services, LLC ("Carrier") (collectively, the "Parties") for Facilities used for Interconnection for a paging Commercial Mobile Radio Services provider under Sections 251 and 252 of the Act.

WHEREAS, Telco is a Local Exchange Carrier authorized to provide Telephone Exchange Service and Exchange Access in all or portions of the State;

WHEREAS, Carrier holds authority from the Federal Communications Commission to provide Paging Authorized Services in the State;

WHEREAS, the Parties desire to enter into an agreement for use by Carrier for Paging Authorized Services, only;

WHEREAS, the Parties desire to enter into an agreement for the interconnection of their respective networks within the portions of the State in which both Parties are authorized to operate and deliver traffic for the provision of Telecommunications Service;

WHEREAS, the Parties desire to enter into an agreement to establish financial responsibility for facilities used to deliver Local Calls from Telco to Carrier; and,

WHEREAS, although Carrier is a Telecommunications Carrier, because of economic feasibility, desires not to establish reciprocal compensation arrangements for the termination of Paging Authorized Services Telecommunications Traffic.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, the Parties, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS

- 1.1 For purposes of this Agreement, including any and all Appendices and other attachments, the terms set forth below are defined as follows. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. The words "will" and "shall" are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other will not mean a different degree of right or obligation for either Party. A defined word intended to convey its special meaning is capitalized when used. Other terms that are capitalized and not defined in this Agreement will have the meaning in the Act or, in the absence of their inclusion in the Act, their customary usage in the telecommunications industry as of the Effective Date of this Agreement.
- 1.2 "Act" means the Communications Act of 1934 [47 U.S.C. 153], as amended by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996) codified throughout 47 U.S.C.
- 1.3 "Affiliate" is as defined in the Act.
- 1.4 "Applicable Laws" means all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, tariffs and approvals, including without limitation those relating to the environment or health and safety, of any Governmental Authority that apply to the Parties or the subject matter of this Agreement.
- 1.5 "ASR" ("Access Service Request") is an industry standard form used by the Parties to add, establish, change or disconnect trunks for the purposes of Interconnection.
- 1.6 "AT&T-13STATE" - As used herein, AT&T-13STATE means Illinois Bell Telephone d/b/a AT&T Illinois, Indiana Bell Telephone Company Incorporated d/b/a AT&T Indiana, Michigan Bell Telephone Company

d/b/a AT&T Michigan, Nevada Bell Telephone Company d/b/a AT&T Nevada, The Ohio Bell Telephone Company d/b/a AT&T Ohio, Pacific Bell Telephone Company d/b/a AT&T California, The Southern New England Telephone Company d/b/a AT&T Connecticut and Southwestern Bell Telephone, L. P. d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma and AT&T Texas, and Wisconsin Bell, Inc. d/b/a AT&T Wisconsin (and previously referred to as "SBC-13STATE"), the applicable AT&T-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

- 1.7 **"Business Day"** means Monday through Friday, excluding holidays on which Telco does not provision new retail services and products.
- 1.8 **"CCS"** means Common Channel Signaling, which is the signaling system developed for use between switching systems with stored-program control, in which all of the signaling information for one or more Trunk Groups is transmitted over a dedicated high-speed data link rather than on a per-Trunk basis and, unless otherwise agreed by the Parties, the CCS used by the Parties shall be Signaling System 7 ("SS7").
- 1.9 **"Central Office Switch"** means a switch, including, but not limited to an End Office Switch, a Tandem Switch and/or a combination End Office/Tandem Switch.
- 1.10 **"Claim"** means any pending or threatened claim, action, proceeding or suit.
- 1.11 **"CMRS"** means Commercial Mobile Radio Service as defined by the FCC and the Commission.
- 1.12 **"Commission"** means the applicable State agency with regulatory authority over Telecommunications.
- 1.13 **"Day"** means calendar Day unless "Business Day" is specified.
- 1.14 **"End Office Switch"** is a switch from which Telco's End Users' Telephone Exchange Services are directly connected and offered.
- 1.15 **"End User"** means the end user purchaser of Telecommunications Service from Telco or Carrier. As used herein, the term "End User" does not include any of the Parties to this Agreement with respect to any item or service obtained under this Agreement.
- 1.16 **"Facility"** means the wire, line, or cable dedicated to the transport of Authorized Services traffic between the Parties' respective networks.
- 1.17 **"FCC"** means the Federal Communications Commission.
- 1.18 **"Governmental Authority"** means any federal, state, local, foreign, or international court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative, or judicial authority with jurisdiction over the subject matter at issue.
- 1.19 **"Intellectual Property"** means copyrights, patents, trademarks, trade secrets, mask works and all other intellectual property rights.
- 1.20 **"Interconnection"** is as defined in the Act.
- 1.21 **"InterMTA Traffic"** means traffic that, at the beginning of the call, originates on Telco's network in one MTA and terminates on Carrier's network in another MTA.
- 1.22 **"Internet Service Provider" ("ISP")** shall be given the same meaning as used in the FCC Order on Remand and Report and Order; *In the Matter of Implementation of the Local Competition Provisions in the Federal Telecommunications Act of 1996, Inter-carrier Compensation for ISP-Bound Traffic*; CC Docket Nos. 96-98 and 99-68; FCC Order No. 01-131, released April 27, 2001.
- 1.23 **"IXC"** means Interexchange Carrier, a carrier other than a CMRS provider or a LEC that provides, directly or indirectly, interLATA and /or intraLATA for hire Telecommunications Service.
- 1.24 **"LATA"** means Local Access and Transport Area as defined in the Act.
- 1.25 **"LEC"** means a Local Exchange Carrier as defined in the Act.

- 1.26 **"LERG"** means Local Exchange Routing Guide, a Telcordia Technologies, Inc. Reference Document used by Telecommunications Carriers to identify NPA-NXX routing and homing information as well as network element and equipment designations.
- 1.27 **"Local Calls"** for the purpose of termination compensation, are Authorized Services Completed Pages that originate on Telco's network, that terminate on Carrier's network, that are exchanged directly between the Parties and that, at the beginning of the call, originate and terminate within the same MTA.
- 1.28 **"Loss"** or **"Losses"** means any and all losses, costs (including court costs), claims, damages (including fines, penalties, and criminal or civil judgments and settlements), injuries, liabilities and expenses (including attorneys' fees).
- 1.29 **"MTA"** means "Major Trading Area" as defined by 47 C.F.R. § 24.202(a).
- 1.30 **"NANP"** means North American Numbering Plan, the system of telephone numbering employed in the United States, Canada, and certain Caribbean countries.
- 1.31 **"NPA"** means Numbering Plan Area, referred to as an area code and the three digit indicator that is defined by the "A", "B" and "C" digits of a 10-digit telephone number within the NANP.
- 1.32 **"NXX"** means the three-digit switch entity indicator that is defined by the "D", "E", and "F" digits of a 10-digit telephone number within the NANP. Each NXX contains 10,000 station numbers.
- 1.33 **"Paging Authorized Services"** means those one-way paging services (i.e., one-way Telco-to-Carrier traffic) which Carrier may lawfully provide pursuant to Applicable Laws, including the Act, and that are considered to be CMRS. Paging Authorized Services does not include ISP traffic or Voice Mail.
- 1.34 **"Paging Terminal"** means Carrier's mechanism that receives calls that originate on Telco's network and transmits the calls to the pager of the called party. **A Paging Terminal is not used to perform originating functions for termination of traffic on Telco's network.**
- 1.35 **"Party"** means either Telco or Carrier. **"Parties"** means both Telco and Carrier.
- 1.36 **"Person"** means an individual or a partnership, an association, a joint venture, a corporation, a business or a trust or other entity organized under Applicable law, an incorporated organization or any Governmental Authority.
- 1.37 **"POI"** means a Point of Interconnection, or the physical location at which the Parties' networks meet for the purpose of establishing Interconnection. POIs include a number of different technologies and technical interfaces based on the Parties mutual agreement.
- 1.38 **"Rate Center"** means the specific geographic point and corresponding geographic area that have been identified by a LEC. NPA-NXXs that have been assigned to a Telecommunications Carrier for its provision of Telephone Exchange Services are associated with specific Rate Centers for the purpose of rating calls.
- 1.39 **"Rating Point"** means the vertical and horizontal ("V&H") coordinates assigned to a Rate Center and associated with a particular telephone number for rating purposes. The Rating Point must be in the same LATA as the Routing Point of the associated NPA-NXX as designated in the LERG, but need not be in the same location as the Routing Point.
- 1.40 **"Routing Point"** means the V&H coordinates that a Telecommunications Carrier has designated as the destination for traffic inbound to services provided by that Telecommunications Carrier that bear a certain NPA-NXX designation. The Routing Point need not be the same as the Rating Point, but it must be in the same LATA as the Rating Point. Central Office Switches are Routing Points for traffic to end users identified by numbers drawn from NPA-NXX designations, as stated in the LERG. Where Carrier has not established Routing Points for its Dedicated NPA-NXXs in its own network, the Routing Point shall be the Telco Tandem Switch where traffic to Telco NXXs in the same NPA is homed.
- 1.41 **"SAC Code"** means Service Access Code, a non-geographic NPA typically associated with a specialized telecommunications service which may be provided across multiple geographic NPA areas, for example, 500, Toll Free Service NPAs (8YY), 700 and 900.

- 1.42 **"State"** means the state(s) individually for which the Parties intend to Interconnect under this Agreement, as listed on Appendix – State (Paging). Although this Agreement may apply to more than one state, it shall be applied separately as to each covered state and tariff references shall be to the tariffs that apply to operations in the particular state.
- 1.43 **"Switched Access Services"** means an offering of access to Telco's network for the purpose of the origination or the termination of traffic from or to Telephone Exchange Service customers in a given area pursuant to a Switched Access Services tariff. Switched Access Services include: Feature Group A ("FGA"), Feature Group B ("FGB"), Feature Group D ("FGD"), Toll Free Service and 900 access.
- 1.44 **"Tandem Switch"** means an access tandem switch or other tandem switch equipped to provide Interconnection between CMRS providers and LECs that is used to connect and switch traffic between and among Central Office Switches and other Telecommunications Carriers' networks for the purpose of providing Telephone Exchange Service and Switched Access Services.
- 1.45 **"Telcordia"** means Telcordia Technologies, Inc.
- 1.46 **"Telecommunications Carrier"** is as defined in the Act.
- 1.47 **"Telecommunications Service"** is as defined in the Act.
- 1.48 **"Telephone Exchange Service"** is as defined in the Act.
- 1.49 **"Third Party"** means any Person other than a Party.
- 1.50 **"Toll Free Service"** means service provided with a dialing sequence that invokes toll-free, (i.e., 800-like) service processing. Toll Free Service includes calls to the Toll Free Service 8YY NPA SAC codes.
- 1.51 **"Transit Traffic"** means traffic handled by a Telecommunications Carrier when providing Transiting Service.
- 1.52 **"Transiting Service"** means switching and intermediate transport of traffic between two Telecommunications Carriers, one of which is a Party to this Agreement and one of which is not, carried by the other Party to this Agreement that neither originates nor terminates that traffic on its network but instead acts as an intermediary.
- 1.53 **"Trunk" or "Trunk Group"** means the switch port interfaces(s) used and the communications path created to connect Carrier's network with Telco's network for the purpose of exchanging Authorized Services Local Calls for the purposes of Interconnection.
- 1.54 **"Trunk Side"** refers to a Central Office Switch interface that is capable of, and has been programmed to treat the Facility as, connecting to another switching entity (for example, another Central Office Switch). A Trunk Side interface offers those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone station sets.
- 1.55 **"TSMT"** means Trunk Side Message Trunk.
- 1.56 **"Type 1"** means a type of Trunk interface as technically defined in Telcordia Technical Reference GR-145-CORE and TA-NPL-000912 as TSMT and as provided in accordance with this Agreement. Type 1 is a two or four wire one-way or two-way Trunk connection between Carrier's network and Telco's End Office Switch.
- 1.57 **"Type 2A"** means a type of Trunk interface as technically defined in Telcordia Technical Reference GR-145-CORE and as provided in accordance with this Agreement.
- 1.58 **"Type 2B"** means a type of Trunk interface as technically defined in Telcordia Technical Reference GR-145-CORE and as provided in accordance with this Agreement.
- 1.59 **"Wire Center"** denotes a building or space within a building that serves as an aggregation point on a given Telecommunications Carrier's network, where transmission Facilities are connected and switched. Telco's Wire Center can also denote a building in which one or more Central Office Switches, used for the provision of Telephone Exchange Services and Switched Access Services, are located.

2. INTERCONNECTION

2.1 Technical Provisions. This Section provides for the physical connection of Carrier's and Telco's networks within the State for the transmission and routing of Telco to Carrier Paging Authorized Services traffic consistent with the requirements of 47 C.F.R. § 51.305. Telco and Carrier will physically connect their networks and exchange traffic originating from Telco's End Users and terminating to Carrier's End Users over their networks in connection with Carrier's Paging Authorized Services in accordance with the provisions of this Agreement.

2.1.1 Paging Authorized Services Interconnection. Paging Authorized Services Interconnection shall be available at the trunk side of a Telco End Office Switch via Type 1 Paging Authorized Services Interconnection (and via Type 2B Paging Authorized Services Interconnection, when and where available); and at the trunk connection points for a Telco Tandem Switch via Type 2A Paging Authorized Services Interconnection. Paging Authorized Services Interconnection shall also be provided at other technically feasible points in Telco's network at the request of Carrier and subject to the negotiation of acceptable provisioning arrangements and compensation arrangements that will provide for the recovery of Telco's costs of providing such Interconnection to the extent that such recovery is due. The Parties will attach or incorporate as amendments to this Agreement technical descriptions, and if required, descriptions of associated compensation arrangements to cover any such additional Interconnection.

2.1.2 Type 2. Carrier will obtain from the NXX Code administrator an NXX consistent with established industry guidelines for use with Type 2A and/or Type 2B interfaces. For calls in the Telco to Carrier direction, Carrier must utilize the NXX. The administration of the NXX, once assigned, including updates to the LERG, will be the responsibility of Carrier.

2.1.3 Type 1. Telco provided Type 1 interfaces shall be as described in the definition and in the referenced technical specifications. Any non-TSMT form of Type 1 interface will be eliminated within 90 Days of the Effective Date.

2.1.3.1 The Parties shall deal with Type 1 interfaces between them as set forth in this Section 2.1.3.1.

2.1.3.1.1 The Parties acknowledge that, on a going forward basis, they each desire to minimize the use of Type 1 interfaces with the goal of ultimately eliminating this method of connection, except as otherwise provided herein or where otherwise mutually agreed.

2.1.3.1.2 Carrier agrees to take the following steps to reduce the volume of traffic between the Parties using Type 1 interfaces: a) Carrier shall identify all existing NPA-NXXs assigned to it which are established as Type 1 NPA-NXXs and shall convert those NPA-NXXs so they appropriately home for Type 2 interfaces within six (6) months of the Effective Date and b) Carrier shall not provide to its End Users new service using Type 1 numbers unless, (i) there are not adequate Type 2 numbers to assign to End Users for new service, or (ii) the Parties mutually agree that new service may be provided using Type 1 numbers.

2.1.3.1.3 After receiving a written request from Carrier to convert full Type 1 NPA-NXXs, and in cooperation with Carrier, Telco will assist Carrier in achieving the transition of those numbers by: (i) performing switch programming necessary to convert Carrier's NPA-NXXs from Type 1 to Type 2 NPA-NXXs; (ii) re-trunking Type 1 Telco to Carrier from the Telco End Office Switch to the appropriate Telco Tandem Switch for delivery to Carrier's POI; (iii) designating as Type 2 traffic the traffic which is currently designated as Type 1 and routing that traffic to the appropriate Carrier Trunk Groups (whether existing or new) as further defined under an implementation plan; (iv) rating Carrier's Type 1 NPA-NXXs at the Telco End Office Switches where the Type 1 NPA-NXXs are currently rated; and

(v) routing Type 1 Telco to Carrier traffic to a Telco Tandem Switch that the current End Office Switch subtends.

- 2.1.4 Interconnection shall be provided at a level of quality equal to that which such Party provides to itself, a subsidiary, an Affiliate, or any other Telecommunications Carrier.
- 2.1.5 Each Party shall be responsible for providing its own or leased transport Facilities to route calls to and from each other's network.
- 2.1.6 POI Options. Carrier and Telco shall mutually agree on a POI for each Trunk Group utilized to carry traffic between their respective networks. A POI may be located at:
 - a. Carrier's network where the Facility terminates for Paging Authorized Services traffic, or
 - b. another mutually agreeable location.
- 2.1.7 A POI shall not be located across a LATA boundary, nor more than a distance of 14 miles (or the State's defined local calling area, whichever is greater), from the Telco Central Office Switch where the Facility connection is established. WSP is responsible for the cost of Facilities beyond 14 miles.
- 2.1.8 Interconnection Options. Carrier may order Trunk Side Interconnection in the configurations described below:
 - 2.1.8.1 Type 1 or Type 2B – End Office Switch Interface. The Parties may establish Trunk Groups at a Telco End Office Switch using a Type 1 interface (or a Type 2B interface, when and where available).
 - 2.1.8.2 Type 2A – Tandem Switch Interface. Carrier may establish Trunk Groups at a Telco Tandem Switch using a Type 2A interface.
 - 2.1.8.3 In the event that Telco deploys new Tandem Switches after the Effective Date, Telco will provide Carrier with reasonable advance notice of such a change and Telco will work cooperatively with Carrier to accomplish all necessary network changes.
- 2.1.9 Carrier may designate the interface it wants to receive from the following combinations: Trunk Side terminations at voice grade, DS0 or DS1 level. Subject to limitations provided in this Agreement, Telco shall provide the Facility from the designated End Office Switch or Tandem Switch to the POI associated with it. Only one Trunk Group will be provided by Telco in connection with each such Facility.

3. SIGNALING

- 3.1 Signaling Protocol. Carrier does not currently employ SS7 Signaling in its network. If and when Carrier is prepared to convert to SS7, SS7 will be provided per the applicable access tariffs. Where multi-frequency signaling is currently used, the Parties agree, below, to Interconnect their networks using multi-frequency ("MF") or ("DTMF") signaling, subject to availability at the End Office Switch or Tandem at which Interconnection occurs. The Parties acknowledge that the use of MF signaling may not be optimal. Telco will not be responsible for correcting any undesirable characteristics, service problems or performance problems that are associated with MF/SS7 inter-working or the signaling protocol required for Interconnection with Carrier employing MF signaling.

4. NPA-NXX

- 4.1 Each NPA-NXX associated with a Trunk Group using a Type 2A interface must have a single Rating Point and that Rating Point must be associated with a Telco End Office Switch homing on the Telco Tandem Switch where the Trunk Group is located; provided however, the Rating Point may be designated anywhere in the LATA when there is a final Commission ruling in a proceeding binding Telco. The Rating Point does not have to be the same as the Routing Point.
- 4.2 Telco shall deliver traffic destined for Carrier's network in accordance with the serving arrangements defined in the LERG except when Carrier's Paging Terminal serves NPA-NXXs, some of which home on a Telco Tandem Switch, and some of which home on a non-Telco Tandem Switch. In this case, Telco may

establish Facilities and Trunks directly between Telco's Tandem Switch and Carrier's Paging Terminal for the completion of all Telco to Carrier calls destined to terminate to such NXXs.

- 4.3 It is the responsibility of Carrier to negotiate Interconnection and traffic transport and termination arrangements directly with other Telecommunication Carriers. Telco will deliver traffic destined to Carrier regardless of the Telecommunication Carrier originating the traffic. Other than delivery, Telco has no responsibility for traffic routed from or through another Telecommunication Carrier's network to Telco's Tandem Switch destined for Carrier's Paging Terminal.

5. TRUNKS

- 5.1 Unless otherwise agreed herein, Carrier and Telco will interconnect directly in each LATA in which they exchange Local Calls and Switched Access Services traffic.

5.2 Installation/Provisioning

- 5.2.1 Carrier will be responsible for designing, ordering and provisioning all Trunks. Carrier will engineer and maintain the appropriate type of and sizing for Facilities and Trunk's according to sound engineering practice, as mutually agreed to by the Parties.

- 5.2.2 Telco will provide non-discriminatory installation and maintenance intervals that are consistent with the like type services which it provides to itself.

- 5.2.3 Orders from Carrier to Telco to establish, add, change, or disconnect Trunks shall be submitted using Telco's applicable ordering system.

- 5.2.4 Orders that comprise a major project that directly impacts the other Party will be jointly planned and coordinated. Major projects are those that require the coordination and execution of multiple orders, or related activities between and among Telco and Carrier work groups, including but not limited to the initial establishment of Interconnection in an area, designated NPA-NXX relocations, re-homes, Facility grooming or major network rearrangements.

5.3 Servicing

- 5.3.1 The Parties will jointly manage the capacity of Trunk Groups. Telco will send a request to Carrier to trigger changes Telco desires to the Trunk Groups based on Telco's capacity assessment. Carrier will issue an ASR to Telco's Wireless Interconnection Service Center:

- 5.3.1.1 Within ten (10) Business Days after receipt of the request, upon review of and in response to Telco's request; or

- 5.3.1.2 At any time as a result of Carrier's own capacity management assessment, to begin the provisioning process.

- 5.3.2 Each Party will be responsible for engineering and maintaining its network and any Facilities and Trunks it provides.

- 5.3.3 When Carrier incurs separate charges for Trunks, Carrier shall, upon request, be credited an amount for the period during which Trunks are out of service in accordance with Telco's applicable state Switched Access Services tariff for Feature Group D service.

5.4 Design Blocking Criteria

- 5.4.1 Forecasting trunk projections and servicing trunk requirements for Interconnection Trunks shall be based on the average time-consistent busy hour load of the busy season, determined from the highest twenty (20) consecutive average Business Days. The average grade-of-service for Interconnection final Trunk Groups shall be the industry standard of one percent (1%) blocking, within the time-consistent twenty day average busy hour of the busy season. Trunk projections and requirements shall be determined by using the industry standard Neil Wilkinson B.01M Trunk Group capacity algorithms for grade-of-service Trunk Groups. (Prior to obtaining actual traffic data measurements, a medium day-to-day variation and 1.0 peakedness factor shall be used to determine projections and requirements.)

- 5.4.2 The engineered blocking objective for common transport Trunk Groups (CTTG) from Telco End Office Switches to the Access Tandem Switch is one-half of one percent (0.5%). The engineered blocking objective for alternate final (AF) Trunk Groups from Telco End Office Switches to the local Tandem Switch is one percent (1%). The engineered blocking objective for direct Trunk Groups from Telco End Office Switches to Carrier's network is one percent (1%) for direct final (DF) Trunk Groups economic ccs for primary high usage groups. The engineered blocking objective for the Trunk Group from the Telco Tandem Switch to Carrier's network is one percent (1%).
- 5.4.3 When Trunks exceed measured blocking thresholds on an average time consistent busy hour for a twenty (20) Business Day study period, the Parties shall cooperate to increase the Trunks to the foregoing blocking criteria in a timely manner. The Parties agree that twenty (20) Business Days is the study period duration objective.
- 5.4.4 Direct Trunking of Carrier to Telco Traffic. If traffic from a Telco End Office delivered over a Type 2A interface at any time requires twenty-four (24) or more Trunks, Carrier shall, within sixty (60) Days of the occurrence, establish a Type 2B interface at that Telco End Office, when and where available.
- 5.4.5 If a Trunk Group is under seventy-five percent (75%) of busy hour centum call seconds (ccs) capacity on a monthly average basis for each month of any consecutive six (6) month period, either Party may contact the other to discuss resizing the Trunk Group. Neither Party will unreasonably refuse a request to resize the Trunk Group.
- 5.4.6 Each Party shall provide the other with a specific point of contact for planning, forecasting and Trunk servicing purposes.

6. TRUNK FORECASTING

- 6.1 To permit orderly growth and network management, Carrier shall forecast the volume of traffic of each Trunk associated with each POI. Carrier forecast information must be provided to Telco upon request, as often as twice a year. When extraordinary changes are anticipated, Carrier shall provide additional timely forecasts to account for such changes. The forecasts shall include:
 - 6.1.1 Yearly forecasted Trunk quantities (which include measurements that reflect actual Tandem and End Office Switch Paging Authorized Services Interconnection and Trunks and Tandem-subtending Paging Authorized Services Interconnection End Office Switch equivalent Trunk requirements) for two (2) years (current year and one (1) additional year) by quarter;
 - 6.1.2 Identification of each Trunk by the from and to Common Language Location Identifiers ("CLLI"), which are described in Telcordia Technologies, Inc. documents BR 795-100-100 and BR 795-400-100;
 - 6.1.3 A description of major system projects. Major system projects include Trunking or system rearrangements, shifts in anticipated traffic patterns, or other activities by Carrier that are reflected by a significant increase or decrease in Trunk demand for the following forecasting period.

7. COMPENSATION FOR LOCAL PAGING AUTHORIZED SERVICES INTERCONNECTION

- 7.1 Reciprocal Compensation for Paging Authorized Services is not provided in this Agreement, and shall only be charged under separate agreement or pursuant to Amendment hereto.

8. TERMS AND COMPENSATION FOR USE OF FACILITIES

- 8.1 Carrier shall be responsible for providing its own or leased transport Facilities to route calls to the POI from AT&T-13STATE's Tandem Switch, for Type 2A Interconnection, or from AT&T-13STATE's End Office Switch, for Type 2B or Type 1 Interconnection. Carrier may construct its own Facilities, it may purchase or lease these Facilities from a Third Party, or it may purchase or lease these Facilities from AT&T-13STATE, if available, pursuant to tariff or separate contract. Facilities between the Parties' respective networks will not be provided pursuant to this Agreement.

- 8.2 The Parties will connect their networks using digital Facilities of at least DS-1 transmission rates, where available. Should the Parties desire to share the cost of Facilities and Trunks, when Facilities larger than DS1 are dedicated to provide traffic under this Agreement, they will separately negotiate the terms for such sharing; otherwise, Carrier shall be fully responsible for costs of such Facilities and Trunks.
- 8.3 The following shall apply solely for DS1, or smaller Facilities dedicated for transport of one-way Telco-to-Carrier Paging Authorized Services Interconnection traffic to the POI. If Facilities are not so dedicated, Carrier shall be solely responsible for the cost of such Facilities.
- 8.3.1 Telco may use its own Facilities or may, at its sole discretion, use Facilities provided by Carrier, subject to the following:
- 8.3.1.1 Telco shall be responsible for applicable Facility charges to the extent Facilities are used to deliver Local Calls. Carrier shall be responsible for applicable Facility charges to the extent Facilities are used to deliver non-Local Calls, i.e., the sum of the Transiting Factor and the InterMTA Traffic Factor as referenced in sections 9 and 10.
- 8.3.1.2 Carrier provision of Facilities obtained from Telco will be in accordance with Telco's applicable Access Services tariff or separate contract.
- 8.3.1.3 Carrier provision of Facilities not obtained from Telco will be provided upon terms and conditions that similar Facilities are provided by Telco, and at rates equivalent to the rates Carrier pays for such Facilities (but no greater than the rates that similar Facilities are available from Telco).
- 8.3.2 Telco reserves the right to discontinue the use, for delivering Interconnection traffic from its network, of all, or a portion, of the Facilities provided by Carrier. This provision does not negate any obligations either Party may have regarding such Facilities, such as, but not limited to term and notice provisions. Nothing herein will obligate Telco to reimburse Carrier for Facilities obtained from a Third Party.
- 8.3.3 Carrier is responsible for transport facilities on its side of the POI.
- 8.4 In the event any Governmental Authority rules that Telco is entitled to recover all or any portion of its charges for Facilities provided by Telco to Carrier beyond what is provided for herein, the Parties shall amend this Agreement, within thirty (30) Days of a written request to do so, in order to provide for the payment of charges for Facilities retroactively to the Effective Date of this Agreement.

9. TRANSIT TRAFFIC

- 9.1 Via the Interconnection arrangements provided herein, Carrier may receive traffic from a Third Party Telecommunications Carriers network ("Transit Traffic").

Transit Traffic Percentage. As of the Effective Date hereof, the Parties cannot accurately measure the amount of Transit Traffic delivered by Telco to Carrier through the Interconnection Arrangements provided for herein. Accordingly, the Parties agree that 17% of the traffic delivered hereunder shall be deemed Transit Traffic. Notwithstanding the foregoing, should either Party provide to the other Party a State-specific traffic study and/or other network information regarding Transit Traffic in complete and appropriate form (determined in good faith), along with other applicable information available to the Parties (collectively, "Transit Traffic Information"), the Parties shall use such Transit Traffic Information to negotiate the appropriate percentage of traffic delivered hereunder that is deemed Transit Traffic. If such Transit Traffic Information is provided in complete and appropriate form (determined in good faith) within ninety (90) days after this Agreement is executed by duly authorized representatives of both Parties, then any revised percentage of traffic deemed Transit Traffic, which is derived using such Transit Traffic Information, shall be effective as of the date on which the Transit Traffic Information was provided to the other Party, but no earlier than the Effective Date of this Agreement; otherwise, such revised percentage of traffic deemed Transit Traffic, which is derived using such Transit Traffic Information, shall be effective as of the date such Transit Traffic Information was provided in complete and appropriate form (determined in good faith) to the other Party. Any revised percentage of traffic exchanged hereunder deemed to be Transit Traffic that

becomes effective during the Initial Term of the Agreement will remain in effect during the Initial Term of the Agreement. After the expiration of the Initial Term hereof, the percentage of traffic exchanged hereunder deemed Transit Traffic during the Initial Term shall remain in effect thereafter unless either Party provides new Transit Traffic Information to the other Party. In such case, the Parties shall use that new Transit Traffic Information to renegotiate in good faith a new revised percentage of traffic exchanged hereunder deemed Transit Traffic. Renegotiation of the percentage of traffic exchanged hereunder deemed Transit Traffic after the Initial Term shall occur no more frequently than once every twenty-four (24) months.

10. INTERMTA TRAFFIC

- 10.1 InterMTA Traffic Factor. As of the Effective Date hereof, the Parties cannot accurately measure the amount of Telco-to-Carrier InterMTA Traffic. Accordingly, for purposes of this Agreement, the Parties agree that two percent (2%) of the Telco-to-Carrier traffic shall be deemed InterMTA Traffic. Notwithstanding the foregoing, should either Party provide to the other Party State-specific, Carrier-specific network engineering information, a State-specific, Carrier-specific InterMTA Traffic study, and/or other support in complete and appropriate form (determined in good faith) ("InterMTA Traffic Information"), the Parties shall use such InterMTA Traffic Information to negotiate in good faith a mutually acceptable percentage of Telco-to-Carrier traffic that is deemed InterMTA Traffic. If such InterMTA Traffic Information is provided within ninety (90) days after this Agreement is executed by duly authorized representatives of both Parties, then any revised percentage of traffic deemed InterMTA Traffic, which is derived using such InterMTA Traffic Information, shall be effective as of the date such InterMTA Traffic Information was provided to the other Party, but no earlier than the Effective Date of this Agreement; otherwise, such revised percentage of traffic deemed InterMTA Traffic, which is derived using such InterMTA Traffic Information, shall be effective as of the date such InterMTA Traffic Information was provided in complete and appropriate form (determined in good faith) to the other Party. Any revised percentage of traffic deemed InterMTA Traffic that becomes effective during the Initial Term of this Agreement will remain in effect during the Initial Term hereof. After the expiration of the Initial Term, the percentage of traffic deemed InterMTA Traffic during the Initial Term shall remain in effect thereafter until either Party provides new InterMTA Traffic Information to the other Party. In such case, the Parties shall use the new InterMTA Traffic Information to renegotiate in good faith a new revised percentage of deemed InterMTA Traffic. Renegotiation of the percentage of deemed InterMTA Traffic after the Initial Term shall occur no more frequently than once every twenty-four (24) months.

11. BILLING AND PAYMENT

- 11.1 Telco will reimburse its proportionate share of the cost of Facilities and Trunks in accordance with this Agreement.
- 11.2 Carrier shall not default bill Telco when Telco transits unidentified traffic terminating to Carrier, unless otherwise provided for in this Agreement.
- 11.3 Charges and Payment.
- 11.3.1 Each Party agrees to pay the other all undisputed billed amounts by the earlier of (i) the payment date, which may be set no earlier than thirty (30) Days after the bill date, or (ii) the next bill date (i.e. the same date in the following month as the bill date). The undisputed portions of all bills are to be paid when due. All Facilities and serving arrangement charges shall be billed monthly in advance, except those charges due for the initial month, or a portion of the initial month during which new items are provided, in which case charges will be included in the next bill rendered. If the date on which a bill is due as provided above is on a Day other than a Business Day, payment will be made on the next Business Day. Payments will be made in U.S. dollars.
- 11.3.2 Usage-sensitive charges hereunder shall be billed monthly in arrears by both Parties.
- 11.3.3 All non-usage-sensitive monthly charges shall be billed by Telco monthly in advance, except those charges due for the initial month, or a portion of the initial month during which new items are provided, will be included in the next bill rendered.

- 11.3.4 All Facilities charges owed to Carrier by Telco as provided herein shall be billed by Carrier to Telco thirty (30) Days following receipt by Carrier of Telco's invoice.
- 11.3.5 Late Payment Charge. Bills will be considered past due 30 Days after the bill date or by the next bill date (i.e., same date as the bill date in the following month), whichever occurs first, and are payable in immediately available U.S. funds. If the amount billed is received by the billing Party after the payment due date, or if any portion of the payment is received by the billing Party in funds which are not immediately available to the billing Party, then a late payment charge will apply to the unpaid balance. The late payment charge will be as set forth in Telco's applicable state tariff. When there is no applicable tariff in the State, any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1½%) per month or (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the number of Days from the Bill Due Date to and including the date that payment is actually made.
- 11.3.6 Billing Disputes. The billed Party has sixty (60) Days after the receipt of the invoice to officially dispute, in writing, the charges which have been withheld from the billing Party. Such billing dispute will include specific invoice and dispute detail for the billing Party to be able to properly investigate the dispute. If the appropriate billing contacts are unable to resolve the dispute within sixty (60) Days after receipt of the written billing dispute, the issue may be escalated to appropriate business representatives who will then have thirty (30) Days to resolve the dispute. In the event that the billing dispute cannot be resolved by the appropriate business representatives, either Party may commence a dispute resolution in accordance with the Dispute Resolution provisions set forth in this Agreement.
- 11.3.7 Backbilling. Charges for all services, Facilities or Trunks provided pursuant to this Agreement may be billed by the billing Party for up to one (1) year after each date such item was furnished for utilization. This Section shall not apply to backbilling that would be appropriate where changes are not evident other than through an audit pursuant to Audit provisions of this Agreement.
- 11.3.8 Backcredits. Neither Party may request credit for any billing by the other Party pursuant to this Agreement more than one (1) year after the date of the bill on which new or additional charges initially appear for services, Facilities or Trunks. Any such request will be in writing and contain sufficient detail to allow the other Party to properly investigate the request. If the request for credit leads to a billing dispute, such dispute shall be handled in accordance with Section 11.3.6 above. This Section shall not apply to requests for credit in the following situations: when the true-ups are provided for in this Agreement, or where changes are not evident other than through an audit pursuant to Audit provisions of this Agreement.
- 11.3.9 Tariffed Items. Where charges specifically refer to tariffed rates, those tariffed rates and those alone shall be deemed amended to conform to any authorized modifications that may hereafter occur to those tariffed rates. Such amendments shall become effective upon the effective date of tariff modifications.

11.4 Invoices

- 11.4.1 Invoices shall comply with nationally accepted standards agreed upon by the Ordering and Billing Forum (OBF) for billing access traffic.
- 11.4.2 Parties agree that each will perform the necessary call recording and rating for its respective portions of an exchanged call in order to invoice the other Party.
- 11.4.3 Invoices between the Parties shall include, but not be limited to the pertinent following information.
- Identification of the monthly bill period (from and through dates)
 - Current charges
 - Past due balance
 - Adjustments
 - Credits
 - Late payment charges

- Payments
- Contact telephone number for billing inquiries

The Parties will provide a remittance document with each invoice identifying:

- Remittance address
- Invoice number and/or billing account number
- Summary of charges
- Amount due
- Payment due date (at least thirty (30) Days from the bill date)

11.4.4 Invoices between the Parties will be provided on paper and will be the primary bill, unless a mechanized format is mutually agreed upon and subsequently designated in writing by both Parties as the primary bill.

11.4.5 Invoices will be based on paging calls or Conversation MOU, as provided under Appendix – Pricing (Paging) for all completed calls and, as to Conversation MOUs, if applicable, are measured in total conversation time seconds, which are totaled (by originating and terminating CLLI code) for the monthly billing cycle and then rounded up to the next whole minute.

11.4.6 Telco may bill Carrier for Facilities and/or Trunks based on the Parties proportionate use, as stated within Section 8. When Telco is unable to bill for Facilities and/or Trunks based on the Parties proportionate use, Carrier will bill Telco under separate invoice for Telco's proportionate share of Facilities and/or Trunks, as stated within Section 8.

11.4.7 Carrier will bill Telco by LATA, by state, based on the terminating location of the call. Carrier will display the CLLI code(s) associated with the Trunk through which the exchange of traffic between Telco and Carrier takes place as well as the number of calls and Conversation MOUs for each inbound Facility route. Telco will bill Carrier by LATA and by the End Office/Tandem Switch, based on the terminating location of the call and will display and summarize the number of calls and Conversation MOUs, for each terminating office.

11.5 Unless specifically provided in this Agreement, there will be no netting by the billed Party of payments due herein against any other amount owed by one Party to the other.

12. AMENDMENTS, CHANGES, AND MODIFICATIONS: WAIVER

12.1 If either Party proposes to make any permanent changes in the arrangements provided for in this Agreement, or any Attachments, or any permanent change in its operations that would affect the other Party's operations or services once the Trunks, apparatus, equipment, or any other item furnished by the Parties under this Agreement are installed, the changing Party shall give reasonable advance written notice to the other Party of such changes, advising when such changes will be made. All such changes shall be coordinated with the non-changing Party. Nothing in this Section 12.1 shall affect the Parties' rights and obligations under this Agreement.

12.2 Subject to specific provisions herein to the contrary, each Party shall be solely responsible, at its expense, for the overall design of its services and for any redesigning or rearrangement of its services that may be required because of changes in Facilities, Trunks, operations or procedures of the other Party, minimum network protection criteria, or operating or maintenance characteristics of the Trunks.

12.3 No provision of this Agreement shall be deemed waived, amended, or modified by either Party, unless such waiver, amendment, or modification is in writing and signed by the authorized representatives of both Parties. Neither Party shall be bound by any amendment, modification or additional terms unless it is reduced to writing and signed by an authorized representative of the Party sought to be bound. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications, unless agreed to by the receiving Party in writing.

- 12.4 The failure of either Party to enforce or insist that the other Party comply with the terms or conditions of this Agreement, or the waiver by either Party in a particular instance of any of the terms or conditions of this Agreement, shall not be construed as a continuing, future or general waiver or relinquishment of the terms, conditions, rights or privileges, but this Agreement shall be and remain at all times in full force and effect.

13. ASSIGNMENT

- 13.1 Neither Party may assign, subcontract, or otherwise transfer its rights or obligations under this Agreement except under such terms and conditions as are mutually acceptable to the other Party and with such Party's prior written consent, which consent shall not be unreasonably withheld; provided that each Party may assign this Agreement to an Affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Notwithstanding the foregoing, Carrier may not assign nor transfer this Agreement (or any rights or obligations hereunder) to its Affiliate if that Affiliate is party to another agreement with Telco under Section 251/252 of the Act, unless such Affiliate agreement is terminated prior to, or contemporaneously with, such assignment. Nothing in this Section 13.1 is intended to impair the right of either Party to utilize subcontractors.
- 13.2 This Agreement will be binding on and inure to the benefit of the Parties' respective successors and permitted assigns.

14. AUDITS

- 14.1 Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the respective Parties involved.
- 14.2 Upon reasonable written notice and at its own expense, each Party or its authorized representative (providing such authorized representative does not have a conflict of interest related to other matters involving one of the Parties) shall have the right to conduct an audit of the other Party, which audit shall be limited to the sole purpose of determining compliance with the provisions of this Agreement. Neither Party may request more than one (1) such audit per state within any twelve (12) month period. This includes on-site audits at the other Party's or the other Party's vendor locations.
- 14.3 Each Party, whether or not in connection with an audit, shall maintain reasonable records for a minimum of twenty-four (24) months and provide the other Party with reasonable access to such information as is necessary to determine amounts receivable or payable under this Agreement.
- 14.4 Each Party's right to access information for audit purposes is limited to data not in excess of twenty-four (24) months in age.
- 14.5 The audited Party may require the auditing Party to use the services of a third Party independent auditor instead of its own employees for such audit if reasonably necessary to protect Proprietary Information.
- 14.6 If any audit confirms any undercharge or overcharge, then the audited Party will (i) for any overpayment, promptly correct any billing error, including making refund of any overpayment by the auditing Party in the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results and (ii) for any undercharge caused by the actions of or failure to act by the audited Party, immediately compensate the auditing Party for such undercharge, in each case with interest at the lesser of (a) one and one-half percent (1½%) per month, or (b) the highest rate of interest that may be charged under Applicable Law, compounded daily, for the number of Days from the date on which such undercharge or overcharge originated until the date on which such credit is issued or payment is made and available, as the case may be.

15. AUTHORIZATION

- 15.1 Telco represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation, that AT&T Operations, Inc. has full power and authority to execute and deliver this Agreement as agent for Telco, and that Telco has full power and authority to perform its obligations hereunder.

- 15.2 Carrier represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation, and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder.
- 15.3 Each Party warrants that it has obtained or will obtain prior to operating under this Agreement, all necessary jurisdictional licenses, authorizations and/or certifications required in those jurisdictions in which it will order services or Facilities or will operate under this Agreement. Upon request, each Party shall provide proof of such licenses, authorizations and/or certification.
- 15.4 The complete list of Carrier's Access Carrier Name Abbreviation (ACNA) codes covered by this Agreement is listed below. Any addition, deletion or change in name associated with these listed ACNA codes requires notice to Telco. Notice must be received before orders can be processed under a new or changed ACNA code.

ACNA List: NSA
 MVZ

16. COMPLETE TERMS

- 16.1 This Agreement, together with its appendices and any other attachments, constitutes the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written. Appendices and any other attachments referred to herein or attached hereto are deemed incorporated by this reference.

17. COMPLIANCE

- 17.1 Party will comply, at its own expense, with all Applicable Laws relating to its performance under this Agreement, including but not limited to safety and health regulations relating to one Party's activities at the other Party's locations, and to indemnify and hold the other Party harmless for any judgments, citations, fines, or other penalties which are assessed against such other Party as the result solely of the first Party's failure to comply with any Applicable Law.
- 17.2 Trunks and services provided under this Agreement will not be used knowingly for any purpose or in any manner, directly or indirectly, in violation of law or in aid of any unlawful act or undertaking. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of Applicable Law.

18. CONFIDENTIAL INFORMATION

- 18.1 Each Party anticipates and recognizes that it will come into possession of technical or business information or data about the other Party and/or its customers (including without limitation its end user customers) as a result of this Agreement which will be considered confidential by such other Party. The Parties agree (1) to treat all such information and data as strictly confidential; and (2) to use such information only for purposes of performance under this Agreement. Each Party agrees not to disclose confidential information and/or data of or pertaining to the other Party or its customers (including without limitation its end user customers) to any third party without first securing the written consent of such Party. The foregoing shall not apply to information which is in the public domain. Nothing in this Agreement prevents either Party from disclosing operations results or other data that might reflect the results of this Agreement as a part of that Party's aggregate operating data as long as the disclosed data is at a level of aggregation sufficient to avoid disclosing with specificity information obtained in the operation of this Agreement.
- 18.2 If a court or governmental agency orders or a third-party requests a Party to disclose or to provide any data or information covered by this section, that Party will immediately inform the other Party of the order or request before such data or information is provided and will inform the other Party both by telephone and certified mail. Notification and consent requirements described above are not applicable in cases where a court order requires the production of billing and/or usage records of or pertaining to an individual customer (including without limitation an end user customer).

- 18.3 This section will not preclude the disclosure by a Party of information or data subject to this Section to consultants, agents, or attorneys representing that Party, or the Office of the Public Counsel for a State, or appropriate State Commissions or staffs, or FCC Staff, provided that such representatives are informed of the confidential nature of the information and/or date prior to disclosure and are bound by confidentiality requirements that are at least as restrictive as applicable to the Parties to this Agreement.
- 18.4 The provisions of this section shall survive the expiration and/or termination of this Agreement, unless agreed to in writing by the Parties.

19. DISCLAIMER OF WARRANTIES

- 19.1 EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE INTERCONNECTION, FUNCTIONS, PRODUCTS AND SERVICES IT PROVIDES UNDER THIS AGREEMENT AND EACH PARTY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, NEITHER PARTY TO THIS AGREEMENT ASSUMES ANY RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY ANY OTHER PARTY TO THIS AGREEMENT WHEN SUCH DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.

20. DISPUTE RESOLUTION

- 20.1 Finality of Disputes. Except as otherwise specifically provided for in this Agreement, no Claims will be brought for disputes arising from this Agreement more than 24 months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.
- 20.2 Alternative to Litigation. Except as otherwise specifically provided for in this Agreement, the Parties desire to resolve disputes arising out of this Agreement without court litigation. Accordingly, the Parties agree to use the following Dispute Resolution procedure with respect to any controversy or Claim arising out of or relating to this Agreement or its breach.
- 20.3 Commencing Dispute Resolution. Dispute Resolution shall commence upon the sending from one Party to the other of written notice of a controversy or Claim arising out of or relating to this Agreement or its breach. No Party may pursue any Claim unless such written notice has first been given to the other Party.
- 20.4 Informal Resolution of Disputes. When such written notice has been given, as required by Section 20.3, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit without the prior written concurrence of both Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.
- 20.5 Formal Dispute Resolution. If the Parties are unable to resolve the dispute through the informal procedure described above in Section 20.4, then either Party may invoke the following formal Dispute Resolution procedures by submitting to the other Party a written demand for arbitration. Unless agreed upon by the Parties, formal dispute resolution procedures described below, including arbitration or other procedures as appropriate, may be invoked not earlier than sixty (60) Days after the date of the letter initiating dispute resolution under Section 20.3.
- 20.5.1 Claims Subject to Mandatory Arbitration. The following Claims, if not settled through informal dispute resolution, will be subject to mandatory arbitration pursuant to Section 20.6 below. All unresolved billing disputes involving amounts (whether billed by Carrier to Telco or Telco to Carrier) equal to or less than one (1) percent of the sum of the amounts billed to Carrier by Telco and Telco

to carrier under this Agreement during the calendar year in which the dispute arises. For any calendar year in which Telco does not issue a bill to Carrier each month, the Parties, in determining whether this Section applies, will annualize the bills issued for that calendar year.

20.5.2 Claims Subject to Elective Arbitration. All Claims not described in Section 20.5.1 above will be subject to arbitration if, and only if, the Claim is not settled through informal dispute resolution and both parties agree to arbitration. If both parties do not agree to arbitration, then either party may proceed with any remedy available to it pursuant to law, equity or agency mechanism.

20.6 Arbitration. Disputes subject to mandatory or elective arbitration under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree. Each arbitration will be held in the city identified in Appendix – Arbitration Location (Paging) for the State, unless the parties agree otherwise. The arbitration hearing will be requested to commence within sixty (60) Days of the demand for arbitration. The arbitrator will control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs upon a schedule determined by the arbitrator. The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) Days after the close of hearings. The Federal Arbitration Act, 9 U.S.C. §§ 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator will have no authority to award punitive damages, exemplary damages, consequential damages, multiple damages, or any other damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Agreement. The arbitrator shall be knowledgeable of telecommunications issues. The times specified in this Section 20.6 may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Each Party will bear its own costs of these procedures, including attorneys' fees. The Parties will equally split the fees of the arbitration and the arbitrator. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

20.7 Resolution of Billing Disputes. The following provisions apply specifically to the resolution of billing disputes.

20.7.1 When a billing dispute is resolved in favor of the billed Party the following will occur within thirty (30) Days:

20.7.1.1 Interest will be paid by the billing Party on any amounts paid in excess of the amount found to be due according to the Dispute Resolution.

20.7.1.2 Payments made in excess of the amount found to be due according to the Dispute Resolution will be reimbursed by the billing Party.

20.7.2 When a billing dispute is resolved in favor of the billing Party, the following will occur within thirty (30) Days:

20.7.2.1 Late payment charges will be paid by the billed Party on any amount not paid that was found to be due according to the Dispute Resolution.

20.7.2.2 Any amounts not paid but found to be due according to the Dispute Resolution will be paid to the billing Party.

20.8 No Conflict. The Dispute Resolution procedures set forth in this Agreement are not intended to conflict with applicable requirements of the Act or the state commission with regard to procedures for the resolution of disputes arising out of this Agreement.

20.9 Carrier elects to incorporate Appendix – Merger as an additional provision pursuant to the provisions stated therein.

21. EFFECTIVE DATE

21.1 This Agreement shall become effective upon approval by the Commission.

22. FORCE MAJEURE

22.1 Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers. In such event, the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a Day-to-Day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a Day-for-Day basis to the extent such Party's obligations related to the performance so interfered with). The affected Party shall use its best efforts to avoid or remove the cause of nonperformance and both Parties shall proceed to perform with dispatch once the causes are removed or cease.

23. GOVERNING LAW

23.1 The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the Parties will be governed by the Act, FCC rules and regulations, Commission rules and regulations, and the domestic laws of the State, without regard to its conflicts of laws principles.

24. HEADINGS

24.1 The headings in this Agreement are inserted for convenience and identification only and will not be considered in the interpretation of this Agreement.

25. INDEMNITY

- 25.1 Except as otherwise expressly provided herein or in specific appendices, each Party shall be responsible only for the Interconnection, functions, products, Facilities, Trunks and services which are provided by that Party, its authorized agents, subcontractors, or others retained by such parties, and neither Party shall bear any responsibility for the Interconnection, functions, products and services provided by the other Party, its agents, subcontractors, or others retained by such parties.
- 25.2 Except as otherwise expressly provided herein or in specific appendices, and to the extent not prohibited by Applicable Law and not otherwise controlled by tariff, each Party (the "Indemnifying Party") shall release, defend and indemnify the other Party (the "Indemnified Party") and hold such Indemnified Party harmless against any Loss to a Third Party arising out of the negligence or willful misconduct ("Fault") of such Indemnifying Party, its agents, its End Users, contractors, or others retained by such parties, in connection with the Indemnifying Party's provision of Interconnection, functions, products and services under this Agreement; provided, however, that (i) with respect to employees or agents of the Indemnifying Party, such Fault occurs while performing within the scope of their employment, (ii) with respect to subcontractors of the Indemnifying Party, such Fault occurs in the course of performing duties of the subcontractor under its subcontract with the Indemnifying Party, and (iii) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.
- 25.3 In the case of any Loss alleged or claimed by an End User of either Party, the Party whose End User alleged or claimed such Loss (the "Indemnifying Party") shall defend and indemnify the other Party (the "Indemnified Party") against any and all such Claims or Losses by its End User regardless of whether the underlying Interconnection, function, product or service giving rise to such Claim or Loss was provided or provisioned by the Indemnified Party, unless the Claim or Loss was caused by the gross negligence or willful misconduct of the Indemnified Party.
- 25.4 A Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any Claim or Loss arising from the Indemnifying Party's use of Interconnection, functions, products and services provided under this Agreement involving:

25.4.1 any Claim or Loss arising from such Indemnifying Party's use of Interconnection, functions, products and services offered under this Agreement, involving any Claim for libel, slander, invasion of privacy, or infringement of Intellectual Property rights arising from the Indemnifying Party's or its End User's use.

24.4.1.1 The foregoing includes any Claims or Losses arising from disclosure of any End User-specific information associated with either the originating or terminating numbers used to provision Interconnection, functions, products or services provided hereunder and all other Claims arising out of any act or omission of the End User in the course of using any Interconnection, functions, products or services provided pursuant to this Agreement.

25.4.1.2 The foregoing includes any Losses arising from Claims for actual or alleged infringement of any Intellectual Property right of a Third Party to the extent that such Loss arises from an Indemnifying Party's or an Indemnifying Party's End User's use of Interconnection, functions, products or services provided under this Agreement; provided, however, that an Indemnifying Party's obligation to defend and indemnify the Indemnified Party shall not apply:

25.4.1.2.1 where an Indemnified Party or its End User modifies Interconnection, functions, products or services; and

25.4.1.2.2 no infringement would have occurred without such modification.

25.4.2 Neither Party shall be liable for any penalties imposed on either Party because of the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (CALEA); provided that the Indemnifying Party shall also, at its sole cost and expense, pay any amounts necessary to modify or replace any equipment, Facilities or services provided to the Indemnified Party under this Agreement to ensure that such equipment, Facilities and services fully comply with CALEA.

25.5 Each Party ("Indemnifying Party") shall reimburse the other Party ("Indemnified Party") for damages to the Indemnified Party's equipment, Interconnection Trunks and other property utilized to provide Interconnection hereunder caused by the negligence or willful act of the Indemnifying Party, its agents, subcontractors or End User or resulting from the Indemnifying Party's improper use of the Indemnified Party's equipment, Interconnection Trunks or other property, or due to malfunction of any functions, products, services or equipment provided by any person or entity other than the Indemnified Party. Upon reimbursement for damages, the Indemnified Party will cooperate with the Indemnifying Party in prosecuting a Claim against the person causing such damage. The Indemnifying Party shall be subrogated to the right of recovery by the Indemnified Party for the damages to the extent of such payment.

25.6 Indemnification Procedures

25.6.1 Whenever a Claim shall arise for indemnification under this Section 25, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such Claim.

25.6.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such Claim and the identity of counsel selected by the Indemnifying Party.

25.6.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such Claim, the Indemnified Party shall defend such Claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such Claim.

25.6.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such Claims, subject to consultation with the Indemnified Party.

So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.

- 25.6.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.
- 25.6.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the Claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.
- 25.6.7 If the Indemnifying Party does not accept the defense of any indemnified Claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.
- 25.6.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.
- 25.6.9 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such Claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 18.

26. INTELLECTUAL PROPERTY

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

27. INTERPRETATION AND CONSTRUCTION

- 27.1 Wherever a tariffed rate is cited or quoted, it is understood that said cite incorporates any changes to said tariffs as required by the Act.
- 27.2 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.
- 27.3 This Agreement may be negotiated for more than one state, as listed on Appendix – State (Paging). However, this Agreement shall be applied separately and distinctly to the Parties' operations in each individual state.
- 27.4 This Agreement (including all attachments hereto), and every interconnection, service and network element provided hereunder, is subject to all rates, terms and conditions contained in this Agreement (including all attachments hereto) that are legitimately related to such interconnection, service or network element; and all such rates, terms and conditions are incorporated by reference herein and as part of every interconnection, service and network element provided hereunder. Without limiting the general applicability of the foregoing, the Terms and Termination provisions of this Agreement are specifically agreed by the

Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder.

- 27.5 For ease of administration, this Agreement contains certain specified rates, terms and conditions which apply only in a designated State ("State-Specific Terms"). To the extent that this Agreement contains State-Specific Terms, such State-Specific Terms shall not apply and shall have no effect in any other State(s) to which this Agreement is submitted for approval under Section 252(e) of the Act. When the Parties negotiate an interconnection agreement for an additional state, neither Party shall be precluded by any language in this Agreement from negotiating State-Specific Terms for the state in which they are to apply.

28. INTERVENING LAW

- 28.1 This Agreement is the result of negotiations between the Parties and may incorporate certain provisions that resulted from arbitration by the appropriate state Commission(s). In entering into this Agreement and any Amendments to such Agreement and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s), including, without limitation, its intervening law rights relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC*, et. al, 535 U.S. 467 (2002); *USTA*, et. al v. FCC, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98 and 98-147 (FCC 03-36) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004), and the FCC's Biennial Review Proceeding; the FCC's Order on Remand (FCC 04-290), WC Docket No. 04-313 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); the FCC's Report and Order and Notice of Proposed Rulemaking (FCC 05-150), CC Docket Nos. 02-33, 01-337, 95-20, 98-10 and WC Docket Nos. 04-242 and 05-271 (rel. Sept. 23, 2005) ("Title I Order"); the FCC's Supplemental Order Clarification (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), and as to the FCC's Notice of Proposed Rulemaking as to Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001) (collectively "Government Actions"). Notwithstanding anything to the contrary in this Agreement (including any amendments to this Agreement), **AT&T-13STATE** has no obligation to provide unbundled network elements (UNEs) to WSP and shall have no obligation to provide UNEs beyond those that may be required by the Act, if any, including the lawful and effective FCC rules and associated FCC and judicial orders. Except to the extent that **AT&T-13STATE** has adopted the FCC ISP terminating compensation plan ("FCC Plan") in an **AT&T-13STATE** state in which this Agreement is effective, and the Parties have incorporated rates, terms and conditions associated with the FCC Plan into this Agreement, these rights also include but are not limited to **AT&T-13STATE**'s right to exercise its option at any time to adopt on a date specified by **AT&T-13STATE** the FCC Plan, after which date ISP-bound traffic will be subject to the FCC Plan's prescribed terminating compensation rates, and other terms and conditions, and seek conforming modifications to this Agreement. If any action by any state or federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and/or otherwise affects the rights or obligations of either Party that are addressed by this Agreement, specifically including but not limited to those arising with respect to the Government Actions, the affected Provision(s) shall be immediately invalidated, modified or stayed consistent with the action of the regulatory or legislative body or court of competent jurisdiction upon the written request of either Party ("Written Notice"). With respect to any Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretation of the actions required or the provisions affected by such order shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

29. REGULATORY APPROVAL

- 29.1 The Parties understand and agree that this Agreement and any amendment or modification hereto will be filed with the Commission for approval in accordance with Section 252 of the Act. If any governmental authority or agency rejects any provision of this Agreement, the Parties will negotiate promptly and in good faith, in accordance with the requirements of Section 23 of this Agreement, the revisions which may reasonably be required to achieve approval. The Parties intend that any additional services requested by either Party relating to the subject matter of this Agreement will be incorporated into this Agreement by amendment. Each amendment will be effective between the Parties on the date specified in the amendment.

30. AMENDMENTS AND MODIFICATIONS

- 30.1 No provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties. The rates, terms and conditions contained in the amendment shall become effective upon approval of such amendment by the Commission.

31. LAW ENFORCEMENT AND CIVIL PROCESS

- 31.1 Intercept Devices. Local and federal law enforcement agencies periodically request information or assistance from local telephone service providers. When either Party receives a request associated with an End User of the other Party, it shall refer such request to the Party that serves such End User, unless the request directs the receiving Party to attach a pen register, trap-and-trace or form of intercept on the Party's facilities, in which case that Party shall comply with any valid request.
- 31.2 Subpoenas. If a Party receives a subpoena for information concerning an End User the Party knows to be an End User of the other Party, it shall refer the subpoena to the requesting party with an indication that the other Party is the responsible company, unless the subpoena requests records for a period of time during which the receiving Party was the End User's service provider, in which case that Party will respond to any valid request.
- 31.3 The Parties will cooperate to comply with any request for information or assistance from law enforcement agencies. However, neither Party shall be held liable for any Claims or damages arising from compliance with such requests relating to the other Party's End Users and the Party serving such End User agrees to indemnify and hold the other Party harmless against any and all such Claims.

32. LIMITATION OF LIABILITY

- 32.1 Except for indemnity obligations or as otherwise provided in specific appendices under this Agreement and except to the extent (if at all) prohibited by law or public policy, each Party's liability to the other Party for any Loss relating to or arising out of such Party's performance under this Agreement, including but not limited to any negligent act or omission (whether willful or inadvertent), whether in contract, tort or otherwise, including but not limited to alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement also constitute a violation of a statute, including but not limited to the Act, shall not exceed in total the amount that Party has charged or would have charged to the other Party for the affected service(s) or function(s) which were not performed or were improperly performed.
- 32.2 Apportionment of Fault. Except for Losses alleged or Claimed by an End User of either Party and except as otherwise provided in specific appendices, in the case of any Loss alleged or Claimed by a Third Party arising out of the negligence or willful misconduct of both Parties, each Party shall bear, and its obligation under this Section shall be limited to, that portion of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.
- 32.3 Except to the extent (if at all) prohibited by law or public policy, neither Carrier nor Telco shall be liable to the other Party for any indirect, incidental, consequential, reliance, special or punitive damages suffered by