

**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252  
OF THE TELECOMMUNICATIONS ACT OF 1996**

**by and among**

**Illinois Bell Telephone Company d/b/a SBC Illinois,  
Indiana Bell Telephone Company Incorporated d/b/a  
SBC Indiana,  
Michigan Bell Telephone Company d/b/a SBC Michigan,  
Nevada Bell Telephone Company d/b/a SBC Nevada,  
The Ohio Bell Telephone Company d/b/a SBC Ohio,  
Pacific Bell Telephone Company d/b/a SBC California,  
The Southern New England Telephone Company d/b/a  
SBC Connecticut, Southwestern Bell Telephone Company  
d/b/a SBC Arkansas SBC Kansas, SBC Missouri, SBC Oklahoma  
and/or SBC Texas,  
Wisconsin Bell, Inc. d/b/a SBC Wisconsin**

**and**

**LEVEL 3 COMMUNICATIONS, LLC**

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**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE  
TELECOMMUNICATIONS ACT OF 1996**

This Interconnection and/or Resale Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (**the Agreement**), by and between one or more of the SBC Communications Inc. owned ILEC's **Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut** and **Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma** and/or **SBC Texas**, and **Wisconsin Bell, Inc. d/b/a SBC Wisconsin**, (to the extent that the agent for each such SBC-owned ILEC executes this Agreement for such SBC-owned ILEC and only to the extent that such SBC-owned ILEC provides Telephone Exchange Services as an ILEC in each of the state(s) listed below) and, \_\_\_\_\_ ("CLEC"), (a \_\_\_\_\_ corporation), shall apply to the state(s) of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

**WHEREAS**, the Parties want to Interconnect their networks at mutually agreed upon points of interconnection to provide, directly or indirectly, Telephone Exchange Services and Exchange Access to End-Users over their respective Telephone Exchange Service facilities in the states which are subject to this Agreement; and

**WHEREAS**, the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will Interconnect their networks and facilities and provide to each other services as required by the Telecommunications Act of 1996 as specifically set forth herein; and

**WHEREAS**, for purposes of this Agreement, **LEVEL 3** intends to operate where **Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut and Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma** and/or **SBC Texas**, and **Wisconsin Bell, Inc. d/b/a SBC Wisconsin** are the incumbent Local Exchange Carrier(s) and **LEVEL 3**, a competitive Local Exchange Carrier, has or, prior to the provisioning of any Interconnection, access to unbundled Network Elements, Telecommunications Services or any other functions, facilities, products or services hereunder, will have been granted authority to provide certain local Telephone Exchange Services in the foregoing ILEC Service areas by the appropriate State Commission(s);

**NOW, THEREFORE**, the Parties hereby agree as follows:

This Agreement is composed of General Terms and Conditions, which are set forth below, together with certain Appendices, Schedules, Exhibits and Addenda which immediately follow this Agreement, all of which are hereby incorporated in this Agreement by this reference and constitute a part of this Agreement.

## **GENERAL TERMS AND CONDITIONS**

### **1. DEFINITIONS**

[1] Capitalized Terms used in this Agreement shall have the respective meanings specified below in, Section 1.x of each Appendix attached hereto, and/or as defined elsewhere in this Agreement.

[DEFINITIONS TO BE SUPPLIED]

### **2. INTERPRETATION, CONSTRUCTION AND SEVERABILITY**

#### **2.1 Definitions**

2.1.1 For purposes of this Agreement, certain terms have been defined in this Agreement to encompass meanings that may differ from, or be in addition to, the normal connotation of the defined word. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation” and/or “but not limited to”. 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.

#### **2.2 Headings Not Controlling**

2.2.1 The headings and numbering of Sections, Parts, Appendices Schedules and Exhibits to this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

2.2.2 This Agreement incorporates a number of Appendices which, together with their associated Attachments, Exhibits, Schedules and Addenda, constitute the entire Agreement between the Parties. In order to facilitate use and comprehension of the Agreement, the Appendices have been grouped under broad headings. It is understood that these groupings are for convenience of reference only, and are not intended to limit the applicability that any particular appendix, attachment, exhibit, schedule or addenda may otherwise have.

## 2.3 Referenced Documents

2.3.1 Unless the context shall otherwise specifically require, and subject to **Section 21**, to the extent not inconsistent with this Agreement, whenever any provision of this Agreement refers to a technical reference, technical publication, **LEVEL 3** Practice, **SBC-13STATE** Practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement (collectively, a “**Referenced Instrument**”), it will be deemed to be a reference to the then-current version or edition (including any amendments, supplements, addenda, or successors) of each Referenced Instrument that is in effect, and will include the then-current version or edition (including any amendments, supplements, addenda, or successors) of any other Referenced Instrument incorporated by reference therein.

## 2.4 References

2.4.1 References herein to Sections, Paragraphs, Exhibits, Parts, Schedules, and Appendices shall be deemed to be references to Sections, Paragraphs and Parts of, and Exhibits, Schedules and Appendices to, this Agreement unless the context shall otherwise require.

## 2.5 Tariff References

2.5.1 Wherever any Commission ordered tariff provision or rate is cited or quoted herein, it is understood that said cite encompasses any revisions or modifications to said tariff. Each Party has incorporated by reference certain provisions of its Tariffs that govern the provision of specified services or facilities provided hereunder. Subject to Section 2.11.2 regarding changes in rates, if any provision of this Agreement and an applicable tariff cannot be reasonably construed or interpreted to avoid conflict, the provisions in this Agreement shall prevail.

2.5.2 Wherever any Commission ordered tariff provision or rate is incorporated, cited or quoted herein, it is understood that said incorporation or reference

applies only to the entity within the state whose Commission ordered that tariff.

## 2.6 Conflict in Provisions

- 2.6.1 In the event of a conflict between the provisions of this Agreement and the Act, the provisions of the Act shall govern.
- 2.6.2 If any definitions, terms or conditions in any given Appendix, Attachment, Exhibit, Schedule or Addenda differ from those contained in the main body of this Agreement, those definitions, terms or conditions will supersede those contained in the main body of this Agreement, but only in regard to the services or activities listed in that particular Appendix, Attachment, Exhibit, Schedule or Addenda. In particular, if an Appendix contains a Term length that differs from the Term length in the main body of this Agreement, the Term length of that Appendix will control the length of time that services or activities are to occur under that Appendix, but will not affect the Term length of the remainder of this Agreement.
- 2.6.3 In **SBC CONNECTICUT** only, in the event of a conflict between any provision in this Agreement and any provision in the DPUC ordered tariffs covering the services that are the subject of this Agreement with **SBC CONNECTICUT**, such DPUC ordered tariffs will prevail. The Parties reserve their rights to dispute the issues addressed in this provision before the Connecticut DPUC.

## 2.7 Joint Work Product

- 2.7.1 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.

## 2.8 Severability

- 2.8.1 If any provision of this Agreement is rejected or held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. If necessary to effect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible.



## 2.9 Incorporation by Reference

2.9.1 The General Terms and Conditions of this Agreement, and every Interconnection, Resale Service Network Element, function, facility, product or service provided hereunder, shall be subject to all rates, terms and conditions contained in the Appendices to this Agreement which are legitimately related to such Interconnection, Resale Service, Network Element, function, facility, product or service; and all such rates, terms and conditions are incorporated by reference herein and deemed a part of every Interconnection, Resale Service, Network Element, function, facility, product or service provided hereunder. 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, Resale Service, Network Element, function, facility, product or service 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; indemnity; remedies; intellectual property; publicity and use of trademarks and 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; relationship of the Parties/independent contractor; no third Party beneficiaries, disclaimer of agency; assignment; subcontracting; hazardous substances and responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; customer inquiries; expenses; conflict of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

## 2.10 Non-Voluntary Provisions

2.10.1 This Agreement incorporates certain rates, terms and conditions that were not voluntarily negotiated by **SBC-13STATE**, but instead resulted from determinations made in arbitrations under Section 252 of the Act or from other requirements of regulatory agencies or state law (individually and collectively, a “Non-Voluntary Arrangement”). **SBC-13STATE** has identified some, but not all, of the Non-Voluntary Arrangements contained in this Agreement, by designating such provisions with asterisks. If any Non-Voluntary Arrangement is modified as a result of any order or finding by the FCC, the appropriate Commission or a court of competent jurisdiction, any Party may, by providing written notice to the other Party, require that any affected Non-Voluntary Arrangement (and any related

rates, terms and conditions) be deleted or renegotiated, as applicable, in good faith and this Agreement amended accordingly. If such modifications to this Agreement are not executed within sixty (60) days after the date of such notice, a Party may pursue its rights under Section 10.

- 2.10.2 The Parties acknowledge that the Non-Voluntary Arrangements contained in this Agreement shall not be available in any state other than the state that originally imposed/required such Non-Voluntary Arrangement. By way of example only, the Parties acknowledge that the PUCO's imposition in Ohio of the Minimum Telephone Service Standards (and all terms and conditions relating thereto) shall not apply in or be "portable to" any state other than Ohio.

2.11 **State-Specific Rates, Terms and Conditions**

- 2.11.1 For ease of administration, this multistate Agreement contains certain specified rates, terms and conditions which apply only in a designated state. To the extent that this Agreement contains specified rates, terms and conditions which apply only in a given state, such rates, terms and conditions 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.

- 2.11.2 **Successor Rates.** Certain of the rates, prices and charges set forth in the applicable Appendix Pricing have been established by the appropriate Commissions in cost proceedings or dockets initiated under or pursuant to the Act. If during the Term that the Commission or the FCC changes a rate, price or charge in an order or docket that applies to any of the Interconnection, Resale Services, Network Elements, functions, facilities, products and services available hereunder, the Parties agree to amend this Agreement to incorporate such new rates, prices and charges, with such rates, prices and charges to be effective as of the date specified in such order or docket (including giving effect to any retroactive application, if so expressly ordered). If either Party refuses to execute an amendment to this Agreement within sixty (60) days after the date of such order or docket, the other Party may pursue its rights under Section 10.

2.12 **Scope of Obligations**

- 2.12.1 Notwithstanding anything to the contrary contained herein, **SBC-13STATE's** obligations under this Agreement shall apply only to:

- 2.12.1.1 the specific operating area(s) or portion thereof in which **SBC-13STATE** is then deemed to be the ILEC under the Act (the “ILEC Territory”), and
- 2.12.1.2 assets that **SBC-13STATE** owns or leases and which are used in connection with **SBC-13STATE**’s provision to **LEVEL 3** of any Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided or contemplated under this Agreement, the Act or any tariff or ancillary agreement referenced herein (individually and collectively, the “ILEC Assets”).
- 2.13 This Agreement is intended as a successor to the Interconnection Agreement between the same parties that became effective as of November 2001. Any provision of this Agreement that requires or permits a Party to take certain actions (such as submitting service orders, installing facilities, or providing information) shall not be interpreted as requiring either Party to repeat actions that were already taken under the previous agreement, unless the requirements of this Agreement are inconsistent with the arrangements previously in place between the Parties; provided, however, that for the avoidance of any doubt, the foregoing shall not apply to (a) any new services, facilities, or Network Elements for which **LEVEL 3** submits an order, request, or application after the Effective Date, (b) nor to any pending (but not yet provisioned) services, facilities, or Network Elements for which **LEVEL 3** submits an order, request, or application after the Effective Date of this Agreement to modify or add to the pending (i.e., submitted by **LEVEL 3** prior to the Effective Date of this Agreement, but not yet fulfilled) order, request, or application, (c) nor to any existing services, facilities, or Network Elements for which **LEVEL 3** submits an order, request, or application after the Effective Date of this Agreement to modify the same. Rather, in the case of subsections (a), (b), and (c) directly above, any orders, requests, applications submitted by **LEVEL 3** after the Effective Date of this Agreement shall be governed by the rates, terms, and conditions of this Agreement. Whenever possible, services provided under the previous agreement shall be continued without interruption under the rates, terms, and conditions of this Agreement. Nothing in this Agreement is intended to extinguish any obligation of either Party to pay for services provided under the previous agreement but not yet billed or paid for, or any other obligation arising under the previous agreement that, by the terms of that agreement or by the nature of the obligation, survives the termination of that agreement.

### 3. NOTICE OF CHANGES -- SECTION 251(c)(5)

- 3.1 Nothing in this Agreement shall limit either Party’s ability to upgrade its network through the incorporation of new equipment, new software or otherwise. Each

Party agrees to comply with the Network Disclosure rules adopted by the FCC in CC Docket No. 96-98, Second Report and Order, codified at 47 C.F.R. 51.325 through 51.335, as such rules may be amended from time to time (the “**Network Disclosure Rules**”).

#### 4. GENERAL RESPONSIBILITIES OF THE PARTIES

- 4.1 **SBC-12STATE** and **LEVEL 3** shall each use their best efforts to meet the Interconnection Activation Dates.
- 4.2 Each Party is individually responsible to provide facilities within its network that are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with **SBC-13STATE's** network as referenced in Telcordia BOC Notes on LEC Networks Practice No. SR-TSV-002275, and to terminate the traffic it receives in that standard format to the proper address on its network. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.
- 4.3 The Parties shall exchange technical descriptions and forecasts of their Interconnection and traffic requirements in sufficient detail necessary to establish the Interconnections required to assure traffic completion to and from all End-Users in their respective designated service areas.
- 4.4 Each Party is solely responsible for all products and services it provides to its End-Users and to other Telecommunications Carriers.
- 4.5 Facilities-based carriers and UNE-based Switch Port providers are responsible for administering their End-User records in a LIDB.
  - 4.5.1 **SBC CALIFORNIA** reserves the right on one hundred eighty (180) calendar days notice to require UNE-Based Switch Port providers to administer their End-User records in **SBC CALIFORNIA's** LIDB.
  - 4.5.2 **SBC NEVADA** does not have a line information database and/or Calling Name database. Line information database services can be purchased from **SBC CALIFORNIA**.
- 4.6 At all times during the Term, each Party shall keep and maintain in force at each Party's expense all insurance required by Applicable Law (e.g. workers' compensation insurance) as well as general liability insurance in the amount of (at least) \$10,000,000 for personal injury or death to any one person, property damage resulting from any one incident, and automobile liability with coverage

for bodily injury and for property damage. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance (which may be provided through a program of self-insurance). This Section 4.7 is a general statement of insurance requirements and shall be in addition to any specific requirement of insurance referenced elsewhere in this Agreement or a Referenced Instrument.

- 4.7 Upon **LEVEL 3** signature of this Agreement, **LEVEL 3** shall provide **SBC-13STATE** with **LEVEL 3's** state-specific authorized and nationally recognized OCN/AECNs for facilities-based (Interconnection and/or unbundled Network Elements) and a separate and distinct OCN/AECN for Resale Services.
- 4.8 In the event that either Party makes a corporate name change (including addition or deletion of d/b/a) that Party (the “Changing Party”) shall incur no charges for non-Changing Party making changes to Changing Party’s billing accounts or changes to OSS programs that automatically populate such name on Changing Party service orders. Changing Party shall be responsible for any charges associated with changes made to any OS/DA branding, recorded announcements, or any required restencilling on any collocation arrangements. Charges for changes to any OS/DA branding or recorded messages will be rated pursuant to the branding language included in this agreement. Charges associated with any restencilling on any collocation arrangements will be rated on an Individual Case Basis.
- 4.9 Should either party assign this Agreement and all assets ordered and provisioned out of this Agreement, pursuant to the assignment language provided in this Agreement, and such assignment results in a change to **LEVEL 3's** ACNA or OCN, such party shall be responsible for all charges associated with service orders required to change the ACNA or OCN on each End-User account or each circuit. Service order charges will be rated pursuant to the Pricing Schedule in this agreement. Charges associated with any restencilling or reengineering of any collocation arrangements will be rated on an Individual Case Basis. In addition, assignee of this Agreement shall be responsible for all charges for services ordered and/or provisioned out of this Agreement, whether billed or unbilled as of the date of such approved assignment.
- 4.10 In the event either party makes or accepts a transfer or assignment of assets including End-User accounts (resale or UNE-P), UNE loops, interconnection trunks or facilities (including leased facilities), or collocation arrangements, which were ordered and provisioned out of this Agreement, such party shall submit all required service orders to effectuate such transfer. Service order charges will be rated pursuant to the Pricing Schedule of this Agreement. Any charges associated with any restencilling or reengineering of any collocation arrangements will be rated on an Individual Case Basis. The assigning party will

continue to be billed for such assets until appropriate service orders have been issued by acquiring party to transfer assets to acquiring party's billing accounts.

- 4.11 Notwithstanding the above, **SBC-13STATE** and **LEVEL 3** will make every effort to comply with guidelines established by Industry Agencies such as Telcordia and NECA as they relate to the assignment of ACNAs and OCNs to ensure accurate billing and routing of services and calls
- 4.12 When a End-User changes its service provider from **SBC-13STATE** to **LEVEL 3** or from **LEVEL 3** to **SBC-13STATE** and does not retain its original telephone number, the Party formerly providing service to such End-User shall furnish a referral announcement ("**Referral Announcement**") on the original telephone number that specifies the End-User's new telephone number.

4.12.1 The following pertains to **SBC ILLINOIS**, **SBC WISCONSIN** and **SBC CALIFORNIA** only:

4.12.1.1 Referral Announcements shall be provided by a Party to the other Party for the period of time and at the rates set forth in the referring Party's tariff(s); provided, however, if either Party provides Referral Announcements for a period different (either shorter or longer) than the period(s) stated in its tariff(s) when its End-Users change their telephone numbers, such Party shall provide the same level of service to End-Users of the other Party.

4.12.2 The following applies to **SBC INDIANA** only:

4.12.2.1 Referral Announcements shall be provided by a Party to the other Party for the period specified in 170 IAC 7-1.1-11(I)(3)(a) and (b) and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period different than the above period(s) when its End-Users change their telephone numbers, such Party shall provide the same level of service to End-Users of the other Party.

4.12.3 The following applies to **SBC MICHIGAN** only:

4.12.3.1 Referral Announcements shall be provided by a Party to the other Party for the period specified in Michigan Administrative Rule 484.134 and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period longer than the above period(s) when its End-Users change their telephone numbers, such Party

shall provide the same level of service to End-Users of the other Party.

4.12.4 The following applies to **SBC OHIO** only:

4.12.4.1 Referral Announcements shall be provided by a Party to the other Party for the period of time specified in Rule 4901:1-5-12, Ohio Administrative Code and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period longer than the above period(s) when its End-Users change their telephone numbers, such Party shall provide the same level of service to End-Users of the other Party.

- 4.13 Each Party shall be responsible for labor relations with its own employees. Each Party agrees to notify the other Party as soon as practicable whenever such Party has knowledge that a labor dispute concerning its employees is delaying or threatens to delay such Party's timely performance of its obligations under this Agreement and shall endeavor to minimize impairment of service to the other Party (for example, by using its management personnel to perform work or by other means) in the event of a labor dispute to the extent permitted by Applicable Law.
- 4.14 Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement.

## **5. EFFECTIVE DATE, TERM, AND TERMINATION**

- 5.1 This Effective Date of this Agreement shall be ten (10) calendar days after the Commission approves this Agreement under Section 252(e) of the Act or, absent such Commission approval, the date this Agreement is deemed approved under Section 252(e)(4) of the Act.
- 5.2 The term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire three (3) years after the Effective Date (the "Term"). Absent the receipt by one Party of written notice from the other Party at least within one hundred and eighty (180) days prior to the expiration of the Term to the effect that such Party does not intend to extend the Term, this Agreement shall remain in full force and effect on and after the expiration of the Term until terminated by either Party pursuant to Section 5.3 or 5.4.

- 5.3 Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement and the provision of any Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided pursuant to this Agreement, at the sole discretion of the terminating Party, in the event that the other Party fails to perform a material obligation or breaches a material term of this Agreement and the other Party fails to cure such nonperformance or breach within forty-five (45) calendar days after written notice thereof. Any termination of this Agreement pursuant to this Section 5.3 shall take effect immediately upon delivery of written notice to the other Party that it failed to cure such nonperformance or breach within forty-five (45) calendar days after written notice thereof.
- 5.4 If pursuant to Section 5.2, this Agreement continues in full force and effect after the expiration of the Term, either Party may terminate this Agreement after delivering written notice to the other Party of its intention to terminate this Agreement, subject to Sections 5.5 and 5.6. Neither Party shall have any liability to the other Party for termination of this Agreement pursuant to this Section 5.4 other than its obligations under Sections 5.5 and 5.6.
- 5.5 Upon termination or expiration of this Agreement in accordance with Sections 5.2, 5.3 or 5.4:
- 5.5.1 Each Party shall continue to comply with its obligations set forth in Section 42; and
- 5.5.2 Each Party shall promptly pay all amounts owed under this Agreement or place any Disputed Amounts into an escrow account that complies with Section 8.4 hereof;
- 5.5.3 Each Party's confidentiality obligations shall survive; and
- 5.5.4 Each Party 's indemnification obligations shall survive.
- 5.6 If either Party serves notice of expiration pursuant to Section 5.2 or Section 5.4, **LEVEL 3** shall have ten (10) days to provide **SBC-13STATE** written confirmation if **LEVEL 3** wishes to pursue a successor agreement with **SBC-13STATE** or terminate its agreement. **LEVEL 3** shall identify the action to be taken on each applicable (13) state(s). If **LEVEL 3** wishes to pursue a successor agreement with **SBC-13STATE**, **LEVEL 3** shall attach to its written confirmation or notice of expiration/termination, as applicable, a written request to commence negotiations with **SBC-13STATE** under Sections 251/252 of the Act and identify each of the state(s) the successor agreement will cover. Upon receipt of **LEVEL 3's** Section 252(a)(1) request, the Parties shall commence good faith negotiations on a successor agreement.



- 5.7 The rates, terms and conditions of this Agreement shall continue in full force and effect until the earlier of: (i) the effective date of its successor agreement, whether such successor agreement is established via negotiation, arbitration or pursuant to Section 252(i) of the Act; or (ii) the date that is ten (10) months after the date of termination of this Agreement pursuant to Sections 5.2 and 5.4.
- 5.8 If at any time during the Section 252(a)(1) negotiation process (prior to or after the expiration date or termination date of this Agreement), **LEVEL 3** withdraws its Section 252(a)(1) request, **LEVEL 3** must include in its notice of withdrawal a request to adopt a successor agreement under Section 252(i) of the Act or affirmatively state that **LEVEL 3** does not wish to pursue a successor agreement with **SBC-13STATE** for a given state. The rates, terms and conditions of this Agreement shall continue in full force and effect for a period of ninety (90) days after the date **LEVEL 3** provides notice of withdrawal of its Section 252(a)(1) request. On the ninety-first (91) day following **SBC-13STATE's** receipt of **LEVEL 3's** notice of withdrawal of its Section 252(a)(1) request, unless **LEVEL 3** provided **SBC-13STATE** notice of a Section 252(i) adoption in the interim, the Parties shall, subject to Section 5.5, have no further obligations under this Agreement.
- 5.9 If **LEVEL 3** does not affirmatively state that it wishes to pursue a successor agreement with **SBC-13STATE** in its, as applicable, notice of expiration or termination or the written confirmation required after receipt of **SBC-13STATE's** notice of expiration or termination, then the rates, terms and conditions of this Agreement shall continue in full force and effect for a period of ninety (90) days after the date **LEVEL 3** provided or received notice of expiration or termination. On the ninety-first (91) day following **LEVEL 3** provided or received notice of expiration or termination, the Parties shall, subject to Section 5.5, have no further obligations under this Agreement.
- 5.10 In the event of termination of this Agreement pursuant to Section 5.9, **SBC-13STATE** and **LEVEL 3** shall cooperate in good faith to effect an orderly transition of service under this Agreement; provided that **LEVEL 3** shall be solely responsible (from a financial, operational and administrative standpoint) to ensure that its End-Users have been transitioned to a new LEC by the expiration date, termination date of this Agreement.

## 6. FRAUD

- 6.1 **SBC-13STATE** shall not be liable to **LEVEL 3** for any fraud associated with **LEVEL 3's** End-User's account, including 1+ IntraLATA toll, ported numbers, and Alternate Billing Service (ABS). **LEVEL 3** shall not be liable to **SBC-13STATE** for any fraud associated with **SBC-13STATE's** End-User's account,

including 1+ IntraLATA toll, ported numbers, and Alternate Billing Service (ABS). ABS is a service that allows End-Users to bill calls to account(s) that might not be associated with the originating line. There are three types of ABS calls: calling card, collect, and third number billed calls.

- 6.2 The Parties agree to cooperate with one another to investigate, minimize, and take corrective action in cases of fraud involving 1+ IntraLATA toll calls, ABS, and ported numbers. The Parties' fraud minimization procedures are to be cost-effective and implemented so as not to unduly burden or harm one Party as compared to the other.
- 6.3 In cases of suspected fraudulent activity by an End-User, at a minimum, the cooperation referenced in Section 6.2 will include providing to the other Party, upon request, information concerning Customers who terminate services to that Party without paying all outstanding charges. The Party seeking such information is responsible for securing the End-User's permission to obtain such information.
- 6.4 **SBC-MIDWEST REGION 5-STATE, SBC-SOUTHWEST REGION 5-STATE, SBC CALIFORNIA, SBC CONNECTICUT** will provide notification messages to **LEVEL 3** on suspected occurrences of ABS-related fraud on **LEVEL 3** accounts stored in the applicable LIDB. **SBC CALIFORNIA** will provide such alert messages by e-mail. **SBC-MIDWEST REGION 5-STATE, SBC- SOUTHWEST REGION 5-STATE and SBC CONNECTICUT** will provide via fax.
- 6.4.1 **SBC SOUTHWEST REGION 5-STATE (on behalf of itself and SBC CONNECTICUT) and SBC CALIFORNIA** will use a fraud monitoring system to determine suspected occurrences of ABS-related fraud for **LEVEL 3** using the same criteria **SBC SOUTHWEST REGION 5-STATE and SBC CALIFORNIA** use to monitor fraud on their respective accounts.
- 6.4.2 **LEVEL 3** understands that fraud monitoring alerts only identify potential occurrences of fraud. **LEVEL 3** understands and agrees that it will need to perform its own investigations to determine whether a fraud situation actually exists. **LEVEL 3** understands and agrees that it will also need to determine what, if any, action **LEVEL 3** should take as a result of a fraud monitoring alert.
- 6.4.3 The Parties will provide contact names and numbers to each other for the exchange of fraud monitoring alert notification information twenty-four (24) hours per day seven (7) days per week.

6.4.4 For each alert notification provided to LEVEL 3, LEVEL 3 may request a corresponding thirty-day (30-day) historical report of ABS-related query processing. LEVEL 3 may request up to three (3) reports per alert.

6.5 In SBC SOUTHWEST REGION 5-STATE and SBC CALIFORNIA ABS-related alerts are provided to LEVEL 3 at no additional charge, except as related in 6.5.1 below.

6.5.1 In SBC CALIFORNIA, 1+ IntraLATA toll fraud alerts are offered for Resale only under the product name Traffic Alert Referral Service (TARS). For TARS, LEVEL 3 agrees to pay a recurring usage rate as outlined in Appendix Pricing.6.6 Traffic Alert Referral Service (“TARS”) 1+ Intra-LATA Toll Fraud Monitoring

6.5.2 For terms and conditions for TARS, see Appendix Resale.

6.5.3 TARS is offered in SBC CALIFORNIA only.

## 7. ASSURANCE OF PAYMENT

7.1 Upon request by SBC-13STATE, in accordance with this provision, LEVEL 3 will provide SBC-13STATE with adequate assurance of payment of amounts due (or to become due) to SBC-13STATE.

7.2 Assurance of payment may be request by SBC-12STATE separately with respect to a specific State if in that State:

7.2.1 at the Effective Date LEVEL 3 had not already established satisfactory credit by having made at least twelve (12) consecutive months of timely payments to SBC-13STATE in that State for undisputed charges and/or appropriate escrow payments pursuant to Section 8 for disputed charges incurred as a LEVEL 3 (with no more than two (2) valid past due notices for undisputed amounts within that twelve (12) month period),  
or

7.2.2 at any time on or after the Effective Date, there has been a significant and material impairment of the established *credit, financial health, or credit worthiness of LEVEL 3* as compared to its status on the Effective Date August 1, 2004. Such impairment will be determined from information available from financial sources, including but not limited to Moody's, Standard and Poor's, and the Wall Street Journal. Financial information about LEVEL 3 that may be considered includes, but is not limited to, investor warning briefs, rating downgrades, and articles discussing pending credit problems; or

- 7.2.3 **LEVEL 3** fails to timely pay a bill rendered to **LEVEL 3** by **SBC-12STATE for the individual State** (except such portion of a bill that is subject to a good faith, bona fide dispute and as to which **LEVEL 3** has **substantially** complied with all requirements set forth in Section 9.3) **provided that SBC-12STATE has likewise substantially complied with all requirements of this Agreement with respect to presentation of invoices and dispute resolution**); or
- 7.2.4 to the extent consistent with applicable law, **LEVEL 3** admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had an involuntary case commenced against it) under the U.S. Bankruptcy Code or any other law relating to insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding.
- 7.3 Unless otherwise agreed by the Parties, the assurance of payment will, at **LEVEL 3**'s option, consist of:
- 7.3.1 a cash security deposit in U.S. dollars held by **SBC-12STATE** ("Cash Deposit") or
- 7.3.2 an unconditional, irrevocable standby bank letter of credit from a financial institution acceptable to **SBC-12STATE** naming the SBC owned ILEC(s) designated by **SBC-12STATE for that State** as the beneficiary(ies) thereof and otherwise in form and substance satisfactory to **SBC-12STATE** ("Letter of Credit").
- 7.3.3 The Cash Deposit or Letter of Credit must be in an amount equal to three (3) months anticipated charges (including, but not limited to, recurring, non-recurring and usage sensitive charges, termination charges and advance payments), as reasonably determined by **SBC-12STATE**, for the Interconnection, Resale Services, Network Elements, Collocation or any other functions, facilities, products or services to be furnished by **SBC-12STATE** under this Agreement. Where **LEVEL 3** has actual billings from **SBC-12STATE** for such functions, facilities, products or services under this Agreement for the three (3) months prior to **SBC-12STATE's** request for a deposit, the actual amount of those billings shall be used as the deposit amount
- 7.3.3.1 Notwithstanding anything else set forth in this Agreement, **SBC SOUTHWEST REGION 5-STATE** will not request assurance of payment of charges reasonably anticipated by **SBC SOUTHWEST REGION 5-STATE** to be incurred in Arkansas in an amount that would exceed one (1) month's projected bill for **LEVEL 3's** initial market entry; provided, however, that after

three (3) months of operation, **SBC SOUTHWEST REGION 5-STATE** may request assurance of payment of charges reasonably anticipated by **SBC SOUTHWEST REGION 5-STATE** to be incurred in Arkansas in an amount not to exceed two times projected average monthly billing to **LEVEL 3**, which shall be determined when possible by reference to actual billings from **SBC SOUTHWEST REGION 5-STATE** to **LEVEL 3** for functions, facilities, products or services provided under this Agreement for the two (2) months prior to **SBC SOUTHWEST REGION 5-STATE's** request.

7.3.3.2 Notwithstanding anything else set forth in this Agreement, **SBC SOUTHWEST REGION 5-STATE** will not request assurance of payment of charges reasonably anticipated by **SBC SOUTHWEST REGION 5-STATE** to be incurred in Oklahoma in an amount that would exceed two times projected average monthly billing to **LEVEL 3**.

- 7.4 To the extent that **LEVEL 3** elects to provide a Cash Deposit, the Parties intend that the provision of such Cash Deposit shall constitute the grant of a security interest in the Cash Deposit pursuant to Article 9 of the Uniform Commercial Code in effect in any relevant jurisdiction.
- 7.5 A Cash Deposit will accrue interest at the rate established by the respective state commission. Interest will accrue on a Cash Deposit from the day after it is received by **SBC-12STATE** through the day immediately prior to the date the Cash Deposit is credited to **LEVEL 3's** bill(s) or returned to **LEVEL 3**. **SBC-12STATE** will not pay interest on a Letter of Credit.
- 7.6 **SBC-12STATE** may, but is not obligated to, draw on the Letter of Credit or the Cash Deposit, as applicable, upon the occurrence of any one of the following events:
- 7.6.1 **LEVEL 3** owes **SBC-12STATE** undisputed charges under this Agreement that are more than thirty (30) calendar days past due; or
- 7.6.2 to the extent consistent with applicable law, **LEVEL 3** admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had an involuntary case commenced against it) under the U.S. Bankruptcy Code or any other law relating to insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding; or

- 7.6.3 the expiration or termination of this Agreement, should **LEVEL 3** have undisputed unpaid charges that are due and remain open thirty (30) calendar days following the expiration or termination date.
- 7.7 If **SBC-12STATE** draws on the Letter of Credit or Cash Deposit, upon request by **SBC-12STATE**, **LEVEL 3** will provide a replacement or supplemental letter of credit or cash deposit conforming to the requirements of Section 7.3, but only to the extent of the amount previously drawn by **SBC-12STATE**.
- 7.8 Notwithstanding anything else set forth in this Agreement, if **SBC-12STATE** makes a request for assurance of payment in accordance with the terms of this Section, then **SBC-12STATE** shall have no obligation thereafter to perform under this Agreement until such time as **LEVEL 3** has furnished **SBC-12STATE** with the assurance of payment requested; **unless LEVEL 3 raises a good faith bona fide dispute with respect to the reasonableness of the request by SBC-13STATE; provided, however, that SBC-12STATE will permit LEVEL 3 to raise a good faith bona fide dispute within 10 days with regard to the reasonableness of such a request. Provided, however that SBC-12STATE will permit LEVEL 3 a minimum of 10 (ten) Business Days to respond to a request for assurance of payment before invoking this Section.**
- 7.8.1 If **LEVEL 3** fails to **either** furnish the requested adequate assurance of payment on or before the date set forth in the request **or raise a good faith, bona fide dispute with respect to the reasonableness of the request, SBC-12STATE** may also invoke the provisions set forth in Section 9.5 through Section 9.7.
- 7.9 The fact that a Cash Deposit or Letter of Credit is requested by **SBC-12STATE** shall in no way relieve **LEVEL 3** from timely compliance with all payment obligations under this Agreement (including, but not limited to, recurring, non-recurring and usage sensitive charges, termination charges and advance payments), nor does it constitute a waiver or modification of the terms of this Agreement pertaining to disconnection or re-entry for non-payment of any amounts required to be paid hereunder.
- 7.10 For adequate assurance of payment of amounts due (or to become due) to **SBC CONNECTICUT**, see the applicable DPUC ordered tariff.

## 8. BILLING AND PAYMENT OF CHARGES

- 8.1 Unless otherwise stated, each Party will render monthly bill(s) to the other for Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products and services provided hereunder at the rates set forth in the applicable Appendix Pricing, as set forth in applicable tariffs or other documents specifically referenced herein and, as applicable, as agreed upon by the Parties or authorized by a Party.

- 8.1.1 Remittance in full of all bills rendered by **SBC MIDWEST REGION 5-STATE**, **SBC SOUTHWEST REGION 5-STATE** and **SBC CALIFORNIA** is due within thirty (30) calendar days of each bill date (the “**Bill Due Date**”). Payment must be made in accordance with the terms set forth in Section 8.3 of this Agreement.
- 8.1.2 Remittance in full of all bills rendered by **SBC NEVADA** is due in accordance with the terms set forth in the Commission C2-A Tariff, with the date on which amounts are due referred to herein as the “**Bill Due Date**”.
- 8.1.3 Remittance in full of all bills rendered by **SBC CONNECTICUT** is due in accordance with the terms set forth in the Connecticut Access Service Tariff approved by the DPUC, with the date on which amounts are due referred to herein as the “**Bill Due Date**”.
- 8.1.4 Remittance in full of all bills rendered by **LEVEL 3** is due within thirty (30) calendar days of each bill date (the “**Bill Due Date**”). Payment must be made in accordance with the terms set forth in Section 8.3 of this Agreement.
- 8.1.5 If **LEVEL 3** or **SBC-12STATE** fails to remit payment for any charges by the Bill Due Date, or if payment for any portion of the charges is received from **LEVEL 3** or **SBC-12STATE** after the Bill Due Date, or if payment for any portion of the charges is received in funds which are not immediately available to the billing Party as of the Bill Due Date (individually and collectively, “**Past Due**”), then a late payment charge will be assessed as provided in Sections 8.1.5.1 through 8.1.5.3, as applicable.
- 8.1.5.1 If any charge incurred under this Agreement that is billed out of any **SBC-8STATE** billing system other than the **SBC SOUTHWEST REGION 5-STATE** Customer Records Information System (CRIS) is Past Due, the unpaid amounts will accrue interest from the day following the Bill Due Date until paid at the lesser of (i) the rate used to compute the Late Payment Charge in the applicable **SBC-8STATE** intrastate access services tariff for that state and (ii) the highest rate of interest that may be charged under Applicable Law. The method and timing for application of interest to any charge incurred under this Agreement that is billed out of any **SBC-8STATE** billing system other than **SBC SOUTHWEST REGION 5-STATE's** CRIS will comply with the process set forth in the

applicable **SBC-8STATE** intrastate access services tariff for that state.

8.1.5.2 If any charge incurred under this Agreement that is billed out of **SBC SOUTHWEST REGION 5-STATE's** CRIS is Past Due, the unpaid amounts will accrue interest from the day following the Bill Due Date until paid. The interest rate applied to **SBC SOUTHWEST REGION 5-STATE** CRIS-billed Past Due unpaid amounts will be the lesser of (i) the rate used to compute the Late Payment Charge contained in the applicable **SBC SOUTHWEST REGION 5-STATE** intrastate retail tariff governing Late Payment Charges to **SBC SOUTHWEST REGION 5-STATE's** retail End-Users that are business End-Users in that state and (ii) the highest rate of interest that may be charged under Applicable Law. The method and timing for application of interest to any charge incurred under this Agreement that is billed out of **SBC SOUTHWEST REGION 5-STATE's** CRIS will be governed by the **SBC SOUTHWEST REGION 5-STATE** intrastate retail tariff governing Late Payment Charges to **SBC SOUTHWEST REGION 5-STATE's** retail End-Users that are business End-Users in that state.

8.1.5.3 If any charge incurred under this Agreement that is billed out of any **SBC MIDWEST REGION 5-STATE** billing system is Past Due, the unpaid amounts will accrue interest from the Bill Due Date at the lesser of (i) one and one-half percent (1 ½%) per month and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the day following the Bill Due Date to and including the date that the payment is actually made and available.

8.2 If any charge incurred by **SBC-13STATE** under this Agreement is Past Due, the unpaid amounts will accrue interest from the day following the Bill Due Date until paid. The interest rate applied will be the lesser of (i) the rate used to compute the Late Payment Charge contained in the applicable **LEVEL 3** intrastate access services tariff for that state and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.

### 8.3. ACH Transfers

8.3.1 **LEVEL 3** and **SBC-12STATE** shall make all payments to the other Party (“Billed Party”) via electronic funds credit transfers through the



Automated Clearing House Association (ACH) network to the financial institution designated by **LEVEL 3** or **SBC-12STATE**, as the case may be, or through other mutually agreeable means. Remittance information will be communicated together with the funds transfer via the ACH network. The Billed Party must use the CCD+ or the CTX transaction set. **LEVEL 3** and **SBC-12STATE** will abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each ACH credit transfer must be received **by LEVEL 3** or **SBC-12STATE**, as the case may be, no later than the Bill Due Date of each bill or Late Payment Charges will apply. **LEVEL 3** or **SBC-12STATE** is not liable for any delays in receipt of funds or errors in entries caused by the Billed Party or Third Parties, including the Billed Party's financial institution. The Billed Party is responsible for its own banking fees. Processing of payments not made via electronic funds credit transfers through the ACH network may be delayed. The Billed Party is responsible for any Late Payment Charges resulting from the Billed Party's failure to use electronic funds credit transfers through the ACH network.

- 8.3.2 **LEVEL 3** must make all payments to **SBC CONNECTICUT** in “immediately available funds.” All payments to **SBC CONNECTICUT** must be made using one of the methods set forth in the Connecticut Access Service Tariff approved by the DPUC or via electronic funds credit transfers through the Automated Clearing House Association (ACH) network to the financial institution designated by **SBC CONNECTICUT**. If **LEVEL 3** makes payment through funds transfer via the ACH network, remittance information will be communicated together with the funds transfer via the ACH network. If **LEVEL 3** makes payment through funds transfer via the ACH network, **LEVEL 3** must use the CCD+ or the CTX transaction set. **LEVEL 3** and **SBC CONNECTICUT** Regulations. Each payment must be received by **SBC CONNECTICUT** no later than the Bill Due Date of each bill or Late Payment Charges will apply. **SBC CONNECTICUT** is not liable for any delays in receipt of funds or errors in entries caused by **LEVEL 3** or Third Parties, including **LEVEL 3's** financial institution. **LEVEL 3** is responsible for its own banking fees. Processing of payments not made via electronic funds credit transfers through the ACH network may be delayed. The Billed Party is responsible for any Late Payment Charges resulting from the Billed Party's failure to use electronic funds credit transfers through the ACH network.

- 8.4 If any portion of an amount due to a Party (the “**Billing Party**”) under this Agreement is subject to a bona fide good faith dispute between the Parties, the Party billed (the “**Non-Paying Party**”) must, prior to the Bill Due Date, give written notice to the Billing Party of the amounts it disputes (“**Disputed**”).

**Amounts”)** and within thirty (30) calendar days the non-paying party will provide in writing the specific details and reasons for disputing each item listed in Section 10.4.1. On or before the Bill Due Date, the Non-Paying Party must pay (i) all undisputed amounts to the Billing Party, and (ii) all Disputed Amounts into an interest bearing escrow account with a Third Party escrow agent mutually agreed upon by the Parties. (See new Section 8.6) To be acceptable, the Third Party escrow agent must meet all of the following criteria:

- 8.4.1 The financial institution proposed as the Third Party escrow agent must be located within the continental United States;
- 8.4.2 The financial institution proposed as the Third Party escrow agent may not be an Affiliate of either Party; and
- 8.4.3 The financial institution proposed as the Third Party escrow agent must be authorized to handle Automatic Clearing House (ACH) (credit transactions) (electronic funds) transfers.
- 8.4.4 In addition to the foregoing requirements for the Third Party escrow agent, the disputing Party and the financial institution proposed as the Third Party escrow agent must agree in writing furnished to the Billing Party that the escrow account will meet all of the following criteria:
  - 8.4.4.1 The escrow account must be an interest bearing account;
  - 8.4.4.2 All charges associated with opening and maintaining the escrow account will be borne by the Non-Paying Party;
  - 8.4.4.3 That none of the funds deposited into the escrow account or the interest earned thereon may be used to pay the financial institution’s charges for serving as the Third Party escrow agent;
  - 8.4.4.4 All interest earned on deposits to the escrow account will be disbursed to the Parties in the same proportion as the principal; and
  - 8.4.4.5 Disbursements from the escrow account shall be limited to those:
    - 8.4.4.5.1 authorized in writing by both the Non-Paying Party and the Billing Party (that is, signature(s) from representative(s) of the disputing Party only are not sufficient to properly authorize any disbursement); or

- 8.4.4.5.2 made in accordance with the final, non-appealable order of the arbitrator appointed pursuant to the provisions of Section 10.7; or
  - 8.4.4.5.3 made in accordance with the final, non-appealable order of the court that had jurisdiction to enter the arbitrator's award pursuant to Section 10.7.
- 8.5 Disputed Amounts in escrow shall be subject to Late Payment Charges as set forth in Section 8.1.5. Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provisions set forth in Section 10.
- 8.6 The Non-Paying Party shall not be required to place Disputed Amounts in escrow, as required by Section 8.4, above, if: (i) the Non-Paying Party does not have a proven history of late payments and has established a minimum of twelve consecutive (12) months good credit history with the Billing Party (prior to the date it notifies the Billing Party of its billing dispute); and (ii) the Non-Paying Party has not filed more than three previous billing disputes within the twelve (12) months immediately preceding the date it notifies the Billing Party of its current billing dispute, which previous disputes were resolved in Billing Party's favor or, if the bill containing the disputed charges is not the first bill for a particular service to the Non-Paying Party, the Non-Paying Party's dispute does not involve 50% or more of the total amount of the previous bill out of the same billing system.
- 8.7 If the Non-Paying Party disputes any charges and any portion of the dispute is resolved in favor of such Non-Paying Party, the Parties will cooperate to ensure that all of the following actions are completed:
- 8.7.1 the Billing Party will credit the invoice of the Non-Paying Party for that portion of the Disputed Amounts resolved in favor of the Non-Paying Party, together with any Late Payment Charges assessed with respect thereto no later than the second Bill Due Date after the resolution of the Dispute;
    - 8.7.1.1 within ten (10) Business days after resolution of the Dispute, the portion of the escrowed Disputed Amounts resolved in favor of the Non-Paying Party will be released to the Non-Paying Party, together with any accrued interest thereon;
    - 8.7.1.2 within ten (10) Business days after resolution of the Dispute, the portion of the escrowed Disputed Amounts resolved in favor of the

Billing Party will be released to the Billing Party, together with any accrued interest thereon; and

8.7.1.3 no later than the third Bill Due Date after the resolution of the dispute, the Non-Paying Party will pay the Billing Party the difference between the amount of accrued interest the Billing Party received from the escrow disbursement and the amount of Late Payment Charges the Billing Party is entitled to receive pursuant to Section 8.1.5.

8.8 If the Non-Paying Party disputes any charges and the entire dispute is resolved in favor of the Billing Party, the Parties will cooperate to ensure that all of the actions required by Section 8.7.1.2 and Section 8.7.1.3 are completed within the times specified therein.

8.8.1 Failure by the Non-Paying Party to pay any charges determined to be owed to the Billing Party within the time specified in Section 8.7 shall be grounds for termination of the Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products and services provided under this Agreement; **provided, however that the Billing Party shall comply then with all procedures set forth under this Section 8 and otherwise set forth in applicable law regarding discontinuance of service and/or termination of this Agreement.**

8.9 If either Party requests one or more additional copies of a bill, the requesting Party will pay the Billing Party a reasonable fee for each additional copy, unless such copy was requested due to failure in delivery of the original bill or correction(s) to the original bill.

8.9.1 Each additional copy of any bill provided for billing from **SBC SOUTHWEST REGION 5-STATE's** CABS billing system will incur charges as specified in Access Service Tariff FCC No. 73 Section 13 Alternate Bill Media.

8.9.2 Bills provided to **LEVEL 3** from **SBC SOUTHWEST REGION 5-STATE's** CRIS system through Bill Plus will incur charges as specified in Appendix Pricing.

8.10 **Exchange of Billing Message Information**

8.10.1 **SBC-13 STATE** will provide **LEVEL 3** a specific Daily Usage File (“DUF” or “Usage Extract”) for Resale Services and Network Element usage sensitive services provided hereunder (“Customer Usage Data”). Such Customer Usage Data shall be provided by **SBC-13STATE** in

accordance with Exchange Message Interface (**EMI**) guidelines supported by OBF. Any exceptions to the supported formats will be noted in the DUF implementation requirements documentation for each **SBC-13STATE** owned **LEVEL 3**. The DUF will include (i) specific daily usage, including both Local Traffic (if and where applicable) and LEC-carried IntraLATA Toll Traffic, in EMI format for usage sensitive services furnished in connection with each Resale Service and Network Element to the extent that similar usage sensitive information is provided to retail End-Users of **SBC-13STATE** within that state, (ii) with sufficient detail to enable **LEVEL 3** to bill its End-Users for usage sensitive services furnished by **SBC-13STATE** in connection with Resale Services and Network Elements provided by **SBC-13STATE**. Procedures and processes for implementing the interfaces with **SBC MIDWEST REGION 5-STATE**, **SBC CALIFORNIA**, **SBC NEVADA**, **SBC CONNECTICUT**, and **SBC SOUTHWEST REGION 5-STATE** will be included in implementation requirements documentation.

- 8.10.2 To establish file transmission for the Daily Usage File, **LEVEL 3** must provide a separate written request for each state to **SBC MIDWEST REGION 5-STATE**, **SBC CALIFORNIA**, **SBC NEVADA**, **SBC CONNECTICUT** and **SBC SOUTHWEST REGION 5-STATE** no less than sixty (60) calendar days prior to the desired first transmission date for each file.
- 8.10.3 Unless otherwise specified in Appendix Message Exchange, call detail for LEC-carried calls that are alternately billed to **LEVEL 3** End-Users lines provided by **SBC-13STATE** through Resale or Network Elements will be forwarded to **LEVEL 3** as rated call detail on the DUF.
- 8.10.4 **SBC SOUTHWEST REGION 5-STATE** shall bill **LEVEL 3** for Usage Extract furnished by **SBC SOUTHWEST REGION 5-STATE** in accordance with the price(s) provided in the applicable Appendix Pricing under "Electronic Billing Information."
- 8.10.5 Interexchange call detail on Resale Services or Network Elements (ports) that is forwarded to **SBC-13STATE** for billing, which would otherwise be processed by **SBC-13STATE** for its retail End-Users, will be returned to the IXC and will not be passed through to **LEVEL 3**. This call detail will be returned to the IXC with a transaction code indicating that the returned call originated from a resold account. Billing for Information Services and other ancillary services traffic on Resale Services and Network Elements (ports) will be passed through when **SBC-13STATE** records the message.

8.10.6 **SBC MIDWEST REGION 5-STATE**, **SBC NEVADA** and **SBC CALIFORNIA** Ancillary Services messages originated on or billed to a Resale Service or Network Element (port) in those seven (7) states shall be subject to the rates, terms and conditions of Appendix MESSAGE EXCHANGE.

8.10.7 **LEVEL 3** shall be responsible for providing all billing information to each of its End-Users, regardless of the method used to provision the End-User's service.

8.11 Limitation on Back-billing and Credit Claims:

8.11.1 Notwithstanding anything to the contrary in this Agreement, a Party shall be entitled to back-bill for or claim credit for any charges for services provided pursuant to this Agreement that are found to be unbilled, under-billed or over-billed, but only when such charges appeared or should have appeared on a bill dated within the twelve (12) months immediately preceding the date on which the Billing Party provided written notice to the Billed Party of the amount of the back-billing or the Billed Party provided written notice to the Billing Party of the claimed credit amount. The Parties agree that the twelve (12) month limitation on back-billing and credit claims set forth in the preceding sentence shall be applied prospectively only after the Effective Date of this Agreement, meaning that the twelve month period for any back-billing or credit claims may only include billing periods that fall entirely after the Effective Date of this Agreement and will not include any portion of any billing period that began prior to the Effective Date of this Agreement.

8.11.2 Back-billing and credit claims, as limited above, will apply to all Interconnection, Resale Services, Unbundled Network Elements, Collocation, facilities, functions, product and services purchased under this Agreement. Reciprocal Compensation is specifically excluded from this Section \_\_\_ and is addressed separately in the Intercarrier Compensation Appendix.

## 9. NONPAYMENT AND PROCEDURES FOR DISCONNECTION

9.1 If a Party is furnished Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products and services under the terms of this Agreement in more than one (1) state, Sections 9.1 through 9.7, inclusive, shall be applied separately for each such state.

9.2 Failure to pay undisputed charges ***shall may*** be grounds for disconnection of

**services the specific Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products and services for which undisputed payment has not been rendered** under this Agreement. If a Party fails to pay any undisputed charges billed to it under this Agreement, including but not limited to any Late Payment Charges or miscellaneous charges (“**Unpaid Charges**”), and any portion of such Unpaid Charges remain unpaid after the Bill Due Date, the Billing Party will notify the Non-Paying Party in writing that in order to avoid disruption or disconnection of the Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products and services **for which undisputed payment has not been rendered** under this Agreement, the Non-Paying Party must remit all Unpaid Charges to the Billing Party within **thirty (30) Calendar ten (10) Business** Days following receipt of the Billing Party's notice of Unpaid Charges.

9.2.1 **SBC INDIANA** will also provide any written notification to the Indiana Utility Regulatory Commission as required by rule 170 IAC 7-6.

9.2.2 **SBC KANSAS** will also provide any written notification to the Kansas Corporation Commission as required by Order Number 5 (dated March 25, 2002) in Docket 01-GIMT-649-GIT.

9.2.3 **SBC MISSOURI** will also provide any written notification to the Missouri Public Service Commission as required by Rule 4 CSR 240-32.120.

9.3 If the Non-Paying Party desires to dispute any portion of the Unpaid Charges, the Non-Paying Party must complete all of the following actions not later than **thirty (30) Calendar ten (10) Business** Days following receipt of the Billing Party's notice of Unpaid Charges.

9.3.1 notify the Billing Party in writing which portion(s) of the Unpaid Charges it disputes, including the total amount disputed (“**Disputed Amounts**”) and the specific details listed in Section 10.1 of this Agreement, together with the reasons for its dispute; and

9.3.2 pay all undisputed Unpaid Charges to the Billing Party; and

9.3.3 pay all Disputed Amounts into an interest bearing escrow account that complies with the requirements set forth in Section 8.4; and

9.3.4 furnish written evidence to the Billing Party that the Non-Paying Party has established an interest bearing escrow account that complies with all of the terms set forth in Section 8.4 and deposited a sum equal to the Disputed Amounts into that account. Subject to Section 8.4 preceding, until

evidence that the full amount of the Disputed Charges has been deposited into an escrow account is furnished to the Billing Party, such Unpaid Charges will not be deemed to be “disputed” under Section 10.

9.4 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provision set forth in Section 10.

9.5 **SBC-12STATE**

9.5.1 If the Non-Paying Party fails to (a) pay any undisputed Unpaid Charges in response to the Billing Party’s Section 9.2 notice, (b) deposit the disputed portion of any Unpaid Charges into an interest bearing escrow account that complies with all of the terms set forth in Section 8.4 within the time specified in Section 9.3, (c) timely furnish any assurance of payment requested in accordance with Section 7 or (d) make a payment in accordance with the terms of any mutually agreed payment arrangement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law, provide written demand to the Non-Paying Party for payment of any of the obligations set forth in (a) through (d) of this Section within ten (10) Business Days. ***On the day that the Billing Party provides such written demand to the Non-Paying Party, the Billing Party may also exercise any or all of the following options:***

***9.5.1.1 suspend acceptance of any application, request or order from the Non-Paying Party for new or additional Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products or services under this Agreement; and/or***

***9.5.1.2 suspend completion of any pending application, request or order from the Non-Paying Party for new or additional Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products or services under this Agreement.***

9.5.2 Notwithstanding anything to the contrary in this Agreement, the Billing Party’s exercise of any of its options under Section 9.5.1, Section 9.5.1.1 and Section 9.5.1.2:

9.5.2.1 will not delay or relieve the Non-Paying Party’s obligation to pay all charges on each and every invoice on or before the applicable Bill Due Date, and



9.5.2.2 will exclude any affected application, request, order or service from any otherwise applicable performance interval, Performance Benchmark or Performance Measure.

## 9.6 **SBC MIDWEST REGION 5-STATE ONLY**

9.6.1 If the Non-Paying Party fails to pay the Billing Party on or before the date specified in the demand provided under Section 9.5.1 of this Agreement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law,

9.6.1.1 *cancel any pending application, request or order from the Non-Paying Party for new or additional Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products or services under this Agreement; and*

9.6.1.2 discontinue providing **the specific** Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products or services **for which undisputed payment has not been rendered** under this Agreement after notice to Non-Paying Party set forth in Section 9.5.1

9.6.1.2.1 Notwithstanding any inconsistent provisions in this Agreement, discontinuance of service by **SBC INDIANA** will comply with Indiana Utility Regulatory Commission rule 170 IAC 7-6.

9.6.1.2.2 The Billing Party has no liability to the Non-Paying Party or its End-Users in the event of discontinuance of service.

9.6.1.2.3 Additional charges may become applicable under the terms of this Agreement following discontinuance of service.

## 9.7 **SBC-7STATE only**

9.7.1 Any demand provided by **SBC-7STATE** to **LEVEL 3** under Section 9.5.1 will further specify that upon disconnection of **LEVEL 3**, **SBC-7STATE** will cause **LEVEL 3's** End-Users that are provisioned through Resale Services to be transferred to **SBC-7STATE** local service.

9.7.1.1 A copy of the demand provided to **LEVEL 3** under Section 9.7.1 will be provided to the Commission

- 9.7.2 If the Non-Paying Party fails to pay the Billing Party on or before the date specified in the demand provided under Section 9.5.1 of this Agreement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law,
- 9.7.2.1 cancel any pending application, request or order for new or additional Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products or services under this Agreement; and
- 9.7.2.2 disconnect **the specific** Interconnection, Resale Services, Network Elements, Collocation, functions, facilities, products or services **for which undisputed payment has not been rendered** under this Agreement after notice to Non-Paying Party set forth in Section 9.5.1.
- 9.7.2.2.1 Notwithstanding any inconsistent provisions in this Agreement, disconnection of service by **SWBT-KS** will comply with Kansas Corporation Commission Order Number 5 (dated March 25, 2002) in Docket 01-GIMT-649-GIT.
- 9.7.3 On the same date that Resale Services to **LEVEL 3** are disconnected, **SBC-7STATE** will transfer **LEVEL 3's** End-Users provisioned through Resale Services to **SBC-7STATE's** local service. To the extent available at retail from **SBC-7STATE**, the Resale End-Users transferred to **SBC-7STATE's** local service will receive the same services that were provided through **LEVEL 3** immediately prior to the time of transfer; provided, however, **SBC-7STATE** reserves the right to toll restrict (both interLATA and intraLATA) such transferred End-Users.
- 9.7.3.1 Notwithstanding any inconsistent provisions in this Agreement, the transfer of Resale End-Users to **SWBT-MO** will comply with Missouri Public Service Commission Rule 4 CSR 240-32.120.
- 9.7.3.2 **SBC-7STATE** will inform the Commission of the names of all Resale End-Users transferred through this process.
- 9.7.3.3 Conversion charges and service establishment charges for transferring Resale End-Users to **SBC-7STATE** as specified in Section 9.7.3 will be billed to **LEVEL 3**.
- 9.7.3.4 The Billing Party has no liability to the Non-Paying Party or its End-Users in the event of disconnection of service in compliance with Section 9.7.2. **SBC-7STATE** has no liability to **LEVEL 3** or **LEVEL 3's** End-Users in the event of disconnection of service to

**LEVEL 3** and the transfer of any Resale End-Users to **SBC-7STATE** local service in connection with such disconnection.

9.7.4 Within five (5) calendar days following the transfer, **SBC-7STATE** will notify each transferred Resale End-User that because of **LEVEL 3's** failure to pay **SBC-7STATE**, the End-User's local service is now being provided by **SBC-7STATE**. This notice will also advise each transferred Resale End-User that the End-User has thirty (30) calendar days from the date of transfer to select a new Local Service Provider.

9.7.4.1 Notwithstanding any inconsistent provisions in this Agreement, notice of transfer to Missouri Resale End-Users will comply with Missouri Public Service Commission Rule 4 CSR 240-32.120.

9.7.4.1.1 Notwithstanding any inconsistent provisions in this Agreement, notice of transfer to Kansas Resale End-Users will comply with Kansas Corporation Commission Order No. 5 (dated March 25, 2002) in Docket 01-GIMT-649-GIT.

9.7.5 The transferred Resale End-User shall be responsible for any and all charges incurred during the selection period other than those billed to **LEVEL 3** under Section 9.7.3.3.

9.7.6 If any Resale End-User transferred to **SBC-7STATE's** local service under Section 9.7.3 of this Agreement fails to select a new Local Service Provider within thirty (30) calendar days of the transfer, **SBC-7STATE** may terminate the transferred Resale End-User's service.

9.7.6.1 **SBC-7STATE** will notify the Commission of the names of all transferred Resale End-Users whose local service was terminated pursuant to Section 9.7.5.

9.7.6.2 Nothing in this Agreement shall be interpreted to obligate **SBC-7STATE** to continue to provide local service to any transferred Resale End-User beyond the thirty (30) calendar day selection period. Nothing herein shall be interpreted to limit any and all disconnection rights **SBC-7STATE** has with regard to such transferred Resale End-Users under Applicable Law; provided, however,

9.7.6.2.1 in **SBC CALIFORNIA** only, following expiration of the selection period and disconnection of such transferred Resale End-Users, where facilities permit, **SBC CALIFORNIA** will furnish

transferred and subsequently disconnected local residential End-Users with “quick dial tone.”

9.8 **SBC CONNECTICUT** only

9.8.1 For nonpayment and procedures for disconnection for **SBC CONNECTICUT**, see the applicable DPUC ordered tariff.

**10. DISPUTE RESOLUTION**

- 10.1 No claims, under this Agreement or its Appendices, shall be brought for disputed amounts more than twelve (12) months from the date of occurrence which gives rise to the dispute. Under this Section 10.1, if any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within forty five (45) days of its receipt of the invoice containing such disputed amount give notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. LEVEL 3 will utilize the standard form provided by the appropriate LSC/LECC or CSC (in the case of claims relating to collocation) for submission of billing disputes. The Non-Paying Party shall pay when due (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts into an interest bearing escrow account with a third party escrow agent mutually agreed upon by the Parties.
- 10.2 If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within forty five (45) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute.
- 10.3 If the Parties are unable to resolve issues related to the Disputed Amounts within forty five (45) days after the Parties' appointment of designated representatives pursuant to Section 10.2, then either Party may file a complaint with the Commission to resolve such issues or proceed with any other remedy pursuant to law or equity. The Commission may direct release of any or all funds (including any accrued interest) in the escrow account, plus applicable late fees, to be paid to either Party.

- 10.4 The Parties agree that all negotiations and documents exchanged during negotiations pursuant to this Section 10, if marked “Confidential” or “Proprietary”, shall be treated as Confidential or Proprietary Information in accordance with Section 20.1.
- 10.5 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 (1-1/2%) per month or (ii) the highest rate of interest that may be charged under applicable law.
- 10.6 Dispute Resolution.
- 10.6.1 No claims shall be brought for disputes arising under this Agreement or its Appendices more than twenty-four (24) months from the date of occurrence which gives rise to the dispute.
- 10.6.2 For disputes other than disputed amounts under this Agreement or its Appendices the Parties agree to appoint a designated representative as set forth in Section 10.2 and if unable to resolve the dispute, proceed as set forth in Section 10.3.
- 10.6.3 Nothing in sections 10.2 and 10.3 shall be construed to preclude or limit either Party from seeking immediate injunctive relief from a court or agency with competent jurisdiction to the extent it deems necessary.

## 11. AUDITS – Applicable in **SBC-12STATE** only

- 11.1 Subject to the restrictions set forth in Section 20 and except as may be otherwise expressly provided in this Agreement, a Party (the “**Auditing Party**”) may audit the other Party’s (the “**Audited Party**”) books, records, data and other documents, as provided herein, once annually, with the audit period commencing not earlier than the date on which services were first supplied under this Agreement (“**service start date**”) for the purpose of evaluating (i) the accuracy of Audited Party’s billing and invoicing of the services provided hereunder and (ii) verification of compliance with any provision of this Agreement that affects the accuracy of Auditing Party’s billing and invoicing of the services provided to Audited Party hereunder. Notwithstanding the foregoing, an Auditing Party may audit the Audited Party’s books, records and documents more than once annually if the previous audit found (i) previously uncorrected net variances or errors in invoices in Audited Party’s favor with an aggregate value of at least five percent (5%) of the amounts payable by Auditing Party for audited services provided during the period covered by

the audit or (ii) non-compliance by Audited Party with any provision of this Agreement affecting Auditing Party's billing and invoicing of the services provided to Audited Party with an aggregate value of at least five percent (5%) of the amounts payable by Audited Party for audited services provided during the period covered by the audit.

11.1.1 The scope of the audit shall be limited to the period which is the shorter of (i) the period subsequent to the last day of the period covered by the audit which was last performed (or if no audit has been performed, the service start date and (ii) the twelve (12) month period immediately preceding the date the Audited Party received notice of such requested audit, but in any event not prior to the service start date. Such audit shall begin no fewer than thirty (30) days after Audited Party receives a written notice requesting an audit and shall be completed no later than thirty (30) days after the start of such audit.

11.1.2 Such audit shall be conducted either by the Auditing Party's employee(s) or an independent auditor acceptable to both Parties; provided, however, if the Audited Party requests that an independent auditor be engaged and the Auditing Party agrees, the Audited Party shall pay one-quarter (1/4) of the independent auditor's fees and expenses. If an independent auditor is to be engaged, the Parties shall select an auditor by the thirtieth (30) day following Audited Party's receipt of a written audit notice. Auditing Party shall cause the independent auditor to execute a nondisclosure agreement in a form agreed upon by the Parties.

11.1.3 Each audit shall be conducted on the premises of the Audited Party during normal business hours. Audited Party shall cooperate fully in any such audit and shall provide the auditor reasonable access to any and all appropriate Audited Party employees and any books, records and other documents reasonably necessary to assess (i) the accuracy of Audited Party's bills and (ii) Audited Party's compliance with the provisions of this Agreement that affect the accuracy of Auditing Party's billing and invoicing of the services provided to Audited Party hereunder. Audited Party may redact from the books, records and other documents provided to the auditor any Audited Party Proprietary Information that reveals the identity of End-Users of Audited Party.

11.1.4 Each Party shall maintain reports, records and data relevant to the billing of any services that are the subject matter of this Agreement

for a period of not less than eighteen (18) months after creation thereof, unless a longer period is required by Applicable Law.

11.1.5 If any audit confirms any undercharge or overcharge, then Audited Party shall (i) promptly correct any billing error, including making refund of any overpayment by 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 the Audited Party, immediately compensate Auditing Party for such undercharge, and (iii) in each case, calculate and pay interest as provided in Section 8.1 (depending on the **SBC** Parties involved), 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.

11.1.6 Except as may be otherwise provided in this Agreement, audits shall be performed at Auditing Party's expense, subject to reimbursement by Audited Party of one-quarter (1/4) of any independent auditor's fees and expenses in the event that an audit finds, and the Parties subsequently verify, a net adjustment in the charges paid or payable by Auditing Party hereunder by an amount that is, on an annualized basis, greater than five percent (5%) of the aggregate charges for the audited services during the period covered by the audit.

11.1.7 Any disputes concerning audit results shall be referred to the Parties' respective personnel responsible for informal resolution. If these individuals cannot resolve the dispute within thirty (30) days of the referral, either Party may request in writing that an additional audit shall be conducted by an independent auditor acceptable to both Parties, subject to the requirements set out in Section 11.1. Any additional audit shall be at the requesting Party's expense.

## 11.2 Audits - **SBC CONNECTICUT** only

11.2.1 Except as provided in Appendix Compensation, **SBC CONNECTICUT** shall arrange for one (1) annual independent audit to be conducted by a "Big Six" independent public accounting firm or an accounting firm mutually agreed to by **SBC CONNECTICUT**, **LEVEL 3** and all other CLECs doing business with **SBC CONNECTICUT** under the terms of an agreement adopted pursuant to Sections 251 and 252 of the Act for the

purpose of evaluating the accuracy of **SBC CONNECTICUT**'s billing and invoicing.

11.2.2 **SBC CONNECTICUT** will cooperate fully with the independent auditor in such audit and provide reasonable access to any and all appropriate **SBC CONNECTICUT** employees, books, records and other documents reasonably necessary to perform the audit.

11.2.3 **SBC CONNECTICUT** shall promptly correct any billing error that is revealed in the audit, including making refund of any overpayment to **LEVEL 3** in the form of a credit on the invoice for the first full billing cycle after the audit report is issued; such refund shall include interest on the overpayment at the rate of eight percent (8%) per year. In the event that the audit reveals any underbilling and resulting underpayment to **SBC CONNECTICUT** by **LEVEL 3**, the underpayment shall be reflected **in LEVEL 3's** invoice for the first full billing cycle after the audit report is issued. **SBC CONNECTICUT** will not be entitled to recover interest on any underbilling to **LEVEL 3** revealed by the audit for the time preceding the amount appearing on **LEVEL 3's** bill from **SBC CONNECTICUT**, however, **SBC CONNECTICUT** shall be entitled to recover interest at the interest rate referenced in Section 8.1.5.1 on such underbilling and **LEVEL 3** shall pay interest for the number of days from the Bill Due Date of the bill on which such underbilling was rectified until the date on which payment is made and available to **SBC CONNECTICUT**.

## **12. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES**

12.1 EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NO PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE INTERCONNECTION, RESALE SERVICES, NETWORK ELEMENTS, FUNCTIONS, FACILITIES, PRODUCTS AND SERVICES IT PROVIDES UNDER OR IS CONTEMPLATED TO PROVIDE UNDER THIS AGREEMENT AND EACH PARTY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, NEITHER **SBC-13STATE** NOR **LEVEL 3** ASSUMES RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY THE OTHER WHEN THIS DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.



### 13. LIMITATION OF LIABILITY

- 13.1 Except for indemnity obligations expressly set forth herein or as otherwise expressly provided in specific appendices, 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 any negligent act or omission, whether in contract, tort or otherwise, including 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 the Act, shall not exceed in total the amount **SBC-13STATE** or **LEVEL 3** has charged or would have charged to the other Party for the affected Interconnection, Resale Services, Network Elements, functions, facilities, products and service(s) that were not performed or were improperly performed.
- 13.2 Except as otherwise expressly provided in specific appendices, in the case of any Loss alleged or claimed by a Third Party to have arisen out of the negligence or willful misconduct of any Party, each Party shall bear, and its obligation shall be limited to, that portion (as mutually agreed to by the Parties or as otherwise established) 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.
- 13.3 A Party may, in its sole discretion, provide in its tariffs and contracts with its End-Users or Third Parties that relate to any Interconnection, Resale Services, Network Elements, functions, facilities, products and services provided or contemplated under this Agreement that, to the maximum extent permitted by Applicable Law, such Party shall not be liable to such End-User or Third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged the End-User or Third Party for the Interconnection, Resale Services, Network Elements, functions, facilities, products and services that gave rise to such Loss and (ii) any Consequential Damages. If a Party elects not to place in its tariffs or contracts such limitation(s) of liability, and the other Party incurs a Loss as a result thereof, the first Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitation(s) of liability described in this Section 13.3.
- 13.4 Neither **LEVEL 3** nor **SBC-13STATE** shall be liable to the other Party for any Consequential Damages suffered by the other Party, regardless of the form of action, whether in contract, warranty, strict liability, tort or otherwise, including negligence of any kind, whether active or passive (and including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement constitutes a violation of the Act or other statute), and

regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions; provided that the foregoing shall not limit a Party's obligation under Section 14.2 to indemnify, defend, and hold the other Party harmless against any amounts payable to a Third Party, including any Losses, and Consequential Damages of such Third Party; provided, however, that nothing in this Section 13.4 shall impose indemnity obligations on a Party for any Loss or Consequential Damages suffered by a Party's End-User in connection with any affected Interconnection, Resale Services, Network Elements, functions, facilities, products and services. Except as provided in the prior sentence, each Party hereby releases and holds harmless the other Party (and such other Party's Affiliates, and their respective officers, directors, employees and agents) from any such Claim.

- 13.5 **SBC-13STATE** shall not be liable for damages to a End-User's premises resulting from the furnishing of any Interconnection, Resale Services, Network Elements, functions, facilities, products or services, including, if applicable, the installation and removal of equipment and associated wiring, unless the damage is caused by **SBC-13STATE's** gross negligence or willful misconduct. **SBC-13STATE** does not guarantee or make any warranty with respect to Interconnection, Resale Services, Network Elements, functions, facilities, products or services when used in an explosive atmosphere.
- 13.6 **LEVEL 3** hereby releases **SBC-13STATE** from any and all liability for damages due to errors or omissions in **LEVEL 3's** End-User listing information as provided by **LEVEL 3** to **SBC-13STATE** under this Agreement, including any errors or omissions occurring in **LEVEL 3's** End-User listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, Consequential, punitive or incidental damages.
- 13.7 **SBC-13 STATE** shall not be liable to **LEVEL 3**, its End-User or any other Person for any Loss alleged to arise out of the provision of access to 911 service or any errors, interruptions, defects, failures or malfunctions of 911 service.
- 13.8 This Section 13 is not intended to exempt any Party from all liability under this Agreement, but only to set forth the scope of liability agreed to and the type of damages that are recoverable. Both Parties acknowledge that they negotiated regarding alternate limitation of liability provisions but that such provisions would have altered the cost, and thus the price, of providing the Interconnection, Resale Services, Network Elements, functions, facilities, products and services available hereunder, and no different pricing reflecting different costs and different limits of liability was agreed to.

## 14. INDEMNITY

- 14.1 Except as otherwise expressly provided herein or in specific appendices, each Party shall be responsible only for the Interconnection, Resale Services, Network Elements, functions, facilities, products 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, Resale Services, Network Elements, functions, facilities, products and services provided by the other Party, its agents, subcontractors, or others retained by such Parties.
- 14.2 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, Resale Services, Network Elements, functions, facilities, 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.
- 14.3 In the case of any Loss alleged or claimed by a 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, Resale Service, Network Element, function, facility, 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.
- 14.4 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, Resale Services, Network Elements, functions, facilities, products and services provided under this Agreement involving:

14.4.1 any Claim or Loss arising from such Indemnifying Party's use of Interconnection, Resale Services, Network Elements, functions, facilities, 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 own communications or the communications of such Indemnifying Party's End-Users.

14.4.1.1 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, Resale Services, Network Elements, functions, facilities, 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, Resale Services, Network Elements, functions, facilities, products or services provided pursuant to this Agreement.

14.4.1.2 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 Indemnified Party's or an Indemnified Party's End-User's use of Interconnection, Resale Services, Network Elements, functions, facilities, 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 in the case of:

14.4.1.2.1 any use by an Indemnified Party or its End-User of an Interconnection, Resale Service, Network Element, function, facility, product or service in combination with an Interconnection, Resale Service, Network Element, function, facility, product or service supplied by the Indemnified Party or Persons other than the Indemnifying Party; or

14.4.1.2.2 where an Indemnified Party or its End-User modifies or directs the Indemnifying Party to modify such Interconnection, Resale Services, Network Elements, functions, facilities, products or services; and

14.4.1.2.3 no infringement would have occurred without such combined use or modification.

14.4.2 any and all 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.

14.5 **LEVEL 3** acknowledges that its right under this Agreement to Interconnect with **SBC-13STATE's** network and to unbundle and/or combine **SBC13-STATE's** Network Elements (including combining with **LEVEL 3's** Network Elements) may be affected by Intellectual Property rights and contract rights of Third Parties absent **SBC-13STATE's** pursuit of the requisite Intellectual Property and contract rights.

14.5.1 To the extent required by the FCC in *In the Matter of MCI for Declaratory Ruling*, CC Docket No. 96-98, FCC 00-139 (Rel. April 27, 2000), it is the obligation of **SBC-13STATE** to use best efforts to obtain any consents, authorizations, or licenses to or for any Third Party Intellectual Property rights that may be necessary for **LEVEL 3's** use of Interconnection, Network Elements, functions, facilities, products and services furnished under this Agreement. In particular, **SBC-13STATE** must exercise its best efforts to obtain co-extensive Third Party Intellectual Property rights needed for **LEVEL 3** to utilize network elements in the same manner as **SBC-13STATE** that are equal in quality to the Third Party Intellectual Property rights that **SBC-13STATE** obtains for itself. The costs of such Third Party Intellectual Property rights shall be considered with all other costs that go into determining the price of an unbundled network element.

14.5.2 Subject to **SBC TEXAS's** obligations under any Commission decisions and except as expressly stated in this Agreement, **SBC TEXAS** does not and shall not indemnify, defend or hold **LEVEL 3** harmless, nor be responsible for indemnifying or defending, or holding **LEVEL 3** harmless, for any Claims or Losses for actual or alleged infringement of any Intellectual Property right or interference with or violation of any contract right that arises out of, is caused by, or relates to **LEVEL 3's** Interconnection with **SBC TEXAS's** network and unbundling and/or combining **SBC TEXAS's** Network Elements (including combining with **LEVEL 3's** Network Elements) or **LEVEL 3's** use of other functions, facilities, products or services furnished under this Agreement.

- 14.6 Subject to **SBC TEXAS's** and **SBC ILLINOIS's** obligations under any Commission decision and except as expressly stated in this Agreement, **LEVEL 3** agrees to release, indemnify and hold **SBC TEXAS** and **SBC ILLINOIS** harmless from and against all Losses arising out of, caused by, or relating to any real or potential claim that **LEVEL 3's** Interconnection with **SBC TEXAS's** or **SBC ILLINOIS's** network, or **LEVEL 3's** use of **SBC TEXAS's** Network Elements beyond the uses **SBC TEXAS or SBC ILLINOIS** make of the Network Element, or unbundling and/or combining of **SBC TEXAS's** Network Elements (including combining with **LEVEL 3's** Network Elements) in a manner not contemplated by **SBC TEXAS's** and **SBC ILLINOIS's** licenses, or **LEVEL 3's** use of other functions, facilities, products or services furnished under this Agreement violates or infringes upon any Third Party Intellectual Property rights or constitutes a breach of contract. In no event shall **SBC TEXAS** be liable for any actual or Consequential Damages that **LEVEL 3** may suffer arising out of same.
- 14.7 **LEVEL 3** shall reimburse **SBC-13STATE** for damages to **SBC-13STATE's** facilities utilized to provide Interconnection or unbundled Network Elements hereunder caused by the negligence or willful act of **LEVEL 3**, its agents or subcontractors or **LEVEL 3's** End-User or resulting from **LEVEL 3's** improper use of **SBC-13STATE's** facilities, or due to malfunction of any facilities, functions, products, services or equipment provided by any person or entity other than **SBC-13STATE**. Upon reimbursement for damages, **SBC-13STATE** will cooperate with **LEVEL 3** in prosecuting a claim against the person causing such damage. **LEVEL 3** shall be subrogated to the right of recovery by **SBC-13STATE** for the damages to the extent of such payment.
- 14.8 **Indemnification Procedures**
- 14.8.1 Whenever a claim shall arise for indemnification under this Section 14, 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.
- 14.8.2 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.
- 14.8.3 Until such time as the 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 the Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.

- 14.8.4 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.
- 14.8.5 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.
- 14.8.6 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.
- 14.8.7 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.
- 14.8.8 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.

- 14.8.9 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 20.

## 15. REMEDIES

- 15.1 Except as otherwise provided in this Agreement, no remedy set forth herein is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under Applicable Law or otherwise.

## 16. INTELLECTUAL PROPERTY

### 16.1 Intellectual Property - **SBC-13STATE**

- 16.1.1 In order for **LEVEL 3** to determine the extent to which **SBC-13STATE** is entitled to use a particular network element, **SBC-13-STATE** will provide to **LEVEL 3** a list of all vendors/licensors applicable to unbundled Network Element(s) (which vendors have provided **SBC-13STATE** a software license) within seven (7) days of **LEVEL 3's** request for such a list. The list provided by **SBC-13-STATE** shall at a minimum detail the names of the specific third party vendors, the subject intellectual property, and the relevant contracts which govern **SBC-13-STATE's** use of that intellectual property.
- 16.1.2 Any Intellectual Property that originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel.
- 16.1.3 **SBC-13STATE** will indemnify **LEVEL 3** for any claims of infringement arising from **LEVEL 3's** use of Intellectual Property within the scope of any license agreement negotiated by **SBC-13STATE** for **LEVEL 3**. **LEVEL 3** will indemnify **SBC-13STATE** for any claims of infringement arising from **LEVEL 3's** use of Intellectual Property beyond that which differs from **SBC-13STATE's** use and was not within the scope



contemplated by the license agreement negotiated by **SBC-13STATE** for **LEVEL 3** if such agreement is obtained.

## 17. NOTICES

17.1 Subject to Section 17.2, notices given by one Party to the other Party under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be:

17.1.1 delivered personally;

17.1.2 delivered by express overnight delivery service;

17.1.3 mailed, via certified mail or first class U.S. Postal Service, with postage prepaid, and a return receipt requested; or

17.1.4 delivered by facsimile; provided that a paper copy is also sent by a method described in (a), (b) or (c) of this Section 17.

17.1.5 Notices will be deemed given as of the earliest of:

17.1.5.1 the date of actual receipt,

17.1.5.2 the next Business Day when sent via express overnight delivery service,

17.1.5.3 five (5) days after mailing in the case of first class or certified U.S. Postal Service, or

17.1.5.4 on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone.

17.1.6 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	CLEC CONTACT	<b><u>SBC-13STATE</u></b> CONTACT
NAME/TITLE	Director – Interconnection Services	Contract Administration ATTN: Notices Manager
STREET ADDRESS	1025 Eldorado	311 S. Akard, 9 <sup>th</sup> Floor

	Boulevard	Four Bell Plaza
CITY, STATE, ZIP CODE	Broomfield, CO 80021	Dallas, TX 75202-5398
TELEPHONE NUMBER	(720) 888-2620	214-464-1933
FACSIMILE NUMBER	(720) 888-5134	214-464-2006

17.1.7 Either Party may unilaterally change its designated contact, address, telephone number and/or facsimile number for the receipt of notices by giving written notice to the other Party in compliance with this Section. Any notice to change the designated contact, address, telephone and/or facsimile number for the receipt of notices shall be deemed effective ten (10) days following receipt by the other Party.

- 17.2 **SBC-8STATE** communicates official information to **LEVEL 3** via its Accessible Letter notification process. This process covers a variety of subjects, including updates on products/services promotions; deployment of new products/services; modifications and price changes to existing products/services; cancellation or retirement of existing products/services; and operational issues.
- 17.3 In the **SBC-8STATES**, **LEVEL 3** may elect in writing to receive Accessible Letter notification via electronic mail (“e-mail”) distribution, either in lieu of or in addition to United States Postal Service (postage prepaid) distribution. **LEVEL 3** acknowledges that United States Postal Service (postage prepaid) delivery will delay receipt of the information for a minimum of three (3) to five (5) days from the date the information is made available via e-mail. Accessible Letter notification via e-mail will be deemed given as of the earlier of the date of actual receipt and the date set forth on the e-mail receipt.
- 17.4 In **SBC-8STATE**, **LEVEL 3** may designate an unlimited number of recipients for Accessible Letter notification via e-mail, but **LEVEL 3** is limited to designating a maximum of four (4) recipients (in addition to the **LEVEL 3** contact designated in Section 17.1) for Accessible Letter notification via United States Postal Service (postage prepaid).
- 17.5 In **SBC-8STATE**, **LEVEL 3** shall submit a completed Notices / Accessible Letter Recipient Change Request Form (available on the applicable **SBC-8STATE’s LEVEL 3** Handbook website) to the individual specified on that form to designate in writing each individual (other than the **LEVEL 3** contact designated in Section 17.1) to whom **LEVEL 3** requests Accessible Letter notification be sent, whether via e-mail or United States Postal Service. **LEVEL 3** shall submit a completed Notices / Accessible Letter Recipient Change Request Form to add, remove or change recipient information for any **LEVEL 3** recipient of Accessible Letters (other than the **LEVEL 3** contact designated in Section

17.1). Any completed Notices / Accessible Letter Recipient Change Request Form shall be deemed effective ten (10) days following receipt by **SBC-8STATE**.

17.6 **SBC SOUTHWEST REGION 5-STATE only:**

17.6.1 **SBC SOUTHWEST REGION 5-STATE** shall provide a toll free facsimile number to **LEVEL 3** for the submission of requests for Resale Services and Network Elements under this Agreement; **LEVEL 3** shall provide **SBC SOUTHWEST REGION 5-STATE** with a toll free facsimile number for notices from **SBC SOUTHWEST REGION 5-STATE** relating to requests for Resale Services and Network Elements under this Agreement.

17.7 **INTENTIONALLY LEFT BLANK.**

18. **PUBLICITY AND USE OF TRADEMARKS OR SERVICE MARKS**

18.1 Neither Party nor its subcontractors or agents shall use in any advertising or sales promotion, press releases, or other publicity matters any endorsements, direct or indirect quotes, or pictures that imply endorsement by the other Party or any of its employees without such first Party's prior written approval. The Parties will submit to each other for written approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied; the Party to whom a request is directed shall respond promptly. Nothing herein, however, shall be construed as preventing either Party from publicly stating the fact that it has executed this Agreement with the other Party.

18.2 Nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, logos, proprietary trade dress or trade names of the other Party in any advertising, press releases, publicity matters, marketing and/or promotional materials or for any other commercial purpose without prior written approval from such other Party.

19. **NO LICENSE**

19.1 Except at otherwise expressly provided in this Agreement, no license under patents, copyrights or any other Intellectual Property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

20. **CONFIDENTIALITY**

20.1 All information, including specifications, microfilm, photocopies, magnetic disks, magnetic tapes, audit information, models, system interfaces, forecasts, computer programs, software, documentation, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data shall be deemed "Confidential" or "Proprietary" (**collectively "Proprietary Information"**) if:

20.1.1 Furnished or made available or otherwise disclosed by one Party (the **"Disclosing Party"**) or its agent, employee, representative or Affiliate to the other Party (the **"Receiving Party"**) or its agent, employee, representative or Affiliate dealing with End-User-specific, facility-specific, or usage-specific information, other than End-User information communicated for the purpose of publication or directory database inclusion, 911, call processing, billing or settlement or for such other purposes as mutually agreed upon;

20.1.2 In written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary"; or

20.1.3 Communicated orally and declared to the Receiving Party at the time of delivery to be "Confidential" or "Proprietary", and which shall be summarized in writing and marked "Confidential" or "Proprietary" and delivered to the Receiving Party within ten (10) days following such disclosure; and

20.1.4 Any portion of any notes, analyses, data, compilations, studies, interpretations or other documents prepared by any Receiving Party to the extent the same contain, reflect, are derived from, or are based upon, any of the information described in this Section 20, unless such information contained or reflected in such notes, analyses, etc. is so commingled with the Receiving Party's information that disclosure could not possibly disclose the underlying proprietary or confidential information (such portions of such notes, analyses, etc. referred to herein as **"Derivative Information"**).

20.2 Proprietary Information Shall be Held in Confidence

20.2.1 Each Receiving Party agrees that:

- (a) all Proprietary Information communicated to it or any of its agents, employees, representatives and Affiliates in connection with this Agreement shall be held in confidence to the same extent as such Receiving Party holds its own confidential information of like importance; provided that such Receiving Party and its

agents, employees, representatives and Affiliates shall not use less than a reasonable standard of care in maintaining the confidentiality of such information;

- (b) it will not, and it will not permit any of its agents, employees, representatives and Affiliates to disclose such Proprietary Information to any Third Party;
- (c) it will disclose Proprietary Information only to those of its agents, employees, representatives and Affiliates who have a need for it in connection with the use or provision of any services required to fulfill this Agreement; and
- (d) it will, and will cause each of its agents, employees, representatives and Affiliates, to use such Proprietary Information only to perform its obligations under this Agreement or to use services provided by the Disclosing Party hereunder and for no other purpose, including its own marketing purposes.

20.2.2 A Receiving Party may disclose Proprietary Information of a Disclosing Party to the Receiving Party's agents, employees, representatives and Affiliates who need to know such information to perform their obligations under this Agreement; provided that before disclosing any Proprietary Information to any agent, employee, representative or Affiliate, the Receiving Party shall notify such agent, employee, representative or Affiliate of such Party's obligation to comply with this Agreement. Any Receiving Party so disclosing Proprietary Information shall be jointly and severally liable for any breach of this Agreement by any of its agents, employees, representatives and Affiliates and such Receiving Party agrees, at its sole expense, to use its reasonable efforts (including court proceedings) to restrain its agents, employees, representatives and Affiliates from any prohibited or unauthorized disclosure or use of the Proprietary Information. Each Receiving Party making such disclosure shall notify the Disclosing Party as soon as possible if it has knowledge of a breach of this Agreement in any material respect.

20.2.3 Proprietary Information shall not be reproduced by any Receiving Party in any form except to the extent (i) necessary to comply with the provisions of Section 20.5 and (ii) reasonably necessary to perform its obligations under this Agreement. All such reproductions shall bear the same copyright and proprietary rights notices as are contained in or on the original.

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

20.3.1 Was at the time of receipt, already known to the Receiving Party, free of any obligation to keep confidential and evidenced by written records prepared prior to delivery by the Disclosing Party; or

20.3.2 Is, or becomes, publicly known through no wrongful act of the Receiving Party; or

20.3.3 Is rightfully received from a Third Party having no direct or indirect secrecy or confidentiality obligation to the Disclosing Party with respect to such information; provided that such Receiving Party has exercised commercially reasonable efforts to determine whether such Third Party has any such obligation; or

20.3.4 Is independently developed by an agent, employee representative or Affiliate of the Receiving Party and such Party is not involved in any manner with the provision of services pursuant to this Agreement and does not have any direct or indirect access to the Proprietary Information; or

20.3.5 Is disclosed to a Third Party by the Disclosing Party without similar restrictions on such Third Party's rights; or

20.3.6 Is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization granted; or

20.3.7 Is required to be made public by the Receiving Party pursuant to Applicable Law or regulation, provided that such production or disclosure shall have been made in accordance with Section 20.5.

20.4 **Proposed Disclosure of Proprietary Information to a Governmental Authority**

20.4.1 If a Receiving Party desires to disclose or provide to a Commission, the FCC or any other governmental authority any Proprietary Information of the Disclosing Party, such Receiving Party shall, prior to and as a condition of such disclosure, (i) provide the Disclosing Party with written notice and the form of such proposed disclosure as soon as possible but in any event early enough to allow the Disclosing Party to protect its interests in the Proprietary Information to be disclosed and (ii) attempt to obtain in accordance with the applicable procedures of the intended recipient of such Proprietary Information an appropriate order for protective relief or other reliable assurance that confidential treatment shall be accorded to such Proprietary Information.

- 20.4.2 If a Receiving Party is required by any Governmental Authority or by Applicable Law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible, and in no event later than five (5) calendar days after receipt of such requirement, and prior to such disclosure. Upon receipt of written notice of the requirement to disclose Proprietary Information, the Disclosing Party at its expense, may then either seek appropriate protective relief in advance of such requirement to prevent all or part of such disclosure or waive the Receiving Party's compliance with this Section 20.4 with respect to all or part of such requirement.
- 20.4.3 The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to seek pursuant to this Section 20.4. In the absence of such relief, if the Receiving Party is legally compelled to disclose any Proprietary Information, then the Receiving Party shall exercise all commercially reasonable efforts to preserve the confidentiality of the Proprietary information, including cooperating with the Disclosing Party to obtain an appropriate order for protective relief or other reliable assurance that confidential treatment will be accorded the Proprietary Information.
- 20.5 Notwithstanding any of the foregoing, **SBC-13STATE** and **LEVEL 3** shall be entitled to disclose Proprietary Information on a confidential basis to regulatory agencies upon request for information as to **SBC-13STATE's** activities under the Act and need not provide prior written notice of such disclosure if the Party has obtained an appropriate order for protective relief that confidential treatment shall be accorded to such Proprietary Information.
- 20.6 **Return of Proprietary Information**
- 20.6.1 All Proprietary Information, other than Derivative Information, shall remain the property of the Disclosing Party, and all documents or other tangible media delivered to the Receiving Party that embody such Proprietary Information shall be, at the option of the Disclosing Party, either promptly returned to Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Proprietary Information will continue to be subject to this Agreement), upon the earlier of (i) the date on which the Receiving Party's need for it has expired and (ii) the expiration or termination of this Agreement.

- 20.6.2 At the request of the Disclosing Party, any Derivative Information shall be, at the option of the Receiving Party, either promptly returned to the Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Derivative Information will continue to be subject to this Agreement), upon the earlier of (i) the date on which the Receiving Party's need for it has expired and (ii) the expiration or termination of this Agreement.
- 20.6.3 The Receiving Party may at any time either return the Proprietary Information to the Disclosing Party or destroy such Proprietary Information. If the Receiving Party elects to destroy Proprietary Information, all copies of such information shall be destroyed and upon the written request of the Disclosing Party, the Receiving Party shall provide to the Disclosing Party written certification of such destruction. The destruction or return of Proprietary information shall not relieve any Receiving Party of its obligation to continue to treat such Proprietary Information in the manner required by this Agreement.
- 20.7 Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the date of this Agreement and each Party's obligation to safeguard Proprietary Information disclosed prior to expiration or termination of this Agreement will survive such expiration or termination.
- 20.8 Pursuant to Section 222(b) of the Act, both Parties agree to limit their use of Proprietary Information received from the other to the permitted purposes identified in the Act.
- 20.9 Each Party has the right to refuse to accept any Confidential Information under this Agreement, and nothing herein shall obligate either Party to disclose to the other Party any particular information.
- 20.10 The Parties agree that an impending or existing violation of any provision of this Section 20 would cause the Disclosing Party irreparable injury for which it would have no adequate remedy at law, and agree that Disclosing Party shall be entitled to obtain immediate injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it at law or in equity, including both specific performance and monetary damages. In the event of any breach of this Section 20 for which legal or equitable relief is sought, all reasonable attorney's fees and other reasonable costs associated therewith shall be recoverable by the prevailing Party.



**21. INTERVENING LAW**

21.1 This Agreement is entered into as a result of both negotiations between the Parties and the incorporation of results of orders, rules and arbitration decisions of the Commissions, and/or FCC. If any of the rates, terms and/or conditions herein, or any of the laws or regulations that were the basis or rationale for such rates, terms and/or conditions in the Agreement, are invalidated, modified or stayed by any effective action of any state or federal regulatory or legislative bodies or courts of competent jurisdiction, *including any decision by the Eighth Circuit relating to any of the costing/pricing rules adopted by the FCC in its First Report and Order, In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499 (1996)(e.g., Section 51.501, et seq.), upon review and remand from the United States Supreme Court, in AT&T Corp. v. Iowa Utilities Bd., 119 S. Ct. 721 (1999) or Ameritech v. FCC, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (June 1, 1999), the affected provision shall be immediately invalidated, modified, or stayed, consistent with the action of the legislative body, court, or regulatory agency upon the written request of either Party. In such event, the Parties shall expend diligent efforts to arrive at an agreement regarding the appropriate conforming modifications to the Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the Dispute Resolution process provided for in this Agreement. Without limiting the general applicability of the foregoing, the Parties acknowledge that on January 25, 1999, the United States Supreme Court issued its opinion in AT&T Corp. v. Iowa Utilities Bd., 119 S. Ct. 721 (1999) and on June 1, 1999, the United States Supreme Court issued its opinion in Ameritech v. FCC, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (1999). The Parties further acknowledge and agree that by executing this Agreement, neither Party waives any of its rights, remedies, or arguments with respect to such decisions and any remand thereof, including its rights under this Intervening Law paragraph.*

21.2 *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: the United States Supreme Court's opinion in Verizon v. FCC, et al, 535 U.S. 467 (2002); the D.C. Circuit's decision in United States Telecom Association, et al. ("USTA") v. FCC, 290 F.3d 415 (D.C. Cir. 2002) and*

*following remand and appeal, the D.C. Circuit's March 2, 2004 decision in USTA v. FCC, Case No. 00-1012 (D.C. Cir. 2004); the FCC's Triennial Review Order, released on August 21, 2003, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147 (FCC 03-36) and the FCC's Biennial Review Proceeding which the FCC announced, in its Triennial Review Order, is scheduled to commence in 2004; 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) ("ISP Compensation Order"), 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 on the topic of Intercarrier Compensation generally, issued In the Matter of Developing a Unified Intercarrier Compensation Regime, in CC Docket 01-92 (Order No. 01-132), on April 27, 2001 (collectively "Government Actions"). Notwithstanding anything to the contrary in this Agreement (including any amendments to this Agreement), **SBC-13STATE** shall have no obligation to provide UNEs, combinations of UNEs, combinations of UNE(s) and **LEVEL 3's** own elements or UNEs in commingled arrangements beyond those required by the Act, including the lawful and effective FCC rules and associated FCC and judicial orders.*

- 21.3 *The Parties acknowledge and agree that they have previously executed a Amendment Superseding Certain Compensation, Interconnection and Trunking Provisions ("First Amendment") and a Second Amendment Superseding Certain Compensation, Interconnection and Trunking Provisions ("Second Amendment"), in which they have waived certain rights they may have under the Intervening/Change in Law provisions of the Agreement with respect to any reciprocal compensation or Total Compensable Local Traffic (as defined in the Second Amendment), POIs or trunking requirements that are subject to the First Amendment and the Second Amendment for the period from September 1, 2000 through December 31, 2004. Notwithstanding anything to the contrary in this Amendment or elsewhere in the Agreement, nothing in this Amendment is intended nor should be construed as modifying or superseding the rates, terms and conditions in the First Amendment and Second Amendment. With the exception of the explicit waivers in the First Amendment and Second Amendment for the time period of September 1, 2000 through December 31, 2004, each Party fully reserves all of its rights, remedies and arguments with respect to any decisions, orders or proceedings, including but not limited to its right to dispute whether any UNEs and/or UNE combinations identified in the Agreement and this Amendment must be provided under Sections 251(c)(3) and 251(d) of the Act, and under this Agreement. The Parties further acknowledge and agree that SBC Indiana, SBC Ohio, SBC Texas, SBC Wisconsin, SBC Arkansas, SBC Michigan, SBC California and SBC Illinois have provided on the dates below notice of the invocation of the intercarrier compensation plan adopted by the FCC in its ISP Compensation Order as that order was released on April 27, 2001 ("FCC Plan"), subject to the terms of the First Amendment and the Second Amendment, in (1) Indiana, Ohio, Texas and Wisconsin, effective June 1, 2003; (2) Arkansas and Michigan, effective July 6, 2003; (3)*

*California, effective August 1, 2003; and (3) Illinois effective September 1, 2003 and that in entering into this Agreement, SBC Indiana, SBC Ohio, SBC Texas, SBC Wisconsin, SBC Arkansas, SBC Michigan, SBC California and SBC Illinois, and the other SBC incumbent telephone operating companies (“ILECs”) are reserving their right to seek conforming modifications to the Agreement to formally incorporate the rates, terms and conditions of such FCC Plan into the Agreement in each applicable state and any of the other states in which SBC-13STATE may hereafter invoke the FCC Plan, subject to the terms of the First Amendment and the Second Amendment. The Parties agree that on or before March 31, 2004, they shall commence negotiations regarding the specific FCC Plan rates, terms and conditions that shall be effective between the Parties the day immediately after expiration of the Parties’ Second Amendment; provided, however, that both Parties reserve all rights with respect to the proper implementation of the FCC Plan. In the event that specific FCC Plan rates, terms and conditions have not been incorporated into this Agreement upon expiration of the Parties’ Second Amendment (and provided further that there has been no change in law with respect to the matters addressed in the FCC’s ISP Compensation Order including, but not limited to, the FCC Plan by that date of expiration), then the Parties acknowledge and agree that effective the day immediately following expiration in the states identified in this Section and any other states where SBC ILECs invoke the FCC Plan, ISP-Bound Traffic shall be subject to the FCC Plan rates, terms and conditions or whatever other arrangements the Parties may have mutually negotiated and are approved and in effect as of the date of expiration. Although the Parties agree that the FCC Plan will be implemented with respect to ISP-Bound Traffic the day immediately following expiration of the Parties’ Second Amendment (subject to any change of law) as described above, each Party reserves any rights it may have as to the proper implementation of the Plan except as such implementation has been agreed to herein. Notwithstanding anything contrary herein, if at any time LEVEL 3 is compensated under the rates, terms and conditions of the underlying Appendix Reciprocal Compensation (excluding the First and Second Amendment) in the states identified in this Section or any other states where an SBC ILEC(s) invokes the FCC Plan, ISP-Bound Traffic in those States shall be subject to the FCC Plan rates, terms, and conditions immediately, subject to any changes in law.*

- 21.4 *With the exception of the explicit waivers in the First Amendment and Second Amendment for the time period of September 1, 2000 through December 31, 2004, 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.*

## **22. GOVERNING LAW**

22.1 Unless otherwise provided by Applicable Law, this Agreement shall be governed by and construed in accordance with the Act, the FCC Rules and Regulations interpreting the Act and other applicable federal law. To the extent that federal law would apply state law in interpreting this Agreement, the domestic laws of the state in which the Interconnection, Resale Services, Network Elements, functions, facilities, products and services at issue are furnished or sought shall apply, without regard to that state's conflict of laws principles. The Parties submit to personal jurisdiction in Little Rock, Arkansas; San Francisco, California; New Haven, Connecticut; Chicago, Illinois; Indianapolis, Indiana; Topeka, Kansas; Detroit, Michigan; St. Louis, Missouri; Reno, Nevada; Columbus, Ohio; Oklahoma City, Oklahoma; Dallas, Texas and Milwaukee, Wisconsin.

## **23. REGULATORY APPROVAL**

23.1 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 and may thereafter be filed with the FCC. The Parties believe in good faith and agree that the services to be provided under this Agreement are in the public interest. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252 of the Act without modification.

## **24. CHANGES IN END-USER LOCAL EXCHANGE SERVICE PROVIDER SELECTION**

24.1 Applies to **SBC-12STATE** only

24.1.1 Each Party will abide by applicable federal and state laws and regulations in obtaining End-User authorization prior to changing an End-User's Local Exchange Carrier to itself and in assuming responsibility for any applicable charges as specified in Section 258(b) of the Telecommunications Act of 1996. Each Party shall deliver to the other Party a representation of authorization that applies to all orders submitted by a Party under this Agreement requiring a LEC change. A Party's representation of authorization shall be delivered to the other Party prior to the first order submitted to the other Party. Each Party shall retain on file all applicable letters and other documentation of authorization relating to

its End-User's selection of such Party as its LEC, which documentation shall be available for inspection by the other Party at its request during normal business hours and at no charge.

24.1.2 Only an End-User can initiate a challenge to a change in its LEC. If an End-User notifies one Party that the End-User requests local exchange service, and the other Party is such End-User's LEC, then the Party receiving such request shall be free to immediately access such End-User's CPNI subject to the requirements of the applicable Appendix OSS restricting access to CPNI in order to immediately provide service to such End-User.

24.1.3 When an End-User changes or withdraws authorization from its LEC, each Party shall release End-User-specific facilities belonging to the ILEC in accordance with the End-User's direction or that of the End-User's authorized agent. Further, when an End-User abandons its premise (that is, its place of business or domicile), **SBC-12STATE** is free to reclaim the unbundled Network Element facilities for use by another End-User and is free to issue service orders required to reclaim such facilities.

24.2 Applies to **SBC CONNECTICUT** only

24.2.1 The Parties agree that **LEVEL 3** will not submit a Local Exchange Carrier order for an End-User to the Local Service Provider currently serving that End-User without proper authorization from that End-User, as required by the FCC in Subpart K, Part 64 rules and regulations and by the DPUC in its applicable rules and regulations. **SBC CONNECTICUT's** wholesale tariff, Section 18, further documents requirements for Local Exchange Carrier changes and required End-User authorizations.

24.2.2 The Parties agree to the re-use of existing network facilities when an End-User changes its provider of local exchange service and the network facilities are provided by the same network provider.

## 25. COMPLIANCE AND CERTIFICATION

25.1 Each Party shall comply at its own expense with all Applicable Laws that relate to that Party's obligations to the other Party under this Agreement. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of Applicable Law.

25.2 Each Party warrants that it has obtained all necessary state certification required in each state covered by this Agreement prior to ordering any Interconnection,

Resale Services, Network Elements, functions, facilities, products and services from the other Party pursuant to this Agreement. Upon request, each Party shall provide proof of certification.

25.3 Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, Governmental Authorities, building and property owners, other carriers, and any other Third Parties that may be required in connection with the performance of its obligations under this Agreement.

25.4 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the CALEA.

## **26. LAW ENFORCEMENT**

26.1 **SBC-12 STATE** and **LEVEL 3** shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

### 26.1.1 Intercept Devices:

26.1.1.1 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.

### 26.1.2. Subpoenas:

26.1.2.1 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.

### 26.1.3 Emergencies:

26.1.3.1 If a Party receives a request from a law enforcement agency for a temporary number change, temporary disconnect, or one-way denial of outbound calls by the receiving Party's switch for an

End-User of the other Party, that Receiving Party will comply with a valid emergency request. However, neither Party shall be held liable for any claims or Losses arising from compliance with such requests on behalf of the other Party's End-User and the Party serving such End-User agrees to indemnify and hold the other Party harmless against any and all such claims or Losses.

26.2 **SBC CONNECTICUT** and **LEVEL 3** shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

26.2.1 Each of the Parties agree to comply with the applicable state and federal law enforcement authorities, laws, and requirements, including but not limited to, the Communications Assistance for Law Enforcement Act (CALEA) and to report to applicable State and Federal law enforcement authorities as required by law, the Telecommunications Services and related information provided by each of the Parties in Connecticut.

## **27. RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR**

27.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

27.2 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the

other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

## 28. NO THIRD PARTY BENEFICIARIES; DISCLAIMER OF AGENCY

28.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any Third Party beneficiary rights hereunder. This Agreement shall not provide any Person not a party hereto with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference hereto.

## 29. ASSIGNMENT

29.1 Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third person without the prior written consent of the Other Party, however, such consent shall not be unreasonably withheld; provided however, that the withholding of consent to an assignment or transfer that has been approved by all jurisdictional bodies whose approval is required by law shall be unreasonable. Either Party may assign or transfer this Agreement to its Affiliate by providing ninety (90) days' prior written notice to the Other Party of such assignment or transfer; provided, further, that such assignment is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain proper Commission certification and approvals) or the terms and conditions of this Agreement. *Notwithstanding the foregoing, **LEVEL 3** may not assign or transfer this Agreement (or any rights or obligations hereunder) to its Affiliate if that Affiliate is a party to a separate interconnection agreement with **SBC-13STATE** under Sections 251 and 252 of the Act.* Any attempted assignment or transfer that is neither permitted by this Section 29.1 nor otherwise agreed to by the Parties in writing is void ab initio.

29.2 As ordered by the Michigan PSC in Docket U-12460 and the Texas PUC in Docket No. 22441, during the Term of this Agreement, **SBC MICHIGAN** shall obtain **LEVEL 3's** prior written approval before it sells, assigns or otherwise transfers any of its ILEC Territory or ILEC Assets. **LEVEL 3's** prior written approval shall not be unreasonably withheld. **SBC TEXAS** shall provide **LEVEL 3** not less than sixty (60) days prior written notice of such sale, assignment or transfer.

## 30. DELEGATION TO AFFILIATE

30.1 Each Party may without the consent of the other Party fulfill its obligations under this Agreement by itself or may cause its Affiliate(s) to take some or all of such



actions to fulfill such obligations. Upon such delegation, the Affiliate shall become a primary obligor hereunder with respect to the delegated matter, but such delegation shall not relieve the delegating Party of its obligations as co-obligor hereunder. Any Party which elects to perform its obligations through an Affiliate shall cause its Affiliate to take all action necessary for the performance of such Party's obligations hereunder. Each Party represents and warrants that if an obligation under this Agreement is to be performed by an Affiliate, such Party has the authority to cause such Affiliate to perform such obligation and such Affiliate will have the resources required to accomplish the delegated performance.

### **31. SUBCONTRACTING**

- 31.1 If either Party retains or engages any subcontractor to perform any of that Party's obligations under this Agreement, each Party will remain fully responsible for the performance of this Agreement in accordance with its terms, including any obligations either Party performs through subcontractors.
- 31.2 Each Party will be solely responsible for payments due that Party's subcontractors.
- 31.3 No subcontractor will be deemed a Third Party beneficiary for any purposes under this Agreement.
- 31.4 No contract, subcontract or other agreement entered into by either Party with any Third Party in connection with the provision of Interconnection, Resale Services, Network Elements, functions, facilities, products and services hereunder will provide for any indemnity, guarantee or assumption of liability by the other Party to this Agreement with respect to such arrangement, except as consented to in writing by the other Party.
- 31.5 **Any subcontractor that gains access to CPNI or Proprietary Information covered by this Agreement shall be required by the subcontracting Party to protect such CPNI or Proprietary Information to the same extent the subcontracting Party is required to protect such CPNI or Proprietary Information under the terms of this Agreement.**

### **32. HAZARDOUS SUBSTANCES AND RESPONSIBILITY FOR ENVIRONMENTAL CONTAMINATION**

- 32.1 Each Party shall be solely responsible at its own expense (including costs, fines, and fees) for the proper handling, use, removal, excavation, storage, treatment, transport, disposal, legal disposition, or any other management by such Party or any person acting on its behalf of all Hazardous Substances and Environmental

Hazards introduced to the affected work location and will perform such activities in accordance with Applicable Law.

- 32.2 Notwithstanding anything to the contrary in this Agreement and to the fullest extent permitted by Applicable Law, **SBC-13STATE** shall, at **LEVEL 3's** request, indemnify, defend, and hold harmless, **LEVEL 3** each of its officers, directors and employees from and against any losses, damages, costs, fines, penalties and expenses (including reasonable attorneys and consultant's fees) of every kind and nature to the extent they are incurred by any of those parties in connection with a claim, demand, suit, or proceeding for damages, penalties, contribution, injunction, or any other kind of relief that is based upon, arises out of, is caused by, or results from: (i) the removal or disposal from the work location of a Hazardous Substance by **SBC-13STATE** or any person acting on behalf of **SBC-13STATE**, or the subsequent storage, processing, or other handling of such Hazardous Substances after they have been removed from the work location, (ii) the Release of a Hazardous Substance, regardless of its source, by **SBC-13STATE** or any person acting on behalf of **SBC-13STATE**, or (iii) the presence at the work location of an Environmental Hazard for which **SBC-13STATE** is responsible under Applicable Law or a Hazardous Substance introduced into the work location by **SBC-13STATE** or any person acting on behalf of **SBC-13STATE**.
- 32.3 Notwithstanding anything to the contrary in this Agreement and to the fullest extent permitted by Applicable Law, **LEVEL 3** shall, at **SBC-13STATE's** request, indemnify, defend, and hold harmless **SBC-13STATE**, each of its officers, directors and employees from and against any losses, damages, costs, fines, penalties and expenses (including reasonable attorney's and consultant's fees) of every kind and nature to the extent they are incurred by any of those parties in connection with a claim, demand, suit, or proceeding for damages, penalties, contribution, injunction, or any other kind of relief that is based upon, arises out of, is caused by, or results from: (i) the removal or disposal of a Hazardous Substance from the work location by **LEVEL 3** or any person acting on behalf of **LEVEL 3**, or the subsequent storage, processing, or other handling of such Hazardous Substances after they have been removed from the work location, (ii) the Release of a Hazardous Substance, regardless of its source, by **LEVEL 3** or any person acting on behalf of **LEVEL 3**, or (iii) the presence at the work location of an Environmental Hazard for which **LEVEL 3** is responsible under Applicable Law or a Hazardous Substance introduced into the work location by **LEVEL 3** or any person acting on behalf of **LEVEL 3**.
- 32.4 For the purposes of this agreement, "Hazardous Substances" means 1) any material or substance that is defined or classified as a hazardous substance, hazardous waste, hazardous material, hazardous chemical, pollutant, or contaminant under any federal, state, or local environmental statute, rule,

regulation, ordinance or other Applicable Law dealing with the protection of human health or the environment, 2) petroleum, oil, gasoline, natural gas, fuel oil, motor oil, waste oil, diesel fuel, jet fuel, and other petroleum hydrocarbons, or 3) asbestos and asbestos containing material in any form, and 4) any soil, groundwater, air, or other media contaminated with any of the materials or substances described above.

- 32.5 For the purposes of this agreement, "Environmental Hazard" means 1) the presence of petroleum vapors or other gases in hazardous concentrations in a manhole or other confined space, or conditions reasonably likely to give rise to such concentrations, 2) asbestos containing materials, or 3) any potential hazard that would not be obvious to an individual entering the work location or detectable using work practices standard in the industry.
- 32.6 For the purposes of this agreement, "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposal, or other movement into 1) the work location, or 2) other environmental media, including but not limited to, the air, ground or surface water, or soil.

### 33. **FORCE MAJEURE**

- 33.1 No Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make money payments when due under this Agreement) resulting from acts or occurrences beyond the reasonable control of such Party, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any Governmental Authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, hurricanes, floods, work stoppages, 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 (individually or collectively, a **"Force Majeure Event"**) or any Delaying Event caused by the other Party or any other circumstances beyond the Party's reasonable control. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other Party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give

like notice and proceed to perform with dispatch once the causes are removed or cease. Each Party agrees to treat the other in parity with the manner in which it treats itself and any other entities with regard to a Force Majeure Event.

#### **34. TAXES**

- 34.1 Each Party purchasing Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, municipal fees, transfer, transaction or similar taxes, fees, or surcharges (hereinafter “Tax”) imposed on, or with respect to, the Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement provided by or to such Party, except for (a) any Tax on either party’s corporate existence, status, or income or (b) any corporate franchise Taxes. Whenever possible, Taxes shall be billed as a separate item on the invoice.
- 34.2 With respect to any purchase of Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement if any Tax is required or permitted by Applicable Law to be collected from the purchasing Party by the providing Party, then: (i) the providing Party shall bill the purchasing Party for such Tax; (ii) the purchasing Party shall remit such Tax to the providing Party; and (iii) the providing Party shall remit such collected Tax to the applicable taxing authority. Failure to include Taxes on an invoice or to state a Tax separately shall not impair the obligation of the purchasing Party to pay any Tax. Nothing shall prevent the providing Party from paying any Tax to the appropriate taxing authority prior to the time: (1) it bills the purchasing Party for such Tax, or (2) it collects the Tax from the purchasing Party. Notwithstanding anything in this Agreement to the contrary, the purchasing Party shall be liable for and the providing Party may collect Taxes which were assessed by or paid to an appropriate taxing authority within the statute of limitations period but not included on an invoice within four (4) years after the Tax otherwise was owed or due.
- 34.3 With respect to any purchase hereunder of Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement that are resold to a third party, if any Tax is imposed by Applicable Law on the End-User in connection with any such purchase, then: (i) the purchasing Party shall be required to impose and/or collect such Tax from the End-User; and (ii) the purchasing Party shall remit such Tax to the applicable taxing authority. The purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing Party to pay or collect and remit such tax to such authority.

- 34.4 If the providing Party fails to bill or to collect any Tax as required herein, then, as between the providing Party and the purchasing Party: (i) the purchasing Party shall remain liable for such uncollected Tax; and (ii) the providing Party shall be liable for any penalty and interest assessed with respect to such uncollected Tax by such authority. However, if the purchasing Party fails to pay any Taxes properly billed, then, as between the providing Party and the purchasing Party, the purchasing Party will be solely responsible for payment of the Taxes, penalty and interest.
- 34.5 If the purchasing Party fails to impose and/or collect any Tax from End-Users as required herein, then, as between the providing Party and the purchasing Party, the purchasing Party shall remain liable for such uncollected Tax and any interest and penalty assessed thereon with respect to the uncollected Tax by the applicable taxing authority. With respect to any Tax that the purchasing Party has agreed to pay or impose on and/or collect from End-Users, the purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing Party to pay or collect and remit such Tax to such authority.
- 34.6 If either Party is audited by a taxing authority or other Governmental Authority, the other Party agrees to reasonably cooperate with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.
- 34.7 To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party for any period prior to the date that the purchasing Party presents a valid certificate. If Applicable Law excludes or exempts a purchase of Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party (a) furnishes the providing Party with a letter signed by an officer of the purchasing Party claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate; and (b) supplies the providing Party with an indemnification agreement, reasonably acceptable to the providing Party, which holds the providing Party harmless from any tax, interest, penalties, loss, cost or expense with respect to forbearing to collect such Tax.

- 34.8 With respect to any Tax or Tax controversy covered by this Section 34, the purchasing Party is entitled to contest with the imposing jurisdiction, pursuant to Applicable Law and at its own expense, any Tax that it is ultimately obligated to pay or collect. The purchasing Party will ensure that no lien is attached to any asset of the providing Party as a result of any contest. The purchasing Party shall be entitled to the benefit of any refund or recovery of amounts that it had previously paid resulting from such a contest. Amounts previously paid by the providing Party shall be refunded to the providing Party. The providing Party will cooperate in any such contest.
- 34.9 All notices, affidavits, exemption certificates or other communications required or permitted to be given by either Party to the other under this Section 34 shall be sent in accordance with Section 17 hereof.

### **35. NON-WAIVER**

- 35.1 Except as otherwise specified in this Agreement, no waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same is in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.

### **36. NETWORK MAINTENANCE AND MANAGEMENT**

- 36.1 The Parties will work cooperatively to implement this Agreement. The Parties will exchange appropriate information (for example, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the Government, escalation processes, etc.) to achieve this desired result.
- 36.2 Each Party will administer its network to ensure acceptable service levels to all users of its network services. Service levels are generally considered acceptable only when End-Users are able to establish connections with little or no delay encountered in the network. Each Party will provide a 24-hour contact number for Network Traffic Management issues to the other's surveillance management center.
- 36.3 Each Party maintains the right to implement protective network traffic

management controls, such as "cancel to", "call gapping" or 7-digit and 10-digit code gaps, to selectively cancel the completion of traffic over its network, including traffic destined for the other Party's network, when required to protect the public-switched network from congestion as a result of occurrences such as facility failures, switch congestion or failure or focused overload. Each Party shall immediately notify the other Party of any protective control action planned or executed.

- 36.4 Where the capability exists, originating or terminating traffic reroutes may be implemented by either Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes shall not be used to circumvent normal trunk servicing. Expansive controls shall be used only when mutually agreed to by the Parties.
- 36.5 The Parties shall cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes to prevent or mitigate the impact of these events on the public-switched network, including any disruption or loss of service to other End-User. Facsimile (FAX) numbers must be exchanged by the Parties to facilitate event notifications for planned mass calling events.
- 36.6 Neither Party shall use any Interconnection, Resale Service, Network Element, function, facility, product or service provided under this Agreement or any other service related thereto or used in combination therewith in any manner that interferes with any Party in the use of such Party's Telecommunications Service, prevents any Party from using its Telecommunications Service, impairs the quality of Telecommunications Service to other carriers or to either Party's End-Users, causes electrical hazards to either Party's personnel, damage to either Party's facilities or equipment or malfunction of either Party's ordering or billing systems or equipment. Upon such occurrence either Party may discontinue or refuse service, but only for so long as the other Party is violating this provision. Upon such violation, either Party shall provide the other Party notice of the violation at the earliest practicable time.

## **37. SIGNALING**

- 37.1 The Parties will Interconnect their networks using SS7 signaling as defined in GR-000317-CORE and GR-000394-CORE, including ISDN User Part (ISUP) for trunk signaling and Transaction Capabilities Application Part (TCAP) for CCS-based features in the Interconnection of their networks. Each Party may establish CCS interconnections either directly and/or through a Third Party. If CCS interconnection is established through a Third Party, the rates, terms, and conditions of the Parties' respective tariffs will apply. If CCS interconnection is established directly between **LEVEL 3** and **SBC-13STATE**, the rates, terms, and conditions of Appendix SS7 will apply.

- 37.2 The Parties will cooperate in the exchange of TCAP messages to facilitate full interoperability of CCS-based features between their respective networks, including all CLASS features and functions, to the extent each Party offers such features and functions to its own End-Users. All CCS signaling parameters deployed by both Parties will be provided including CPN. All privacy indicators will be honored.

### **38. TRANSMISSION OF TRAFFIC TO THIRD PARTIES**

- 38.1 **SBC-13STATE** will provide **LEVEL 3** with transit service in accordance with the terms and conditions of Appendix Interconnection Trunking Requirements (ITR). **LEVEL 3** agrees to use reasonable efforts to enter into agreements with Third Party carriers that exchange traffic with **LEVEL 3** pursuant to the terms and conditions of Appendix ITR. Subject to the requirements of Appendix ITR, **SBC-13STATE** shall provide at least two months' notice in writing prior to ceasing to provide transit service.

### **39. CUSTOMER INQUIRIES**

- 39.1 Each Party will refer all questions regarding the other Party's services or products directly to the other Party at a telephone number specified by that Party.
- 39.2 Each Party will ensure that all of its representatives who receive inquiries regarding the other Party's services:
- 39.2.1 Provide the number described in Section 39.1 to callers who inquire about the other Party's services or products; and
- 39.2.2 Do not in any way disparage or discriminate against the other Party or its products or services.
- 39.3 Except as otherwise provided in this Agreement, **LEVEL 3** shall be the primary point of contact for **LEVEL 3's** End-Users with respect to the services **LEVEL 3** provides such End-Users.
- 39.4 **LEVEL 3** acknowledges that **SBC-13STATE** may, upon End-User request, provide services directly to such End-User similar to those offered to **LEVEL 3** under this Agreement.

### **40. EXPENSES**

- 40.1 Except as expressly set forth in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the matters



covered by this Agreement.

- 40.2 **SBC-12STATE** and **LEVEL 3** shall each be responsible for one-half (1/2) of expenses payable to a Third Party for Commission fees or other charges (including regulatory fees and any costs of notice or publication, but not including attorney's fees) associated with the filing of this agreement.

#### **41. CONFLICT OF INTEREST**

- 41.1 The Parties represent that no employee or agent of either Party has been or will be employed, retained, paid a fee, or otherwise received or will receive any personal compensation or consideration from the other Party, or any of the other Party's employees or agents in connection with the negotiation of this Agreement or any associated documents.

#### **42. SURVIVAL**

- 42.1 The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. 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 continue beyond the termination or expiration of this Agreement: Section 5.5; Section 5.6, Section 7.3; Section 8.1; Section 8.4; Section 8.5; Section 8.6; Section 8.7; Section 10, Section 11; Section 13; Section 14; Section 15; Section 16.1; Section 18; Section 19; Section 20; Section 22; Section 25.4; Section 26.1.3; Section 32; Section 34 and Section 42.

#### **43. SCOPE OF AGREEMENT**

- 43.1 This Agreement is intended to describe and enable specific Interconnection and compensation arrangements between the Parties. This Agreement is the arrangement under which the Parties may purchase from each other the products and services described in Section 251 of the Act and obtain approval of such arrangement under Section 252 of the Act. Except as agreed upon in writing, neither Party shall be required to provide the other Party a function, facility, product, service or arrangement described in the Act that is not expressly provided herein. Nothing herein is intended to affect or abridge either Party's rights or obligations under Section 252(i) of the Act, nor is anything herein intended to modify **SBC-13STATE's** obligation to provide services and facilities under the Act.

- 43.2 Except as specifically contained herein or provided by the FCC or any Commission within its lawful jurisdiction, nothing in this Agreement shall be deemed to affect any access charge arrangement.

#### **44. AMENDMENTS AND MODIFICATIONS**

- 44.1 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 appropriate Commissions and such amendment will not require a refund, true-up or retroactive crediting or debiting prior to the approval of the Amendment unless such Amendment expressly provides therefor. **SBC-12STATE** and **LEVEL 3** shall each be responsible for its share of the publication expense (i.e. filing fees, delivery and reproduction expense, and newspaper notification fees), to the extent publication is required for filing of an amendment by a specific state.
- 44.2 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.

#### **45. INTENTIONALLY LEFT BLANK**

#### **46. AUTHORITY**

- 46.1 Each of the SBC-owned ILEC(s) for which this Agreement is executed represents and warrants that it is a corporation, limited partnership or other business entity duly organized, validly existing and in good standing under the laws of its state of incorporation or formation; that SBC Telecommunications, Inc. has full power and authority to execute and deliver this Agreement as agent for that SBC-owned ILEC; and that it has full power and authority to perform its obligations hereunder.
- 46.2 **LEVEL 3** represents and warrants that it is a corporation, limited liability corporation or other business entity duly organized, validly existing and in good standing under the laws of its state of incorporation or formation; and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder; that it has been or will be certified as a LEC by the Commission(s) prior to submitting any orders hereunder and is or will be authorized to provide the Telecommunications Services contemplated hereunder

in the territory contemplated hereunder prior to submission of orders for such Service.

- 46.3 Each Person whose signature appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

#### **47. COUNTERPARTS**

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

#### **48. ENTIRE AGREEMENT**

##### **48.1 SBC-12STATE**

- 48.1.1 The terms contained in this Agreement and any Appendices, Attachments, Exhibits, Schedules, and Addenda constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written.

##### **48.2 SBC CONNECTICUT**

- 48.2.1 The terms contained in this Agreement and any Appendices, Attachments, Exhibits, Schedules, Addenda, Commission approved tariffs and other documents or instruments referred to herein and incorporated into this Agreement by reference constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written.

#### **49. MOST FAVORED NATIONS PURSUANT TO SECTION 252(I)**

- 49.1 Nothing in this Agreement shall be construed to prevent either Party from exercising any rights it may hold under Section 252(i) of the Act, nor shall anything in this Agreement be construed to excuse either Party from any obligations it may bear under Section 252(i) of the Act.

**SBC-13STATE Agreement**

**Signatures**

**Level 3 Communications, LLC**

**Illinois Bell Telephone Company d/b/a  
SBC Illinois, Indiana Bell Telephone  
Company Incorporated d/b/a SBC Indiana,  
Michigan Bell Telephone Company d/b/a  
SBC Michigan, Nevada Bell Telephone  
Company d/b/a SBC Nevada, The Ohio Bell  
Telephone Company d/b/a SBC Ohio,  
Pacific Bell Telephone Company d/b/a SBC  
California, The Southern New England  
Telephone Company d/b/a SBC Connecticut  
and Southwestern Bell Telephone, L.P. d/b/a  
SBC Arkansas, SBC Kansas, SBC Missouri,  
SBC Oklahoma and/or SBC Texas, and  
Wisconsin Bell, Inc. d/b/a SBC Wisconsin  
by **SBC Telecommunications, Inc., its  
authorized agent****

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
(Print or Type)

Name: \_\_\_\_\_

Title: \_\_\_\_\_  
(Print or Type)

Title: President - Industry Markets

Date: \_\_\_\_\_

Date: \_\_\_\_\_

AECN/OCN# \_\_\_\_\_  
(Facility Based – if applicable)

358708

## GENERAL TERMS AND CONDITIONS DEFINITIONS APPENDIX

**“800 SCP Carrier Access Usage Summary Record” (SCP Record)** - a summary record which contains information concerning the quantity and types of queries launched to an SBC-13STATE SCP.

**“911 Trunk”** means a trunk capable of transmitting Automatic Number Identification (ANI) associated with a call to 911 from LEVEL 3’s End Office to the 911 or E911 system.

**“A-link”** means a diverse pair of facilities connecting local end office switching centers with Signaling Transfer Points.

**“Access Compensation”** is the compensation paid by one Party to the other Party for the origination/termination of intraLATA toll calls to/from its End User. Access compensation is in accordance with the LEC’s tariffed access rates.

**“Access Service Request” (ASR)** is an industry standard form used by the Parties to add, establish, change or disconnect trunks for the purposes of Interconnection.

**“Access Tandem Switch”** is a local exchange carrier switching system that provides a concentration and distribution function for originating and/or terminating traffic between a LEC end office network and IXC points of presence defined as a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among office switches for IXC-carried traffic (SBC-SOUTHWEST) and IXC-carried, IntraLATA Toll traffic, Section 251(b)(5) traffic and ISP-bound Traffic (SBC CALIFORNIA, SBC-NEVADA, SBC-MIDWEST and SBC- CONNECTICUT).

**“Access Usage Record” (AUR)** - a message record which contains the usage measurement reflecting the service feature group, duration and time of day for a message and is subsequently used to bill access to Interexchange Carriers (IXCs).

**“Accessible Letters”** are correspondence used to communicate pertinent information regarding SBC-13STATE to the client/End User community.

**“Act”** means the Communications Act of 1934 [47 U.S.C. 153(R)], as amended by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996) codified throughout 47 U.S.C.

**“Active Collocation Space”** denotes the space within an Eligible Structure that can be designated for Physical Collocation which has sufficient telecommunications infrastructure systems, including power. Space within CEVs, huts and cabinets and similar Premises that can be designated for collocation is considered to be Active Collocation Space.

**“Adjacent Structure”** – A **LEVEL 3** provided structure placed on **SBC-13 STATE** property (Adjacent on-site) or non-**LEVEL 3** property (Adjacent off-site) adjacent to an Premises. This arrangement is permitted only where space for physical collocation is Legitimately Exhausted inside the Premises, and to the extent technically feasible. **SBC-13 STATE** and **LEVEL 3** will mutually agree on the location of the designated space on **SBC-13 STATE** premises where the adjacent structure will be placed. **SBC-13 STATE** shall not unreasonable withhold agreement to the site desired by Collocator.

**“Advanced Services”** means intrastate or interstate wireline Telecommunications Services, such as ADSL, IDSL, xDSL, Frame Relay, Cell Relay and VPOP-Dial Access Service (an SBC Frame Relay-based service) that rely on packetized technology and have the capability of supporting transmissions speeds of at least 56 kilobits per second in both directions. This definition of Advanced Services does not include:

Data services that are not primarily based on packetized technology, such as ISDN,

x.25-based and x.75-based packet technologies, or

Circuit switched services (such as circuit switched voice grade service) regardless of the technology, protocols or speeds used for the transmission of such services.

**“Affiliate”** is As Defined in the Act.

**“Alternate Billing Service” (ABS)** means a service that allows End Users to bill calls to accounts that may not be associated with the originating line. There are three types of ABS calls: calling card, collect and third number billed calls.

**“Applicable Law”** means all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, tariffs and approvals, including 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.

**“Approved Vendor”** is a vendor who is qualified by **SBC-13STATE** for installation, and/or removal of central office equipment, which is administered by SBC Procurement on a state-by-state basis.

**“As Defined in the Act”** means as specifically defined by the Act.

**“As Described in the Act”** means as described in or required by the Act.

**“Assembly and Editing”** - the aggregation of recorded customer message details to create individual message records and the verification that all necessary information required ensuring all individual message records meet industry specifications is present.

**“Augment”** is a request from **LEVEL 3** to add equipment, cable, and/or Collocation services to an existing Physical Collocation arrangement.

**“Automated Message Accounting” (AMA)** is a structure inherent in switch technology that initially records Telecommunication message information. AMA format is contained in the Automated Message Accounting document published by Telcordia (formerly known as Bellcore) as GR-1100-CORE, which defines and amends the industry standard for message recording.

**“Automatic Location Identification”** or **“ALI”** means the automatic display at the PSAP of the caller’s telephone number, the address/location of the telephone and, in some cases, supplementary emergency services information.

**“Automatic Number Identification”** or **“ANI”** means the telephone number associated with the access line from which a call to 911 originates.

**“Billable Message”** - a message record containing details of a completed IXC transported call which is used to bill an end user.

**“Billed Number Screening (BNS)”** means a validation of toll billing exception (TBE) data and performance of public telephone checks; i.e., determining if a billed line is a public (including those classified as semi-public) telephone number.

**“Billing Company”** - the company that bills End Users for the charges incurred in originating and terminating IXC transported calls.

**“Bona Fide Request” (BFR)** is the process described in the applicable Appendix UNE.

**“Business Day”** means Monday through Friday, excluding holidays on which the applicable SBC ILEC does not provision new retail services and products.

**“Busy Line Verification” (BLV)** means a service whereby an End User requests an operator to confirm the busy status of a line.

**“CABS”** means the Carrier Access Billing System.

**“Caged Physical Collocation”** is a cage or similar structure (not including a top) enclosing Level 3’s dedicated collocation space into which a Level 3 may install its telecommunications equipment.

**“Cageless Physical Collocation”** is a Collocation arrangement, provided in single bay increments, and does not require the construction of a cage or similar structure.

**“Calling Card Service”** means a service that enables a calling End User to bill a telephone call to a calling card number with or without the help of an operator.

**“Calling Name Database”** means a Party’s database containing current Calling Name Information, including the Calling Name Information of any telecommunications company participating in that Party’s Calling Name Database. A Calling Name Database may be part of, or separate from, a LIDB.

**“Calling Name Delivery Service” (CNDS)** means a service that enables a terminating End User to identify the calling party by a displayed name before a call is answered. The calling party’s name is retrieved from a Calling Name Database and delivered to the End User’s premise between the first and second ring for display on compatible End User premises equipment.

**“Calling Name Information”** means a Telecommunications Carrier’s records of its End Users names associated with one or more assigned ten-digit telephone numbers.

**“Calling Number Delivery”** means a feature that enables an End User to view the directory number of the calling party on a display unit.

**“Calling Party Number” (CPN)** means a Signaling System 7 “SS7” parameter whereby the ten (10) digit number of the calling Party is forwarded from the End Office.

**“Call Record” shall include identification of the following: charge number, Calling Party Number (“CPN”), Other Carrier Number (“OCN”) or Automatic Number Identifier (“ANI”), Originating Line Indicator (“OLI”)**



**and will include an OLI identification of whether a call is IP Enabled. In the alternative, a “Call Record” may include any other information agreed upon by both Parties to be used for identifying the jurisdictional nature of the calling party or for assessing applicable intercarrier compensation charges.**

**“Central Automatic Message Accounting (CAMA) Trunk”** means a trunk that uses Multi-Frequency (MF) signaling to transmit calls from **LEVEL 3’s** switch to an **SBC-13STATE** E911 Selective Router.

**“Centralized AMA” (CAMA)** is an arrangement where the AMA equipment is centralized in, for example, a Tandem and is used by offices that do not have LAMA (Local AMA). The End Office Switch must send ANI digits to the CAMA office for billing a calling subscriber.

**“Centralized Message Distribution System” (CMDS)** means the transport system that LECs use to exchange outcollect and Carrier Access Billing System “CABS” access messages among each other and other Parties connected to CMDS. The national network of private line facilities used to exchange Exchange Message Interface (EMI) formatted billing data between **SBC-13STATE** and the Billing Company.

**“Central Office Switch”** is a switching entity within the public switched telecommunications network, including but not limited to End Office Switch and Tandem Office Switch.

**“Charge Number”** is a CCS signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling party.

**“Circuit Switched IntraLATA Toll Traffic” is Telecommunications Services traffic between one SBC-13STATE’s local calling area and the local calling area of another SBC-13STATE or LEC within one LATA within the respective state.**

**“Claim”** means any pending or threatened claim, action, proceeding or suit.

**“Collocation”** is As Described in the Act.

**“Collocation Interconnection Power Panel” (CIPP)** is a DC Power panel for Power termination.

**“Collocator”** is any individual, partnership, association, joint-stock company, trust corporation, or governmental entity or any other entity that is collocated in SBC-13STATE location, for purposes of interconnection or access to Unbundled Network Elements (UNEs).

**“Commercial Mobile Radio Services” (CMRS)** means Commercial Mobile Radio Service, As Defined in the Act and FCC rules.

**“Commission”** means the applicable State agency with regulatory authority over Telecommunications. Unless the context otherwise requires, use of the term "Commissions" means all of the thirteen agencies listed in this Section. The following is a list of the appropriate State agencies:

- the Arkansas Public Service Commission (AR-PSC);
- the Public Utilities Commission of the State of California (CA-PUC);
- the Connecticut Department of Public Utility Control (CT-DPUC);
- the Illinois Commerce Commission (IL-CC);
- the Indiana Utilities Regulatory Commission (IN-URC);
- the Kansas Corporation Commission (KS-CC);
- the Michigan Public Service Commission (MI-PSC);
- the Missouri Public Service Commission (MO-PSC);
- the Public Utilities Commission of Nevada (NV-PUC);
- the Public Utilities Commission of Ohio (PUC-OH);
- the Oklahoma Corporation Commission (OK-CC);
- the Public Utility Commission of Texas (PUC-TX); and
- the Public Service Commission of Wisconsin (PSC-WI)

**“Common Channel Signaling” (CCS)** means an out-of-band, packet-switched, signaling network used to transport supervision signals, control signals, and data messages. It is a special network, fully separate from the transmission path of the public switched network. Unless otherwise agreed by the Parties, the CCS protocol used by the Parties shall be SS7.

**“Common Language Location Identifier” (CLLI)** codes provide a unique 11-character representation of a network interconnection point. The first 8 characters identify the city, state and building location, while the last 3 characters identify the network component.

**“Company Identifier” or “Company ID”** means a three to five (3 to 5) character identifier chosen by the Local Exchange Carrier that distinguishes the entity providing dial tone to the End-User. The Company Identifier is maintained by NENA in a nationally accessible database.

**"Consequential Damages"** means Losses claimed to have resulted from any indirect, incidental, reliance, special, consequential, punitive, exemplary, multiple or any other Loss, including damages claimed to have resulted from harm to business, loss of anticipated revenues, savings, or profits, or other economic Loss claimed to have been suffered not measured by the prevailing Party's actual damages, and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions.

**"Conversion of Service"** is defined as the matching of the disconnect of one telecommunications product or service with the installation of another telecommunications product or service.

**"Customer Name and Address Information" (CNA)** means the name, service address and telephone numbers of a Party's End Users for a particular Exchange Area. CNA includes nonpublished listings, coin telephone information and published listings.

**"Customer Usage Data"** means the Telecommunications Services usage data of a LEVEL 3 End User measured in minutes, sub-minute increments, message units, or otherwise, that is recorded by SBC-13STATE and forwarded to LEVEL 3.

**"Custom Local Area Signaling Service Features" (CLASS Features)** means certain call-management service features that are currently available from SBC-13STATE's local networks. These could, including: Automatic Call Back; Automatic Recall; Call Trace; Caller Identification and related blocking features; Calling Number Delivery; Customer Originated Trace; Distinctive Ringing/Call Waiting; Selective Call Forward; and Selective Call Rejection.

**"Custom Work Charge"** is the charge developed solely to meet the construction requirements of LEVEL 3 (e.g. painting a cage). A Custom Work Charge may not be charged to LEVEL 3 for any work performed that will benefit or be used by SBC-13STATE or other collocators. SBC-13STATE may not impose a Custom Work Charge without LEVEL 3's prior approval and agreement that such charge is not included in the rate elements for the provision of collocation contained in this Appendix. In the event an agreement between LEVEL 3's and SBC-13STATE is not reached regarding the Custom Work Charge, SBC-13STATE shall complete construction of LEVEL 3's space pending resolution of the issue by the appropriate state regulatory commission. LEVEL 3 may withhold payment for the disputed charges while the issue remains unresolved, however, any disputed Custom Work Charges paid by LEVEL 3 or owed to SBC-13STATE shall accrue interest at the rate established by the appropriate state commission. All Custom Work Charges that are approved by the

appropriate state commission will be the basis for calculating a refund to a **LEVEL 3** that has overpaid or the amount due to **SBC-13STATE** that previously had not been paid or that was underpaid. These overpaid or underpaid amounts will accrue at the above stated interest rate established by the appropriate state regulatory commission on a monthly basis from the date of completion of the work or from the date of payment of the disputed amount, as appropriate. In the event that the requested work will benefit all or most collocators, such work shall not be considered custom work; instead, **SBC-13STATE** shall file the appropriate interconnection agreement amendment. However, **SBC-13STATE** shall not delay completion of such work during the agreement approval process. **SBC-13STATE** shall perform such work based upon provisional rates, subject to true up.

**“Database Management System” or “DBMS”** means a system of manual procedures and computer programs used to create, store and update the data required to provide Selective Routing and/or Automatic Location Identification for 911 systems.

**“Data Interexchange Carrier” (DIXC)** is a process designed to facilitate the reciprocal exchange of voice traffic load data between the **SBC-13STATE** and CLECs interconnecting with its network. This reciprocal exchange of data enables **SBC-13STATE** and each CLEC to have a complete view of traffic loads on both ends of two-way trunk groups. The knowledge of call attempt and overflow data counts on both ends of a two-way trunk group enables each company to more accurately estimate the offered, and thereby better estimate, the required quantities of trunks.

**“Data Transmission”** - the forwarding by **SBC-13STATE** of IXC transported toll message detail and/or access usage record detail in EMR format over data lines or on magnetic tapes to the appropriate Billing Company.

**“Day”** denotes calendar day unless otherwise specified. However, any time period equal to or shorter than five days denotes business days.

***“Declassified” or “Declassification” means the situation where a network element, including a network element referred to as a Lawful UNE under this Agreement, ceases to be a Lawful UNE under this Agreement because it is no longer required by Section 251(c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders. Without limitation, a Lawful UNE that has ceased to be a Lawful UNE may also be referred to as “Declassified.”***

**“Dedicated Collocation Space”** is the space dedicated for **LEVEL 3’s** Physical Collocation arrangement located within an **SBC-13STATE** Premises.

**“Delaying Event”** means (a) any failure of a Party to perform any of its obligations set forth in this Agreement, caused in whole or in part by:

the failure of the other Party to perform any of its obligations set forth in this Agreement, including but not limited to a Party’s failure to provide the other Party with accurate and complete Service Orders;

any delay, act or failure to act by the other Party or its End User, agent or subcontractor; or

any Force Majeure Event.

**“Demarcation Point”** is the point of demarcation and/or interconnection between the communications facilities of a provider of wireline telecommunications, and terminal equipment, protective apparatus or wiring at a subscriber's premises. Demarcation Point defines the boundary between the Parties’ networks **for determining legal, technical and financial responsibility** for their respective facilities.

**“Designated Installation”** is defined as an installation of service occurring at a specific time of day as specified by CLEC.

**“Dialing Parity”** is As Defined in the Act. As used in this Agreement, Dialing Parity refers to both Local Dialing Parity and Toll Dialing Parity.

**“Digital Cross Connect Panel” (DSX Panel)** is a cross-connect bay or panel used for the termination of equipment and facilities operating at digital rates.

**“Digital Signal Level”** is one of several transmission rates in the time-division multiplex hierarchy.

**“Digital Signal Level 0” (DS-0)** is the 64 Kbps zero-level signal in the time-division multiplex hierarchy.

**“Digital Signal Level 1” (DS-1)** is the 1.544 Mbps first-level signal in the time-division multiplex hierarchy.

**“Digital Signal Level 3” (DS-3)** is the 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

**“Digital Subscriber Line” (DSL)** is as defined in the applicable Appendix DSL and/or the applicable tariff, as appropriate.

**“Direct Participants” (DP)** are the 24 pre-divestiture Bell Operating Companies that interface directly with CMDS. Following is a list of the Direct Participants:

New England Telephone Company  
New York Telephone Company

Bell Atlantic, NJ  
Bell Atlantic, PA  
Bell Atlantic, DE  
Bell Atlantic, DC  
Bell Atlantic MD  
Bell Atlantic VA  
Bell Atlantic WV  
Southern Bell Telephone Company  
South Central Bell Telephone Company  
The Ohio bell Telephone Company d/b/a SBC Ohio  
Michigan Bell Telephone Company d/b/a SBC Michigan  
Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana  
Illinois Bell Telephone Company d/b/a SBC Illinois  
Wisconsin Bell Telephone Company d/b/a SBC Wisconsin  
Northwestern Bell Telephone Company  
Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas,  
SBC Missouri, SBC Oklahoma and/or SBC Texas  
Mountain Bell Telephone Company  
Pacific Bell Telephone Company d/b/a SBC California  
Nevada Bell Telephone Company d/b/a SBC Nevada  
The Southern New England Telephone Company  
Cincinnati Bell Telephone Company

**“E911 Customer”** means a municipality or other state or local government unit, or an authorized agent of one or more municipalities or other state or local government units to whom authority has been lawfully delegated to respond to public emergency telephone calls, at a minimum, for emergency police and fire services through the use of one telephone number, 911.

**“E911 Universal Emergency Number Service”** (also referred to as “Expanded 911 Service” or “Enhanced 911 Service”) or “E911 Service” means a telephone exchange communications service whereby a public safety answering point (PSAP) answers telephone calls placed by dialing the number 911. E911 includes the service provided by the lines and equipment associated with the service arrangement for the answering, transferring, and dispatching of public emergency telephone calls dialed to 911. E911 provides completion of a call to 911 via dedicated trunking facilities and includes Automatic Number Identification (ANI), Automatic Location Identification (ALI), and/or Selective Routing (SR).

**“Electronic File Transfer”** is any system or process that utilizes an electronic format and protocol to send or receive data files.

**“Emergency Service Number” (ESN)** means a three to five digit number

representing a unique combination of emergency service agencies (Law Enforcement, Fire, and Emergency Medical Service) designated to serve a specific range of addresses within a particular geographical area. The ESN facilitates selective routing and selective transfer, if required, to the appropriate PSAP and the dispatching of the proper service agency(ies).

**“Emergency Services”** means police, fire, ambulance, rescue, and medical services.

**“End Office Switch” or “End Office”** is a switching machine that directly terminates traffic to and receives traffic from purchasers of local exchange services. An End Office Switch does not include a PBX.

**“End Users”** means a third-party residence or business that subscribes to Telecommunications Services provided by any of the Parties at retail. As used herein, the term "End Users" does not include any of the Parties to this Agreement with respect to any item or service obtained under this Agreement.

**“Engineering Design Charge”** is the cost for SBC-13STATE employees to perform the central office survey for caged and cageless serving arrangements and to implement the collocation area.

**“Enhanced Service Provider” (ESP)** is a provider of enhanced services as those services are defined in 47 CFR Section 64.702.

**“Entrance Fiber Facility”** is an arrangement when a Collocator-provided single mode fire retardant dielectric fiber optic cable that extends from the SBC-13STATE-designated manhole into the SBC-13STATE Eligible Structure designated splice point. It is used as a transmission medium to the designated splice point.

**“Exchange Access”** is As Defined in the Act.

**“Exchange Area”** means an area, defined by the Commission, for which a distinct local rate schedule is in effect.

**“Exchange Message Interface” (EMI)** (formerly Exchange Message Record - EMR) is the standard used for exchange of Telecommunications message information among Telecommunications Carriers for billable, non-billable, sample, settlement and study data. EMI format is contained in Telcordia Practice BR-010-200-010, CRIS Exchange Message Record.

**“Exchange Service”** means Telephone Exchange Service, As Defined in the Act.

**“Facility”** means the wire, line, or cable used to transport traffic between the

parties' respective networks.

**“Feature Group A” (FGA)** means calls either originated by, or delivered to, an End User who has purchased switched access FGA service from the interstate or intrastate tariffs of either Party. FGA also includes, but is not limited to, FGA-like services provided by either Party, where calls are originated from and/or delivered to numbers which are assigned to a Rate Center within one LATA but where the Party receiving the call is physically located in a LATA different than the LATA of the Party originating the call.

**“Feature Group D” (FGD)** is access available to all customers, providing trunk side access to a Party's End Office Switches with an associated uniform 101XXXX access code for customer's use in originating and terminating communications.

**“FCC”** means the Federal Communications Commission.

**“Fiber Distribution Frame” (FDF)** is an architecture which serves as the primary interface between outside plant (OSP) fiber optic facilities entering a Central Office structure and the fiber optic equipment installed within that same location. The FDF provides a centralized point for the organization and administration of the fiber optic facility and infra-building fiber equipment cables, provides a flexible platform for future fiber growth, and provides rearrangeable connections between any two terminations or appearances.

**“Fiber Meet”** means an Interconnection architecture method whereby the Parties physically Interconnect their networks via an optical fiber interface (as opposed to an electrical interface) at a mutually agreed upon location, at which one Party's responsibility or service begins and the other Party's responsibility ends.

**“Fraud Monitoring System”** means an off-line administration system that monitors suspected occurrences of ABT-related fraud.

***“FX Telephone Numbers” (also known as “NPA-NXX” codes) shall be those telephone numbers with different rating and routing points relative to a given mandatory local calling area. FX Telephone Numbers that deliver second dial tone and the ability for the calling party to enter access codes and an additional recipient telephone number remain classified as Feature Group A (FGA) calls, and are subject to the originating and terminating carrier's tariffed Switched Exchange Access rates (also known as “Meet Point Billed” compensation), or if jointly provisioned FGA service.***



**“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.

**“Group Record”** means information in LIDB and/or the LIDB administrative system that is common to all telephone numbers in an NPA-NXX or all Special Billing Numbers in an NPA-0/1XX.

**“Incumbent Local Exchange Carrier” (ILEC)** is As Defined in the Act.

**“Individual Case Basis” (ICB)** is a pricing method used for services that are not tariffed or are not standard offerings or configurations.

**“Infrastructure Systems”** include components, such as floors capable of supporting equipment loads, heating, ventilating and air conditioning (HVAC) systems, electrical systems, power, high efficiency filtration, humidity controls, remote alarms, compartmentation and smoke purge.

**“Installation Supplier”** means suppliers/vendors that are approved to perform central office installation work for SBC and for CLEC in SBC eligible structures in all collocation footprints areas and/or SBC common areas in the technologies and geographical locations for which they are approved by SBC.

**“Integrated Digital Loop Carrier”** means a subscriber loop carrier system that is twenty-four (24) local Loop transmission paths combined into a 1.544 Mbps digital signal which integrates within the switch at a DS1 level.

**“Integrated Services Digital Network” (ISDN)** means a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for a digital transmission of two 64 Kbps bearer channels and one 16 Kbps data channel (2B+D).

**“Intellectual Property”** means copyrights, patents, trademarks, trade secrets, mask works and all other intellectual property rights.

**“Interconnection”** is As Defined in the Act.

**“Interconnection Activation Date”** is the date that the construction of the joint facility Interconnection arrangement has been completed, trunk groups have been established, joint trunk testing is completed and trunks have been mutually accepted by the Parties.

**“Interconnector's Collocation Services Handbook”** or like document is a publication provided to the Collocators, which provides information on how to order collocation arrangements and the processes and requirements for collocation in the **SBC-13STATE**, which is located on the **SBC-13STATE** CLEC ONLINE Web-Site (<https://clec.sbc.com>).

**“Interexchange Carrier” (IXC)** means a carrier that provides, directly or indirectly, interLATA or intraLATA Telephone Toll Services.

**“Interexchange Carrier Transported”** - telecommunications services provided by an IXC or traffic transported by facilities belonging to an IXC.

**“InterLATA”** is As Defined in the Act.

**“Intermediate Distribution Frame” (IDF)** is a second frame that augments an existing Main Distribution Frame. Lines or outside cables do not terminate on the IDF.

**“Internet Service Provider” (ISP)** is defined consistent with the FCC in its Orders and regulations an Enhanced Service Provider that provides Internet Services and is defined in paragraph 341 of the FCC's First Report and Order in CC Docket No. 97-158.

**“IntraLATA Toll Traffic”** means the IntraLATA traffic between two locations within one LATA where one of the locations lies outside of the normal local calling area as defined by the applicable Commission.

**“ISP-Bound Traffic”** means traffic that is limited to telecommunications traffic exchanged between CLEC and SBC-13STATE in accordance with the FCC's Order on Remand Report and Order, In the Matter of Implementation of the Local Compensation Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April, 27, 2001) (“FCC ISP Compensation Order”). **Accordingly, ISP-Bound Traffic shall mean Telecommunications Services Traffic exchanged between the Parties where the originating Customer of one Party places a Circuit Switched Traffic call over the circuit-switched network to an Internet Service Provider (“ISP”) customer of the other Party. “ISP-Bound Traffic”**

*is traffic in which the originating end user of one Party and the terminating ISP of the other Party are:*

*(i)both physically located in the same SBC-13-STATE Local Exchange Area as defined by SBC-13STATE Local (or “General”) Exchange Tariff on file with the applicable state commission or regulatory agency; or*

*(ii)both physically located within neighboring SBC-13STATE Local Exchange Areas that are within the same common mandatory local calling area. This includes, but it is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS) or other types of mandatory expanded local calling scopes.*

**“Jurisdictional Identification Parameter” (JIP)** is an existing six (6) digit (NPA-NXX) field in the SS7 message. This field designates the first point of switching.

**“Legitimately Exhausted”** is as defined in Section 24 of Appendix Physical Collocation.

**“LIDB Editor”** means an SCP tool that bypasses the LIDB administrative system and provides emergency access to LIDB for data administration.

**“LIDB Service Applications”** means the query types accepted for access to LIDB information.

**“Line Information Data Base” (LIDB)** means a transaction-oriented database system that functions as a centralized repository for data storage and retrieval. LIDB is accessible through CCS networks. LIDB contains records associated with End User line numbers and special billing numbers. LIDB accepts queries from other network elements and provides return result, return error, and return reject responses as appropriate. Examples of information that Data Owners might store in LIDB and in their Line Records are: ABS Validation Data, Originating Line Number Screening (OLNS) data, ZIP Code data, and Calling Name Information.

**“Line Record”** means information in LIDB and/or the LIDB administrative system that is specific to a single telephone number or Special Billing Number.

**“LOC”** means (i) the Local Operations Center (LOC) for SBC-8STATE; and (ii) the Customer Response Unit (CRU) for SBC MIDWEST REGION 5-STATE.

***“Local/Access Tandem Switch” is defined as an intermediate switch or connection between an originating telephone call location and the final destination of the call a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among other central office switches for Section 251(b)(5)/IntraLATA Traffic and IXC-carried traffic.***

**“Local Access Transport Area” (LATA)** is As Defined in the Act.

**“Local Exchange Carrier” (LEC)** is As Defined in the Act.

**“Local Exchange Routing Guide” (LERG)** is a Telcordia Reference document used by Telecommunications Carriers to identify NPA-NXX routing and homing information as well as Network element and equipment designations.

**“Local Interconnection Trunk Groups”** are two-way trunk groups that Level 3 and SBC establish pursuant to Section 251(c)(2) of the Act over which the carriers may exchange Telecommunications Traffic regardless of the compensation rate that currently applies or eventually could apply to such traffic. Interconnection Trunk Groups are separate and distinct from “meet point trunk groups” which carry traffic to and from third party interexchange carriers. *two-way trunk groups used to carry Section 251(b)(5)/IntraLATA Traffic only.*

***“Local/IntraLATA Tandem Switch” is defined as a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among subtending central office switches for Section 251(b)(5)/IntraLATA Traffic.***

**“Local Number Portability”** means the ability of users of Telecommunications Services to retain, at the same location, the presence of a previously existing telephone number(s).

***“Local Only Tandem Switch” is defined as a switching machine within the public switched telecommunications network that is used to connect and switch trunk circuits between and among other central office switches for Section 251(b)(5) and ISP Bound Traffic.***

**“Local Only Trunk Groups”** are two-way trunk groups used to carry **Section 251(b)(5) Telecommunications Services** Traffic only.

**“Local Service Provider” (LSP)** is the LEC that provides retail local Exchange Service to an End User. The LSP may or may not provide any physical network components to support the provision of that End User’s service.

***“Local Tandem” refers to any Local Only, Local/IntraLATA, Local/Access or Access Tandem Switch serving a particular LCA (defined below).***

**“Location Routing Number” (LRN)** is a ten (10) digit number that is assigned to the network switching elements (Central Office – Host and Remotes as required) for the routing of calls in the network. The first six (6) digits of the LRN will be one of the assigned NPA NXX of the switching element. The purpose and functionality of the last four (4) digits of the LRN have not yet been defined but are passed across the network to the terminating switch.

**“Loop”** means the transmission path which extends from the Network Interface Device or demarcation point at an End User’s premise to the Main Distribution Frame or other designated frame or panel in the **SBC-13STATE** Serving Wire Center.

**“Loss” or “Losses”** means any and all losses, costs (including court costs), claims, damages (including fines, penalties, or civil judgments and settlements), injuries, liabilities and expenses (including attorneys’ fees).

**“LSC”** means (i) the Local Service Center (LSC) for **SBC-12STATE**; (ii) Local Exchange Carrier Center (LECC) for **SBC CONNECTICUT**.

**“MECAB”** refers to the Multiple Exchange Carrier Access Billing document prepared by the Billing Committee of the Ordering and Billing Forum “OBF”, which functions under the auspices of the Carrier Liaison Committee “CLC of the Alliance for Telecommunications Industry Solutions “ATIS”. The MECAB document, published by ATIS as ATIS/OBF- MECAB- Issue 6, February 1998, contains the recommended guidelines for the billing of access services provided to an IXC by two or more LECs, or by one LEC in two or more states within a single LATA.

**“MECOD”** refers to the Multiple Exchange Carriers Ordering and Design Guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee of the OBF, which functions under the auspices of the CLC of ATIS. The MECOD document, published by ATIS as ATIS/OBF- MECAB- Issue 3, February 1993, establishes methods for processing orders for access service which is to be provided to an IXC by two or more telecommunications providers.

**“Meet-Point Billing” (MPB)** refers to the billing associated with interconnection of facilities between two or more LECs for the routing of traffic to and from an IXC with which one of the LECs does not have a direct connection. In a multi-

bill environment, each Party bills the appropriate tariffed rate for its portion of a jointly provided Switched Exchange Access Service.

**“Meet Point Trunk Group”** carries traffic between CLEC’s end users and Interexchange Carriers via SBC-13STATE Access or Local/Access Tandem Switches.

**“Message Processing”** - the creation of individual EMI formatted billable message detail records from individual recordings that reflect specific billing detail for use in billing the End User and/or access usage records from individual recordings that reflect the service feature group, duration and time of day for a message, Carrier Identification Code, among other fields, for use in billing access to the Interexchange Carriers. Message Processing includes performing CMDS online edits required to ensure message detail and access usage records are consistent with CMDS specifications.

**“Mid-Span Meet”** is an interconnection between two LECs whereby each provides its own cable and equipment up to the meet point of the cable facilities. The meet point is the demarcation establishing ownership of and responsibility for each LEC’s portion of the transmission facility.

**“Multifunctional Equipment”** means equipment that combines one or more functions that are necessary for interconnection or access to unbundled network elements with one or more functions that would not meet that standard as stand alone functions.

**“Multiple Bill/Single Tariff”** is the meet-point billing method where each LEC prepares and renders its own meet point bill to the IXC in accordance with its own tariff for that portion of the jointly provided Switched Access Service which that LEC provides. The MECAB documents refer to this method as Multiple Bill/reflecting a single tariff (MM).

**“National Emergency Number Association” (NENA)** means the National Emergency Number Association is a not-for-profit corporation established in 1982 to further the goal of “One Nation-One Number”. NENA is a networking source and promotes research, planning, and training. NENA strives to educate, set standards and provide certification programs, legislative representation and technical assistance for implementing and managing 911 systems.

**“Network Data Mover” (NDM)** is an industry standard protocol for transferring information electrically.

**“Network Element”** is as Defined in the Act.

**“Network Interconnection Methods” (NIMs)** include, but are not limited to, Physical Collocation Interconnection; Virtual Collocation Interconnection; Leased Facilities Interconnection; Fiber Meet Interconnection; and other methods as mutually agreed to by the Parties **or according to Applicable Law.** One or more of these methods may be used to effect the Interconnection.

**“North American Numbering Plan” (NANP)** A numbering architecture in which every station in the NANP Area is identified by a unique ten-digit address consisting of a three-digit NPA code, a three digit central office code of the form NXX, and a four-digit line number of the form XXXX.

**“Numbering Plan Area” (NPA) (also called area code).** An NPA is the 3-digit code that occupies the A, B, C positions in the 10-digit NANP format that applies throughout the NANP Area. NPAs are of the form NXX, where N represents the digits 2-9 and X represents any digit 0-9. In the NANP, NPAs are classified as either geographic or non-geographic. a) Geographic NPAs are NPAs which correspond to discrete geographic areas within the NANP Area. b) Non-geographic NPAs are NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries. The common examples are NPAs in the N00 format, e.g., 800.

**“Number Portability”** is As Defined in the Act.

**“NXX” or “Central Office Code”** is the three-digit switch entity indicator that is defined by the fourth through sixth digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.

**“Offers Service”** - At such time as CLEC opens an NPA-NXX, ports a number to serve an end user or pools a block of numbers to serve end users.

**“Ordering and Billing Forum” (OBF)** is a forum comprised of local telephone companies and inter-exchange carriers whose responsibility is to create and document Telecommunication industry guidelines and standards.

**“Originating Line Information” (OLI)** is an SS7 Feature Group D signaling parameter which refers to the number transmitted through the network identifying the billing number of the calling Party.

**“Originating Local Exchange Carrier Company”** - the company whose local exchange telephone network is used to originate calls thereby providing originating exchange access to IXC’s.

**“Originating Point Code” (OPC)** means a code assigned to identify LEVEL 3’s system(s) that originate SS7 messages, including LIDB Service Queries.

**“Other Central Office Space”** denotes the space within the central office which can be designated for Physical Collocation that is legitimately susceptible to reclamation, or where SBC has never prepared the space for collocation of telecommunications equipment

**“Other (Inactive) Collocation Space”** - Denotes the space within the central office that can be designated for physical collocation where infrastructure systems do not currently exist and must be constructed. The designation of Other (Inactive) Collocation Space is applicable to space within central offices only; other Eligible Structures such as CEVs, Huts, and Vaults are considered Active Collocation Space for purposes of this Appendix.

**“Out of Exchange LEC” (OE-LEC)** means LEVEL 3 operating within in areas where SBC-13STATE’s or its successor in interest’s is defined as an ILEC pursuant to Section 251(h) of the Act *incumbent local exchange area* and providing telecommunications services utilizing NPA-NXXs identified to reside in a Third Party Incumbent LEC’s local exchange area.

**“Out of Exchange Traffic”** is defined as Telecommunications Services, IP-enabled Services, Section 251 (b)(5) Traffic, ISP-bound traffic, and transit traffic, InterLATA Section 251 (b)(5) traffic, and including any such traffic exchanged pursuant to an FCC approved or court ordered InterLATA boundary waiver, or intraLATA traffic to or from a non-SBC ILEC exchange area.

**“Parties”** means both LEVEL 3 and the SBC-owned ILEC; use of the term “Parties” includes each of the SBC-owned ILEC(s) that is a party to this Agreement.

**“Party”** means either LEVEL 3 or the SBC-owned ILEC. Use of the term “Party” includes each of the SBC-owned ILEC(s) that is a party to this Agreement.

**“Permanent Number Portability” (PNP)** is a long term method of providing LNP using LRN.



**“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 unincorporated organization or any Governmental Authority.

**“Plain Old Telephone Service” (POTS)** means telephone service for the transmission of human speech.

**“Point of Interconnection” (POI)** is a 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.

**“Point of Termination” (POT)** denotes the point of demarcation, within an Premises at which the SBC-13STATE responsibility for the provisioning of service ends.

**“Port”** is the point of interface/access connection to the SBC-13STATE public switched network. This may be a switch line side interface or switch trunk side interface.

**“Premises”** refers to SBC-13STATE central offices and serving wire centers; all buildings or similar structures owned, leased, or otherwise controlled by SBC-13STATE that house its network facilities; all structures that house SBC-13STATE’s facilities on public rights-of-way, including but not limited to vaults containing loop concentrators or similar structures; and all land owned, leased, or otherwise controlled by SBC-13STATE that is adjacent to these central offices, wire centers, buildings, and structures.

**“Preparation Charges”** denotes those charges associated with the initial preparation of the Collocator’s dedicated space.

**“Project Coordination Fee”** reflects SBC-13STATE’s labor costs to manage the provisioning of the individual LEVEL 3’s space requirements for a particular Virtual Collocation space request. This fee is applicable upon the submission of an application.

**“Provision of Message Detail”** - the sorting of all billable message detail and access usage record detail by Revenue Accounting Office, Operating Company Number or Service Bureau, splitting of data into packs for invoicing, and loading of data into files for data transmission to CLEC for those records created internally or received from other Local Exchange Carrier Companies or

Interexchange Carriers through **SBC-13STATE**'s internal network or national CMDS.

**“Public Safety Answering Point” or “PSAP”** means an answering location for 911 calls originating in a given area. The E911 Customer may designate a PSAP as primary or secondary, which refers to the order in which calls are directed for answering. Primary PSAPs answer calls; secondary PSAPs receive calls on a transfer basis. PSAPs are public safety agencies such as police, fire, emergency medical, etc., or a common bureau serving a group of such entities.

**“Rate Center”** means as follows:

**for SBC MIDWEST REGION 5-STATE**

the specific geographic point that has been designated by a given LEC as being associated with a particular NPA-NXX code that has been assigned to the LEC for its provision of Telephone Exchange Service. The Rate Center is the finite geographic point identified by a specific V&H coordinate, which is used by that LEC to measure, for billing purposes, distance sensitive transmission services associated with the specific Rate Center.

**for SBC NEVADA**

the designated points, representing exchanges, (or locations outside exchange areas), between which mileage measurements are made for the application of interexchange mileage rates. Rate Centers are defined in PUC-NV tariff A6.2.7.

**for SBC CALIFORNIA**

the designated points, representing exchanges or district area (or locations outside exchange areas), between which mileage measurements are made for the application of interexchange and interdistrict mileage rates, as defined by the CA-PUC.A2, 2.1.1 Definition of Terms.

**for SBC CONNECTICUT**

the specific geographic point and corresponding area that have been identified by a given LEC as being associated with a particular NPA-NXX code that has been assigned to the LEC for its provision of Exchange Services.

**for SBC SOUTHWEST REGION 5-STATE**

a uniquely defined geographical location within an exchange area (or a location outside the exchange area) for which mileage measurements are determined for the application of interstate tariffs."

**“Rating Point”** means the V&H coordinates associated with a particular telephone number for rating purposes.

**“Record”** - a logical grouping of information as described in the programs that process information and create the data files.

**“Recording”** - the creation and storage on magnetic tape or other medium of the basic billing details of a message in Automatic Message Accounting (AMA) format converted to EMI layout.

**“Recording Company”** - the company that performs the functions of recording and message processing of Interexchange Carrier (IXC) transported messages and the provision of message detail.

**“Reference of Calls”** refers to a process by which calls are routed to an announcement that states the new telephone number of an End User.

**“Remote End Office Switch”** is an SBC-13STATE switch that directly terminates traffic to and receives traffic from end users of local Exchange Services, but does not have full feature, function and capability of an SBC13-STATE End Office Switch. Such features, function, and capabilities are provided between an SBC 13-STATE Remote End Office Switch via an umbilical and an SBC13-STATE Host End Office.

**“Routing Point”** is a location which a LEC has designated on its own network as the homing or routing point for traffic inbound to Exchange Service provided by the LEC which bears a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access services. The Routing Point need not be the same as the Rating Point, nor must it be located within the Rate Center area, but must be in the same LATA as the NPA-NXX.

**SBC Communications Inc. (SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.

**SBC-2STATE** - As used herein, SBC-2STATE means SBC CALIFORNIA and SBC NEVADA, the applicable SBC-owned ILEC(s) doing business in California and Nevada.

**SBC-4STATE** - As used herein, SBC-4STATE means Southwestern Bell

Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, and SBC Oklahoma the applicable SBC-owned ILEC(s) doing business in Arkansas, Kansas, Missouri and Oklahoma.

**SBC-7STATE** - As used herein, SBC-7STATE means SBC SOUTHWEST REGION 5-STATE, SBC CALIFORNIA and SBC NEVADA, the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.

**SBC-8STATE** - As used herein, SBC-8STATE means SBC SOUTHWEST REGION 5-STATE, SBC CALIFORNIA, SBC NEVADA, and SBC CONNECTICUT the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.

**SBC-10STATE** - As used herein, SBC-10STATE means SBC SOUTHWEST REGION 5-STATE and SBC MIDWEST REGION 5-STATE an the applicable SBC-owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas, and Wisconsin.

**SBC-12STATE** - As used herein, SBC-12STATE means SBC SOUTHWEST REGION 5-STATE, SBC MIDWEST REGION 5-STATE and SBC-2STATE the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

**SBC-13STATE** - As used herein, SBC-13STATE means SBC SOUTHWEST REGION 5-STATE, SBC MIDWEST REGION 5-STATE, SBC-2STATE and SBC CONNECTICUT the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

**SBC ARKANSAS** - As used herein, SBC ARKANSAS means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, the applicable SBC-owned ILEC doing business in Arkansas.

**SBC CALIFORNIA** – As used herein, SBC CALIFORNIA means Pacific Bell Telephone Company d/b/a SBC California, the applicable SBC-owned ILEC doing business in California.

**SBC CONNECTICUT** - As used herein, SBC CONNECTICUT means The Southern New England Telephone Company, the applicable above listed ILEC doing business in Connecticut.

**SBC KANSAS** - As used herein, SBC KANSAS means Southwestern Bell Telephone, L.P. d/b/a SBC Kansas, the applicable SBC-owned ILEC doing business in Kansas.

**SBC ILLINOIS** - As used herein, SBC ILLINOIS means Illinois Bell Telephone Company d/b/a SBC Illinois, the applicable SBC-owned ILEC doing business in Illinois.

**SBC INDIANA** - As used herein, SBC INDIANA means Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, the applicable SBC-owned ILEC

doing business in Indiana.

**SBC MICHIGAN** - As used herein, SBC MICHIGAN means Michigan Bell Telephone Company d/b/a SBC Michigan, the applicable SBC-owned doing business in Michigan.

**SBC MIDWEST REGION 5-STATE** - As used herein, SBC MIDWEST REGION 5-STATE means Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

**SBC MISSOURI** - As used herein, SBC MISSOURI means Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, the applicable SBC-owned ILEC doing business in Missouri.

**SBC NEVADA** - As used herein, SBC NEVADA means Nevada Bell Telephone Company d/b/a SBC Nevada, the applicable SBC-owned ILEC doing business in Nevada.

**SBC OHIO** - As used herein, SBC OHIO means The Ohio Bell Telephone Company d/b/a SBC Ohio, the applicable SBC-owned ILEC doing business in Ohio.

**SBC OKLAHOMA** - As used herein, SBC OKLAHOMA means Southwestern Bell Telephone, L.P. d/b/a SBC Oklahoma, the applicable SBC-owned ILEC doing business in Oklahoma.

**SBC SOUTHWEST REGION 5-STATE** - As used herein, SBC SOUTHWEST REGION 5-STATE means Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.

**SBC TEXAS** – As used herein, SBC TEXAS means Southwestern Bell Telephone, L.P. d/b/a SBC Texas, the applicable SBC-owned ILEC doing business in Texas.

**SBC WISCONSIN** - As used herein, SBC WISCONSIN means Wisconsin Bell, Inc. d/b/a SBC Wisconsin, the applicable SBC-owned ILEC doing business in Wisconsin.

***“Section 251(b)(5) Traffic” means traffic that is limited to telecommunications traffic exchanged between CLEC and SBC-13-STATE in which the originating end user of one Party and the terminating end user of the other Party are:***

***(i) both physically located in the same SBC-13STATE Local Exchange Area as defined by SBC-13STATE Local (or “General”) Exchange Tariff on file with the applicable state commission or regulatory agency; or***

*(ii) both physically located within neighboring SBC-13STATE Local Exchange Areas that are within the same common mandatory local calling area. This includes, but it is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS) or other types of mandatory expanded local calling scopes.*

**“Selective Routing” and “Selective Router” or “SR”** means the routing and equipment used to route a call to 911 to the proper PSAP based upon the number and location of the caller. Selective routing is controlled by an ESN, which is derived from the location of the access line from which the 911 call was placed.

**“Service Bureau Provider”** - For purposes of this Agreement, Service Bureau Provider (SBP) is a company which has been engaged by a CLEC to act on its behalf for purposes of accessing SBC-13STATE’s OSS application-to-application interfaces via a dedicated connection over which multiple CLECs’ local service transactions are transported.

**“Service Control Point” (SCP)** is the node in the common channel signaling network that accepts Queries for certain Database services. The SCP is a real time database system that receives Queries from service platforms, performs subscriber or application-specific service logic, and then sends a Response back to the Query-originating platform. Such service platforms can be Service Switching Points (SSPs) or other network nodes capable of properly formatting and launching Queries.

**“Service Management System” (SMS)** means an off-line system used to access, create, modify, or update information in a Database.

**“Service Provider Number Portability” (SPNP)** is synonymous with Permanent Number Portability “PNP”.

**“Service Switching Point” (SSP)** is a signaling point that can launch queries to databases and receive/interpret responses used to provide specific customer services.

**“Serving Wire Center” (SWC)** means a Wire Center that serves the area in which the other Party’s or a third party’s Wire Center, aggregation point, point of termination, or point of presence is located.

**“Shared Caged Collocation”** - A shared collocation cage is a Caged Collocation space shared by two (2) or more collocators pursuant to the terms and conditions agreed to and between the collocators.

**“Shared Physical Collocation Cage”** is a caged dedicated collocation space that is shared by two or more Collocators within SBC-13STATE’s Premises.

**“Signaling System 7” (SS7)** means a signaling protocol used by the CCS Network.

**“Signal Transfer Point” (STP)** performs a packet switching function that routes signaling messages among Service Switching Points (SSP), Service Control Points (SCP), Signaling Points (SP), and other STPs in order to set up calls and to query databases for Advanced Services.

**“Special Billing Number” (SBN)** means a Line Record in LIDB that is based on an NXX-0/1XX numbering format. NXX-0/1XX numbering formats are similar to NPA-NXX formats except that the fourth digit of an SBN is either a zero (0) or a one (1).

**“State Abbreviation”** means the following:

“AR” means Arkansas

“CA” means California

“CT” means Connecticut

“IL” means Illinois

“IN” means Indiana

“KS” means Kansas

“MI” means Michigan

“MO” means Missouri

“NV” means Nevada

“OH” means Ohio

“OK” means Oklahoma

“TX” means Texas

“WI” means Wisconsin

**“Switched Access Detail Usage Data”** means a category 1101xx record as defined in the EMR Telecordia Practice BR 010-200-010.

**“Switched Access Service”** means an offering of facilities for the purpose of the origination or termination of traffic from or to Exchange Service customer in a given area pursuant to a Switched Access tariff *provides a two-point communications path between a customer's premises and an end user's premises through the use of common terminating, common switching, Switched Transport facilities, and common subscriber plant of the Telephone Company.*

*Switched Access Service provides for the ability to originate calls from an end user's premises to a customer's premises, and to terminate calls from a customer's premises to an end user's premises in the LATA where service is provided.* Switched Access Services include: Feature Group A, Feature Group B, Feature Group D, 800 Series, and 900 access. Switched Access does not include traffic exchanged between LECs for purpose of local exchange interconnection.

**“Switched Exchange Access Service”** means the offering of transmission or switching services to Telecommunications Carriers for the purpose of the origination or termination of Telephone Toll Service. Switched Exchange Access Services include: Feature Group A, Feature Group B, Feature Group D, 800/888 access, and 900 access and their successors or similar Switched Exchange Access Services.

**“Switching Control Point” (SCP)** - the real time database system that contains routing instructions for 800 calls. In addition to basic routing instructions, the SCP may also provide vertical feature translations, i.e., time of day, day of week routing, out of area screening and/or translation of the dialed 800 number to its assigned working telephone number.

**“Synchronous Optical Network” (SONET)** is an optical interface standard that allows inter-networking of transmission products from multiple vendors. The base rate is 51.84 Mbps (“OC-1/STS-1”) and higher rates are direct multiples of the base rate, up to 13.22 Gbps.

**“Tandem Office Switch(es)” or “Tandem(s)”** are switches used to connect and switch trunk circuits between and among other Central Office Switches. A Tandem Switch does not include a PBX.

**“Tape Load Facility”** means data entry points at the LIDB administrative system and/or the SCPs where LIDB resides.

**“Technically Feasible”** - A collocation arrangement is technically feasible if, in accordance with either national standards or industry practice, there is no significant technical impediment to its establishment. Deployment by any ILEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a **LEVEL 3** seeking collocation in **SBC-13STATE**’s Premises that such an arrangement is technically feasible.

**“Telecommunications”** is As Defined in the Act.

**“Telecommunications Carrier”** is As Defined in the Act.



**“Telecommunications Service”** is As Defined in the Act.

**“Telephone Exchange Service”** is As Defined in the Act.

**“Telephone Toll Service”** is As Defined in the Act.

**“Terminating Local Exchange Carrier Company”** - the company whose local exchange telephone network is used to terminate calls thereby providing terminating exchange access to IXC's.

**“Third Party”** means any Person other than a Party.

**“Toll Billing Exception Service” (TBE)** means a service that allows End Users to restrict third number billing or collect calls to their lines.

**“Toll Free Service”** is service provided with any dialing sequence that invokes toll-free, 800-like, service processing, for example for illustration only, 800 or 800-like services. Toll Free Service includes but is not limited to calls placed to 800/888 NPA Service Access Codes (SAC).

**“Trunk”** means a communication line between two switching systems.

**“Trunk” or “Trunk Group”** means the switch port interface(s) used and the communications path created to connect Level 3's switch with SBC-13STATE's switch for the purpose of exchanging traffic.

**“Trunk-Side”** refers to a Central Office Switch connection that is capable of, and has been programmed to treat the circuit as connecting to another switching entity (for example another Central Office switch). Trunk-Side connections offer 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.

**“Unbundled Local Loop.”** See definition of “Loop” herein.

**“Unbundled Network Element” (UNE)** is as defined in Appendix Unbundled Network Elements.

**“Unused Space”** denotes any space in the Premises which is not occupied by SBC-13STATE personnel and/or occupied by or reserved for growth of SBC-13STATE network equipment, including the equipment of affiliates and 3rd parties. May also be used to denote space within a specific **LEVEL 3's** area that is not occupied by or reserved for **LEVEL 3's** equipment.

*“Virtual Foreign Exchange (FX) Traffic” and “FX-type Traffic” shall refer to those calls delivered to telephone numbers that are rated as local to the other telephone numbers in a given mandatory local calling area, but where the recipient end user’s station assigned that telephone number is physically located outside of that mandatory local calling area. Virtual FX Service also permits an end user physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another, foreign,” exchange, thereby creating a local presence in the “foreign” exchange. Virtual FX Service differs from Dedicated FX Service, however, in that Virtual FX end users continue to draw dial tone or are otherwise served from a Central (or End) Office which may provide service across more than one Commission-prescribed mandatory local calling area, whereas Dedicated FX Service end users draw dial tone or are otherwise served from a Central (or End) Office located outside their mandatory calling area.*

**“Virtual NXX Traffic” is traffic that originates in one local exchange area and is dialed to a telephone number assigned to a customer who is not physically located in the rate center to which the NXX code of that telephone number has been assigned. This traffic is also sometimes referred to as “Virtual Foreign Exchange”, FX type, or “Virtual FX” traffic.**

**“Wire Center”** is the location of one or more local switching systems. A point at which End User’s loops within a defined geographic area converge. Such local loops may be served by one (1) or more Central Office Switches within such premises.

#### **DEFINITIONS APPLICABLE TO SBC-12STATE ONLY**

**“Main Distribution Frame” (MDF)** is termination frame for outside facility and inter-exchange office equipment at the central office for DS-0 and DSL services.

**“Serving Wire Center” (SWC)** means a Wire Center that serves the area in which the other Party’s or a third party’s Wire Center, aggregation point, point of termination, or point of presence is located.

**“Universal Digital Loop Carrier” (UDLC)** describes a DLC system that has a Central Office terminal channel bank that is connected to the CO switches on the analog side.

#### **DEFINITIONS APPLICABLE TO SBC-7STATE ONLY**

**“Line Side”** refers to End Office switch connections that have been programmed to treat the circuit as a local line connected to a terminating station (e.g., an ordinary subscriber’s telephone station set, a PBX, answering machine, facsimile machine or computer). Line Side connections offer only those transmission and signal features appropriate for a connection between an End Office and such terminating station.

## **DEFINITIONS APPLICABLE TO SBC MIDWEST REGION 5-STATE ONLY**

**“Line Side”** refers to the switch port toward the CLEC’s side of the equipment.

**“Data Base Administration Center” (DBAC)** means an **SBC-12STATE** location where facility and administrative personnel are located for administering LIDB and/or fraud monitoring system.

**“Exchange Message Interface”** is the format used for the exchange of telecommunications message information. EMI format is contained in the Alliance for Telecommunications Industry Solutions (ATIS) document that defines industry guidelines for exchange message records.

**“Non-Intercompany Settlement” (NICS)** is a revenue exchange process for messages which originate from CLEC and bill to **SBC MIDWEST REGION 5-STATE** and message which originate from **SBC MIDWEST REGION 5-STATE** and bill to CLEC. NICS messages must originate and bill within the same **SBC MIDWEST REGION 5-STATE** Company.

## **DEFINITIONS APPLICABLE TO SBC CONNECTICUT ONLY**

**“800 Series”** is a Telecommunications Service for business or residence that allows calls to be made to a specific location at no charge to the calling party. Use of the “800” Service Access Code (e.g., 800, 888) denotes calls that are to be billed to the receiving party. A computer database in the provider’s network translates the 800 series number into a conventional 7 or 10 digit phone number for network switching and routing.

## **DEFINITIONS APPLICABLE TO SBC CALIFORNIA ONLY**

**“Bellcore Client Company”** means **SBC CALIFORNIA** and any Bell Operating Company as defined in Section 153 of the Communications Act of 1934, as amended.

**“California 900 Messages”** means 900 calls transported by **SBC CALIFORNIA** pursuant to Schedule Cal. P.U.C. No. A.9.5.3 but which are billed to a Customer Subscriber.

**“California 976 Messages”** means 976 calls transported by **SBC CALIFORNIA** pursuant to Schedule Cal. P.U.C. No. A.9.5.2 but which are billed to a Customer Subscriber.

**“Calling Card and Third Number Settlement” (CATS)** means that part of CMDS which is a mechanized computer process used to maintain records regarding intercompany settlements through which revenues collected by the

billing company are distributed to the originating company. Records included in this process are intraLATA Calling Card Messages and/or Third Number Billed Messages that originate in one Bellcore Client Company territory and is billable to an end user in another Bellcore Client Company territory.

**“Centralized Message Data System I” (CMDS)** means the industry-wide data collection system located in Missouri, which handles the daily exchange of message details between CMDS participating telephone companies (also known as CMDS direct participants). **SBC CALIFORNIA** is a CMDS direct participant.

**“CMDS Host”** means the Bellcore Client Company that is a CMDS direct participant that acts on behalf of a LEC to distribute end user message detail through CMDS and, where applicable, to settle end user message detail through BOC CATS.

**“Customer Calling Card Messages”** means messages where (i) the charges are billed to a telecommunications line number based calling card issued by Customer, (ii) the Transporting LEC is **SBC CALIFORNIA**, and (iii) the originating number and the line number on the calling card are located in the same Bellcore Client Company territory.

**“Customer Collect Messages”** means messages where the charges are billed to the called end user who is a Customer Subscriber and where the Transporting LEC is **SBC CALIFORNIA**.

**“Customer Non-CATS Messages”** means Customer Collect Messages, Customer Calling Card Messages and/or Customer Third Number Billed Messages as those terms are defined herein.

**“Customer Subscriber”** means an end user who has authorized Customer to provide the end user with local exchange service in California or who has billed an intraLATA call to a telecommunications calling card that is based on a California telephone number issued by the Customer.

**“Customer Third Number Billed Messages”** means messages where (i) the charges are billed to a Customer Subscriber’s telephone number that is not the originating or terminating telephone number, (ii) the Transporting LEC is **SBC CALIFORNIA**, and (iii) the originating and billed telephone numbers are located in the same Bellcore Client Company territory.

**“Local Access and Transport Area” (LATA)** are those designated areas approved by the United States District Court for the District of Columbia in United States of America v. American Telephone and Telegraph Company, et al., Civil Action Nos. 74-1698 and 82-0192.

**“Local Exchange Carrier” (LEC)** means a carrier authorized to provide local, exchange access and intraLATA toll services.

**“SBC CALIFORNIA Calling Card Messages”** means messages where (i) the charges are billed to a telecommunications line number based calling card issued by **SBC CALIFORNIA**, (ii) the Transporting LEC is Customer, and (iii) the

originating number and the line number on the calling card are located in the same Bellcore Client Company territory.

“**SBC CALIFORNIA Collect Messages**” means messages where the charges are billed to the called end user who is a **SBC CALIFORNIA** Subscriber and where the Transporting LEC is Customer.

“**SBC CALIFORNIA Non-CATS Messages**” means **SBC CALIFORNIA** Collect Messages, **SBC CALIFORNIA** Calling Card Messages and/or **SBC CALIFORNIA** Third Number Billed Messages as those terms are defined herein.

“**SBC CALIFORNIA Subscriber**” means an end user who has authorized **SBC CALIFORNIA** or who has billed an intraLATA call to a telecommunications calling card issued by **SBC CALIFORNIA**.

“**SBC CALIFORNIA Third Number Billed Messages**” means messages where (i) the charges are billed to a **SBC CALIFORNIA** Subscriber’s telephone number that is not the originating or terminating telephone number, (ii) the Transporting LEC is Customer, and (iii) the originating and billed telephone numbers are located in the same Bellcore Client Company territory.

“**Transporting LEC**” means the LEC on whose network an end user originates a call.

#### **DEFINITIONS APPLICABLE TO SBC NEVADA ONLY**

“**Bellcore Client Company**” means **SBC NEVADA** and any Bell Operating Company as defined in Section 153 of the Communications Act of 1934, as amended.

“**Calling Card and Third Number Settlement**” (CATS) means that part of CMDS which is a mechanized computer process used to maintain records regarding intercompany settlements through which revenues collected by the billing company are distributed to the originating company. Records included in this process are intraLATA Calling Card Messages and/or Third Number Billed Messages that originate in one Bellcore Client Company territory and is billed to an end user in another Bellcore Client Company territory.

“**Centralized Message Data System I**” (CMDS) means the industry-wide data collection system located in Missouri, which handles the daily exchange of message details between CMDS participating telephone companies (also known as CMDS direct participants). **SBC NEVADA** is a CMDS direct participant.

“**CMDS Host**” means the Bellcore Client Company that is a CMDS direct participant that acts on behalf of a LEC to distribute end user message detail through CMDS and, where applicable , to settle end user message detail through BOC CATS.

“**Customer Calling Card Messages**” means messages where (i) the charges are billed to a telecommunications line number based calling card issued by Customer,

(ii) the Transporting LEC is **SBC NEVADA**, and (iii) the originating number and the line number on the calling card are located in the same Bellcore Client Company territory.

**“Customer Collect Messages”** means messages where the charges are billed to the called end user who is a Customer Subscriber and where the Transporting LEC is **SBC NEVADA**.

**“Customer Non-CATS Messages”** means Customer Collect Messages, Customer Calling Card Messages and/or Customer Third Number Billed Messages as those terms are defined herein.

**“Customer Subscriber”** means an end user who has authorized Customer to provide the end user with local exchange service in Nevada or who has billed an intraLATA call to a telecommunications calling card that is based on a Nevada telephone number issued by the Customer.

**“Customer Third Number Billed Message”** means messages where (i) the charges are billed to a Customer Subscriber’s telephone number that is not the originating or terminating telephone number, (ii) the Transporting LEC is **SBC NEVADA**, and (iii) the originating and billed telephone numbers are located in the same Bellcore Client Company territory.

**“Local Access and Transport Area” (LATA)** are those designated areas approved by the United States District Court for the District of Columbia in United States of America v. American Telephone and Telegraph Company, et al., Civil Action Nos. 74-1698 and 82-0192.

**“Local Exchange Carrier” (LEC)** means a carrier authorized to provide local, exchange access and intraLATA toll services.

**“SBC NEVADA Calling Card Messages”** means messages where (i) the charges are billed to a telecommunications line number based calling card issued by **SBC NEVADA**, (ii) the Transporting LEC is Customer, and (iii) the originating number and the line number on the calling card are located in the same Bellcore Client Company territory.

**“SBC NEVADA Collect Messages”** means messages where the charges are billed to the called end user who is a **SBC NEVADA** Subscriber and where the Transporting LEC is Customer.

**“SBC NEVADA Non-CATS Messages”** means **SBC NEVADA** Collect Messages, **SBC NEVADA** Calling Card Messages and/or **SBC NEVADA** Third Number Billed Messages as those terms are defined herein.

**“SBC NEVADA Subscriber”** means an end user who has authorized **SBC NEVADA** or who has billed an intraLATA call to a telecommunications calling card issued by **SBC NEVADA**.

**“SBC NEVADA Third Number Billed Messages”** means messages where (i) the charges are billed to a **SBC NEVADA** Subscriber’s telephone number that is not the originating or terminating telephone number, (ii) the Transporting LEC is

Customer, and (iii) the originating and billed telephone numbers are located in the same Bellcore Client Company territory.

**“Transporting LEC”** means the LEC on whose network an end user originates a call.

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



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## APPENDIX NIM (NETWORK INTERCONNECTION METHODS)

### 1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions that Network Interconnection Methods (NIM) is provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and **LEVEL 3**. This Appendix describes the physical architecture for Interconnection of the Parties' facilities and equipment for the transmission and routing of Telephone Exchange Service traffic and Exchange Access traffic between the respective Customers of the Parties pursuant to Section 251(c)(2) of the Act; provided, however, Interconnection may not be used solely for purposes not permitted under the Act.
- 1.2 Network Interconnection Methods (NIMs) include, but are not limited to, Physical Collocation Interconnection; Virtual Collocation Interconnection; Leased Facilities Interconnection; Fiber Meet Interconnection; and other methods as mutually agreed to by the Parties. One or more of these methods may be used to effect the Interconnection.

### 2. NETWORK INTERCONNECTION ARCHITECTURE PLAN

**2.1 LEVEL 3 and SBC-13STATE agree to Interconnect their networks according to the requirements of the Act, including but not limited to Section 251(c)(2) of the Act. Accordingly, the parties agree to interconnect their networks at a single location per LATA or greater sized area considering that SBC is no longer restricted from carrying traffic across LATA boundaries. The parties also agree that distance is irrelevant to cost. Therefore connecting at a single point per LATA, state or region represents a balanced and fair method of interconnection. The physical architecture plan will, therefore specify the location of LEVEL 3's switch(es) and SBC-13STATE's Tandem switch(es) to be interconnected. Each party agrees that it is solely responsible for the costs of establishing points of interconnection and each is solely responsible for bringing its traffic to those sole points of interconnection. Accordingly, neither party will bill the other party any non-recurring or recurring costs for establishing points of interconnection because both parties recognize that doing so is simply unfairly shifting costs in contravention of the five federal circuit courts of appeal that have ruled on this issue.**

- 2.1.1 A "Single POI" is a single point of interconnection within a LATA on SBC 13-STATE's network that is established to interconnect SBC 13-STATE's network and CLEC's network for the exchange of traffic.

2.1.2 An “End Office POI” is a point of interconnection at an end office and is used when an **SBC 13-STATE**’s End Office Switch does not subtend an **SBC 13-STATE** Local Tandem Switch.

2.1.3 An End Office POI will only be used to originate traffic from and/or terminate traffic to the End Office where the End Office POI is located.

2.1.4 The Parties agree that CLEC has the right to choose a single POI, End Office POI(s), or multiple POIs.

2.1.5 When CLEC has established a single POI (or multiple POIs) in a LATA, CLEC agrees to establish an additional POI:

- (i) at a tandem separate from the existing POI arrangement, or
- (ii) at an End Office not served by a Local Tandem, when traffic through the existing POI arrangement to that tandem and its subtending end offices, or to the End Office not served by a Local Tandem, exceeds twenty-four (24) DS1s at peak over three (3) consecutive months.

2.1.6 The additional POI(s) will be established within 90 days of notification that the threshold has been met

**2.2 Each Party, at its own expense, shall provide transport facilities to the technically feasible point(s) of interconnection on SBC-13STATE’s network in a LATA selected by LEVEL 3. Notwithstanding any other language contained in this Agreement, including schedules and attachments hereto, this Section 2.2 shall be interpreted to permit LEVEL 3 the sole right to select and maintain one or more technically feasible points of interconnection on SBC-13STATE’s network, including preexisting LEVEL 3 points of interconnection. In the event of a network rearrangement by SBC-13STATE, including a tandem rehome, the point of interconnection shall not change unless LEVEL 3 so requests. In the event of such a network rearrangement by SBC-13STATE, this Section 2.2 shall be interpreted to require SBC-13STATE to continue to provide transport from the existing point of interconnection and LEVEL 3 shall pay SBC-13STATE no more than the reciprocal compensation rate that it paid before the network rearrangement occurred. LEVEL 3 shall have the right to designate additional points of interconnection in its sole discretion and subject to technical feasibility. In the event of a conflict between this Section 2.2 and any other provision of or amendment to this Agreement, this Section 2.2 shall govern.**

**2.3 Points of interconnection (POIs):** A Point of Interconnection (POI) is a point in the network where the Parties deliver Interconnection traffic to each other, and also serves as a demarcation point between the facilities that each Party is responsible to provide.

- 2.4 The Parties agree to meet as often as necessary to negotiate the selection of new POIs. In the event either Party makes changes to its network architecture including, but not limited to trunking changes or adding new switches, then the Parties will negotiate the establishment of such new POIs as may be necessary subject to Section 2.1 above. The new POIs will be documented and distributed to both Parties.
- 2.5 Each Party is responsible for the appropriate sizing, operation, and maintenance of the transport facility to the POI(s). The parties agree to provide sufficient facilities for the **Local** Interconnection Trunk Groups required for the exchange of traffic between **LEVEL 3** and **SBC-13STATE**.
- 2.6 In the event that either Party is going to make a change to its physical architecture which may or will impact the other Party, the changing Party will provide written notice to the other Party so as to allow both Parties to properly coordinate the activities required between them.
- 2.7 **LEVEL 3** is financially responsible for the facilities that carry OS/DA, BLVI, 911, mass calling and Meet Point trunk groups, which trunk groups are described and defined in Appendix ITR, however, for the facilities that carry mass calling and Meet-Point trunk groups, the Parties shall be responsible in accordance with their obligations to bring traffic to the single POI.
- 2.8 Unless **LEVEL 3** has established a POI at the collocation, in an **SBC-13STATE** End Office, the facility for the Direct End Office Trunks (DEOTS) to that End Office shall be the financial responsibility of **LEVEL 3** consistent with the treatment of the financial responsibility for the POI in this Agreement.
- 2.9 **Technical Interfaces**
- 2.9.1 The Interconnection facilities provided by each Party shall be formatted using either Alternate Mark Inversion (AMI) line code with Superframe format framing or Bipolar 8 Zero Signaling (B8ZS) with Extended Superframe format framing or any mutually agreeable line coding and framing.
- 2.9.2 Electrical handoffs at the POI(s) will be at the DS1 or DS3 level. When a DS3 handoff is agreed to by the Parties, **SBC-13STATE** will provide any multiplexing required for DS1 facilities or trunking at their end and **LEVEL 3** will provide any DS1 multiplexing required for facilities or trunking at their end.
- 2.9.3 When the Parties demonstrate the need for Optical handoffs at the OC-n level, the parties will meet to negotiate specific Optical handoff needs.

### 3. METHODS OF INTERCONNECTION

#### 3.1 Physical Collocation Interconnection

3.1.1 When **LEVEL 3** provides its own facilities or uses the facilities of a 3<sup>rd</sup> party to a **SBC-13STATE** Tandem or End Office and requests to place its own transport terminating equipment at that location, **LEVEL 3** may Interconnect using the provisions of Physical Collocation as set forth in Appendix Physical Collocation, applicable state tariff **or according to Applicable Law.**

#### 3.2 Virtual Collocation Interconnection

3.2.1 When **LEVEL 3** provides its own facilities or uses the facilities of a 3<sup>rd</sup> party to a **SBC-13STATE** Tandem or End Office and requests that **SBC-13STATE** place transport terminating equipment at that location on **LEVEL 3's** behalf, **LEVEL 3** may Interconnect using the provisions of Virtual Collocation as set forth in Appendix Virtual Collocation or applicable state tariff **or according to Applicable Law.** Virtual Collocation allows **LEVEL 3** to choose the equipment vendor and does not require that **LEVEL 3** be Physically Collocated.

#### 3.3 Leased Facility Interconnection ("LFI")

3.3.1 **LEVEL 3** may lease facilities from a third party.

#### 3.4 Fiber Meet Interconnection

3.4.1 Reserved for future use.

3.4.2 When the Parties agree to interconnect their networks pursuant to the Fiber Meet, a single point-to-point linear chain SONET system must be utilized, unless the parties agree otherwise.

3.4.3 Neither Party will be allowed to access the Data Communications Channel ("DCC") of the other Party's Fiber Optic Terminal (FOT). The Fiber Meet will be designed so that each Party may, as far as is technically feasible, independently select the transmission, multiplexing, and fiber terminating equipment to be used on its side of the POI(s). The Parties will work cooperatively to achieve equipment and vendor compatibility of the FOT equipment.

3.4.4 Requirements for such Interconnection specifications will be defined in joint engineering planning sessions between the Parties. The Parties may share the investment of the fiber as mutually agreed.

3.4.5 In addition to the semi-annual trunk forecast process, discussed in Appendix ITR, discussions to provide relief to existing facilities can be initiated by either

party. Actual system augmentations will be initiated only upon mutual agreement. Facilities will be planned for to accommodate the verified and mutually agreed upon trunk forecast.

- 3.4.6 Both Parties will negotiate a project service date and corresponding work schedule to construct relief facilities prior to facilities exhaust.
- 3.4.7 **LEVEL 3** will provide fiber cable to the last entrance (or **SBC-13STATE** designated) manhole at the **SBC-13STATE** Tandem or End Office switch. **SBC-13STATE** shall make all necessary preparations to receive and to allow and enable **LEVEL 3** to deliver fiber optic facilities into that manhole. **LEVEL 3** will provide a sufficient length of Fiber cable for **SBC-13STATE** to pull through the **SBC-13STATE** cable vault. **LEVEL 3** shall deliver and maintain such strands wholly at its own expense up to the POI. **SBC-13STATE** shall take the fiber from the manhole and terminate it inside **SBC-13STATE's** office at the cable vault at **SBC-13STATE's** expense. In this case the POI shall be at the **SBC-13STATE** designated manhole location. Additional arrangements may be mutually developed and agreed to by the Parties pursuant to the requirements of this section.
- 3.4.8 **LEVEL 3** location includes FOTs, multiplexing and fiber required to terminate the optical signal provided from **SBC-13STATE**. This location is **LEVEL 3's** responsibility to provision and maintain.
- 3.4.9 The **SBC-13STATE** location includes all **SBC-13STATE** FOT, multiplexing and fiber required to terminate the optical signal provided from **LEVEL 3**. This location is **SBC-13STATE's** responsibility to provision and maintain.
- 3.4.10 **SBC-13STATE** and **LEVEL 3** shall, solely at their own expense, procure, install, and maintain the agreed-upon FOT equipment in each of their locations where the Parties established a Fiber Meet in capacity sufficient to provision and maintain all trunk groups prescribed by Appendix ITR for the purposes of Interconnection.
- 3.4.11 Each Party shall provide its own source for the synchronized timing of its FOT equipment.
- 3.4.12 **LEVEL 3** and **SBC-13STATE** will mutually agree on the capacity of the FOT(s) to be utilized based on equivalent DS1s or DS3s. 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 in section 4 of this document.

### 3.5 Other Interconnection Methods

3.5.1 Other Interconnection methods that are technically feasible may be mutually agreed to by the Parties.

#### **4. RESPONSIBILITIES OF THE PARTIES**

- 4.1 For each Interconnection within an SBC-13STATE area, LEVEL 3 shall provide written notice to SBC-13STATE of the need to establish Interconnection in accordance with Section 2. The parties agree that they will exchange necessary information on forms (as set forth in SBC's CLEC Handbook, published on the CLEC Online website) and in a manner that ensures that they can quickly and efficiently establish such POIs. LEVEL 3 shall provide all applicable network information on forms acceptable to SBC-13STATE (as set forth in SBC's CLEC Handbook, published on the CLEC Online website.)
- 4.2 Upon SBC-13STATE's receipt from LEVEL 3 of a notice pursuant to Section 4.1, the Parties shall schedule a meeting within thirty (30) days to negotiate and mutually agree on the particulars of the local Interconnection, to be documented as described in Section 2. The Interconnection activation date for an Interconnect shall be established based on then-existing force and load, the scope and complexity of the requested Interconnection and other relevant factors.
- 4.3 Reserved for future use
- 4.4 The Parties recognize that a facility handoff point must be agreed to that establishes the demarcation for maintenance and provisioning responsibilities for each party on their side of the POI.
- 4.5 Facilities will be planned for in accordance with the trunk forecasts exchanged between the Parties as described in Appendix ITR.

#### **5. RESERVED FOR FUTURE USE**

#### **6. OUT OF EXCHANGE TRAFFIC**

- 6.1 Out of Exchange traffic shall be consistent with the Appendix Out of Exchange Traffic attached to this agreement.

**APPENDIX ITR**  
**(Interconnection Trunking Requirements)**



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**APPENDIX ITR**  
**(Interconnection Trunking Requirements)**

**1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Interconnection provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and **LEVEL 3**.
- 1.2 This Appendix provides descriptions of the trunking requirements between **LEVEL 3** and **SBC-13STATE**. All references to incoming and outgoing trunk groups are from the perspective of **LEVEL 3**. The paragraphs below describe the required and optional trunk groups for the exchange of **Telecommunications Traffic Section 251(b)(5) Traffic, ISP Bound Traffic, IntraLATA toll, InterLATA “meet point”,** mass calling, E911, Operator Services and Directory Assistance traffic.
- 1.3 Local Interconnection Trunk Groups may only be used to transport traffic between the parties End Users.

**2. RESERVED FOR FUTURE USE.**

**3. ONE-WAY AND TWO-WAY TRUNK GROUPS**

- 3.1 **LEVEL 3** shall issue Access Service Requests (ASR) for two-way trunk groups. **LEVEL 3** shall issue ASR's for one-way trunk groups, originating at the **LEVEL 3** switch. **SBC-13STATE** shall issue ASRs for one-way trunk groups originating at the **SBC-13STATE** End Office Switch or Tandem Switch. Exceptions to this are noted below:
  - 3.1.1 Reserved for future use.
  - 3.1.2 **LEVEL 3** shall issue ASR's for one-way Busy Line Verification/Emergency Interrupt trunk group.
  - 3.1.3 **LEVEL 3** shall issue ASR's for one-way High Volume Call In trunk group as described in section 5.7.
- 3.2 Trunk groups for ancillary services (e.g. OS/DA, BLVI, mass calling, and 911) and Meet Point Trunk Groups can be established between a **LEVEL 3** switch and an **SBC-13STATE** Tandem as further provided in this Appendix ITR.
- 3.3 **Level 3 and SBC shall establish Two-way Interconnection Trunk Groups for the exchange of Telecommunications Traffic between the parties' respective Points of Interconnection. All Telecommunications Traffic shall be combined on these Interconnection Trunk Groups.**

Local Interconnection Trunk Group(s) trunk groups for local/ IntraLATA and InterLATA traffic and two-way Meet Point Trunk Groups *may shall* be established between a **LEVEL 3** switch or **LEVEL 3** routing point representing a switch location and an **SBC-12STATE** Tandem or End Office switch *for the exchange of traffic between each Party's End Users only.*

Two-way *Local* Interconnection Trunk Group(s) for *local/ IntraLATA and InterLATA* the exchange of traffic and two-way Meet Point Trunk Groups shall be

established between a **LEVEL 3** switch or **LEVEL 3** routing point representing a switch location and an **SBC-12STATE** Tandem or End Office switch *for the exchange of traffic between each Party's End Users only.*

- 3.3.1 These trunk groups will utilize Signaling System 7 (SS7) or multi-frequency (MF) signaling protocol, with SS7 signaling preferred whenever possible. For administrative consistency **LEVEL 3** will have control for the purpose of issuing Access Service Requests (ASRs) on two-way groups. **SBC-13STATE** will use the Trunk Group Service Request (TGSR), as described in section 8.0 of this Appendix, to request changes in trunking. Both Parties reserve the right to issue ASRs, if so required, in the normal course of business.
- 3.4 The Parties agree that two-way trunking shall be established when possible and appropriate for a given trunk group. However, in **SBC-CONNECTICUT**, one-way trunking is required to accommodate billing limitations.
- 3.5 The Parties agree to exchange traffic data on two-way trunks and to implement such an exchange within three (3) months of the date that two-way trunking is established and the trunk groups begin passing live traffic, or another date as agreed to by the Parties. The Parties agree to the electronic exchange of data as described in Section 9.
- 3.6 The Parties recognize that embedded one-way trunks may exist via end-point meet Interconnection architecture. The Parties may agree to negotiate a transition plan to migrate embedded one-way trunks to two-way trunks via any Interconnection method as described in Appendix NIM. The Parties will coordinate any such migration, trunk group prioritization, and implementation schedule. **SBC-13STATE** agrees to develop a cutover plan and project manage the cutovers with **LEVEL 3** participation and agreement.

#### 4. TANDEM TRUNKING AND DIRECT END OFFICE TRUNKING

- 4.1 The Parties shall establish POIs according to the requirements of NIM Section 2. **SBC-13STATE** deploys in its network Local Only Tandem Switches, Local/IntraLATA Tandem Switches (**SBC SOUTHWEST REGION 5-STATE** only), Access Tandem Switches and Local/Access Tandem Switches. In addition **SBC-13STATE** deploys Tandems that switch ancillary traffic such as 911 (911 Tandem), Operator Services/Directory Assistance (OS/DA Tandem), and mass calling (choke Tandem). Traffic on Tandem trunks does not terminate at the Tandem but is switched to other trunks that terminate the traffic in End Offices and ultimately to End Users.
- 4.2 When Tandem trunks are deployed, **LEVEL 3** shall connect to all tandems in the LATA in **SBC CONNECTICUT**, **SBC CALIFORNIA**, **SBC NEVADA** and **SBC MIDWEST REGION 5-STATE** and to all Tandems in the local exchange area in **SBC SOUTHWEST REGION 5-STATE** where Level 3 Offers Service within the area served by that tandem. If no Local Only Tandem Switch, Local/IntraLATA Tandem Switch or Local/Access Tandem Switch exists in the local exchange area in **SBC SOUTHWEST REGION 5-STATE**, **LEVEL 3** shall trunk to all SBC End Offices in the local exchange area where **LEVEL 3** Offers Service. **LEVEL 3** shall route appropriate traffic (i.e. only traffic to **SBC-13STATE** End Offices that subtend that Tandem) to the respective

- SBC-13STATE Tandems on the trunk groups defined below. SBC-13STATE shall route appropriate traffic to LEVEL 3 switches on the trunk groups defined below.
- 4.3 “Transit Traffic” is local Telecommunications Traffic or Circuit Switched intraLATA toll Telecommunications Traffic originated by or terminated to LEVEL 3 from another Local Exchange Carrier, CLEC or wireless carrier that transit SBC-13STATE’s network. When transit traffic through the SBC-13STATE Tandem from LEVEL 3 to another Local Exchange Carrier, CLEC or wireless carrier requires a DS-1’s or greater worth of traffic over a consecutive 3 month period, as measured during the busy hour, LEVEL 3 will undertake commercially reasonable efforts to establish direct interconnection with that third party. LEVEL 3 may route Transit Traffic via SBC-13STATE’s local Tandem or End office switches.
- 4.3.1 When transit traffic between the LEVEL 3 network and SBC-13STATE, such as Telecommunications Traffic to another Local Exchange Carrier, CLEC or wireless carrier exceeds a DS-1’s worth of traffic, as measured during the busy hour, for three consecutive months, SBC-13STATE shall undertake commercially reasonable efforts to establish a direct interconnection between itself and the other Local Exchange Carrier, CLEC or wireless carrier.
- 4.3.2 SBC-CONNECTICUT will make its Connecticut Transit Traffic Service available to LEVEL 3 for the purpose of completing Transit Traffic at rates, terms, and conditions set forth in Appendix Pricing and the applicable CT Access Service Tariff or as approved by the Connecticut DPUC. SBC-CONNECTICUT will compensate the terminating carrier for applicable local compensation or intraLATA access compensation.
- 4.3.3 While the Parties agree that it is the responsibility of the originating carrier to enter into arrangements with each third party carrier (ILECs, IXC’s, Wireless Carriers or other CLECs) to deliver transit traffic, each Party acknowledges that such arrangements may not currently be in place and an interim arrangement will facilitate traffic completion on an temporary basis. Accordingly, until the earlier of (i) the date on which either Party has entered into an arrangement with third-party carrier to exchange transit traffic to the other party and (ii) the date transit traffic volumes exchanged by either party exceed the volumes specified in Section 4.2.2, each party will provide the other Party with transit service. Each party agrees to use commercially reasonable efforts to enter into agreements with third-party carriers to whom it sends traffic as soon as possible after the Effective Date.
- 4.3.4 Once SBC13-STATE notifies LEVEL 3 that that more than a DS1’s worth of traffic has been exchanged with a 3rd party carrier for more than three months, LEVEL 3 use commercially reasonable efforts to establish interconnection arrangements with the 3rd party carriers.
- 4.4 Direct End Office trunks terminate traffic from a LEVEL 3 switch to an SBC-13STATE End Office and are not switched at a Tandem location. The Parties shall

- establish a two-way Direct End Office trunk group (except in **SBC-CONNECTICUT** where it shall be one-way) when actual or projected End Office traffic requires twenty-four (24) or more Local Interconnection Trunks in a Trunk Group or when no Local Only, Local/IntraLATA or Local/Access Tandem Switch is present in the local exchange. Overflow from either end of the Direct End Office trunk group will be alternate routed to the appropriate Tandem.
- 4.4.1 Direct End Office trunks terminate traffic from a **LEVEL 3** switch to an **SBC-13STATE** End Office.
- 4.4.2 The Parties will exert commercially reasonable efforts to achieve and maintain a network architecture within a Tandem serving area such that the DEOT does not fall below 80% of the total number of trunks that **LEVEL 3** has in service in the Tandem serving areas for two consecutive months. This should be achieved within 6 months of new interconnection in a Tandem serving area or within 3 months for existing interconnections. To determine the 80% DEOT to Tandem trunks threshold, the total number of DEOTs will be divided by the total number of trunks **LEVEL 3** has in use in the Tandem serving area where **LEVEL 3** is interconnected.
- 4.5 All traffic received by **SBC-13STATE** on the direct End Office trunk group from **LEVEL 3** must terminate in the End Office, i.e. no Tandem switching will be performed in the End Office unless SBC does so for itself or for any other party. Where End Office functionality is provided in a remote End Office of a host/remote switch configuration, the Interconnection for that remote End Office is only available at the host switch unless SBC has provisioned such capability in the remote switch. The number of originating telephone number digits to be received by the **SBC-13STATE** End Office shall be mutually agreed upon by the Parties. This trunk group shall be two-way.
- 4.6 Trunk Configuration
- 4.6.1 Trunk Configuration – **SBC SOUTHWEST REGION 5-STATE, SBC MIDWEST REGION 5-STATE** and **SBC CONNECTICUT**
- 4.6.1.1 Where available and upon the request of the other Party, each Party shall cooperate to ensure that its trunk groups are configured utilizing the Bipolar 8 Zero Substitution Extended Super Frame (B8ZS ESF) protocol for 64 kbps Clear Channel Capability (64CCC) transmission to allow for ISDN interoperability between the Parties' respective networks. Trunk groups configured for 64CCC and carrying Circuit Switched Data (CSD) ISDN calls shall carry the appropriate Trunk Type Modifier in the CLCI-Message code. Trunk groups configured for 64CCC and not used to carry CSD ISDN calls shall carry a different appropriate Trunk Type Modifier in the CLCI-Message code.
- 4.6.1.2 The Lucent 1AESS switch is incapable of handling 64CCC traffic. Therefore, all trunk groups established to the 1AESS switches must use Alternate Mark Inversion (AMI).
- 4.6.2 Trunk Configuration – **SBC CALIFORNIA** and **SBC NEVADA**

- 4.6.2.1 When Interconnecting at **SBC CALIFORNIA/SBC NEVADA's** digital End Offices, the Parties have a preference for use of Bipolar 8 Zero Substitution Extended Super Frame (B8ZS ESF) two-way trunks for all traffic between their networks. Where available, such trunk equipment will be used for Local Interconnection trunk groups. Where AMI trunks are used, either Party may request upgrade to B8ZS ESF when such equipment is available.
- 4.6.2.2 When Interconnecting at **SBC CALIFORNIA's** DMS Tandem(s), 64CCC data and voice traffic may be combined on the same B8ZF ESF facilities and 2-way trunk group. 64CCC data and voice traffic must be separate and not combined at **SBC CALIFORNIA's** 4E Tandems. When **LEVEL 3** establishes new trunk groups to carry combined voice and data traffic from **SBC CALIFORNIA's** DMS Tandems, **LEVEL 3** may do so where facilities and equipment exist. Where separate voice and data Interconnection trunking already exists **LEVEL 3** may transition to combined voice and data trunking as a major project, subject to mutual agreement between **LEVEL 3** and **SBC CALIFORNIA**, which agreement will include consideration of the CLEC handbook on **SBC CALIFORNIA's** CLEC website. In all cases, **LEVEL 3** will be required to disconnect existing voice-only trunk groups as existing 64CCC trunk groups are augmented to carry both voice and data traffic. For both the combined and the segregated voice and data trunk groups, where additional equipment is required, such equipment will be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job which **SBC CALIFORNIA** does for itself, any other CLEC or an IXC, **LEVEL 3's**, or itself for 64CCC trunks.

## 5. TRUNK GROUPS

- 5.1 The following trunk groups shall be used to exchange various types of traffic between **LEVEL 3** and **SBC-13STATE**.
- 5.2 **SBC SOUTHWEST REGION 5-STATE** *Local* Interconnection Trunk Group(s) in each Local Exchange Area where Level 3 Offers service. **Except in an over-flow situation to avoid call blocking on calls routed to Level 3, Inter-Tandem switching is not provided.**
- 5.2.1 A Two-way Local Only Trunk Group(s) shall be established between **LEVEL 3's** switch and each **SBC SOUTHWEST REGION 5-STATE** Local Only Tandem Switch in the local exchange area.
- 5.2.2 A two-way *Local Interconnection Trunk Group(s)* shall be *established between **LEVEL 3** switch and each **SBC SOUTHWEST REGION 5-STATE** Local/IntraLATA Tandem Switch or Local/Access Tandem Switch in the local exchange area.*

- 5.2.3 **SBC SOUTHWEST REGION 5-STATE** may initiate one-way or two-way IntraLATA trunk groups to **LEVEL 3** where required to provide trunk switch port relief in **SBC SOUTHWEST REGION 5-STATE** Tandems when a community of interest is outside the local exchange area in which **LEVEL 3** is Interconnected.
- 5.2.4 Where traffic from **LEVEL 3's** switch to an **SBC SOUTHWEST REGION 5-STATE** End Office Switch exceeds 24 trunks in an average time consistent busy hour, a Local Interconnection Trunk Group shall also be established to the **SOUTHWEST REGION 5-STATE** End Office Switch as described in Sections 4.4 and 4.5.
- 5.2.5 A Local Interconnection Trunk Group shall be established from **LEVEL 3's** switch to each **SBC SOUTHWEST REGION 5-STATE** End Office Switch in a local exchange area that has no Local Only Tandem Switch, Local/IntraLATA Tandem Switch or Local/Access Tandem Switch.
- 5.2.6 When **SBC SOUTHWEST REGION 5-STATE** has a separate Local Only Tandem Switch in the local exchange area and a Local/IntraLATA, Local/Access, and/or Access Tandem Switch that serves the same local exchange area, a two-way trunk group shall be established to the **SBC SOUTHWEST REGION 5-STATE** Local/IntraLATA, Local/Access, or Access Tandem Switch. *In addition, a two-way Local Only Trunk Group shall be established from the **LEVEL 3** switch to the **SBC SOUTHWEST REGION 5-STATE** Local Only Tandem switch.*
- 5.2.7 When **SBC SOUTHWEST REGION 5-STATE** has a Local/Access Tandem Switch in a local exchange area, **Telecommunications Traffic Section 251(b)(5)**/IntraLATA Traffic shall be combined on a two-way ***Local*** Interconnection Trunk Group.
- 5.2.8 When **SBC SOUTHWEST REGION 5-STATE** has more than one combined Local/Access Tandem Switch in a local exchange area, a two-way ***Local*** Interconnection Trunk Group shall be established to each **SBC SOUTHWEST REGION 5-STATE** Local/Access Tandem Switch that the Parties may mutually agree upon.
- 5.2.9 When **SBC SOUTHWEST REGION 5-STATE** has more than one Local/Access Tandem Switch combined local/Access Tandem in a local exchange area, a two-way ***Local*** Interconnection Trunk Group shall be established to each **SBC SOUTHWEST REGION 5-STATE** Local/Access Tandem Switch(es) that the parties may mutually agree upon.

5.3 ***Local*** Interconnection Trunk Group(s) in each LATA: **SBC MIDWEST REGION 5-STATE**, **SBC CONNECTICUT**, **SBC CALIFORNIA** and **SBC NEVADA**

5.3.1 Tandem Trunking - Single Tandem LATAs

5.3.1.1 Where **SBC CALIFORNIA**, **SBC NEVADA** or **SBC MIDWEST REGION 5-STATE** has a single Local/IntraLATA, Local/Access Tandem or Access Tandem Switch in a LATA, traffic shall be combined on a single ***Local*** Interconnection Trunk Group for calls destined to or from all **SBC** End Offices that subtend the Tandem within that LATA. This trunk group shall be two-way and will utilize Signaling System 7 (SS7) signaling.

5.3.2 Tandem Trunking – Multiple Tandem LATAs

5.3.2.1 Where **SBC CALIFORNIA**, **SBC NEVADA**, **SBC CONNECTICUT** or **SBC MIDWEST REGION 5-STATE** has more than one Access Tandem Switch and/or Local/IntraLATA Tandem Switch in a LATA, traffic shall be combined on a single ***Local*** Interconnection Trunk Group at every **SBC CALIFORNIA**, **SBC NEVADA**, **SBC CONNECTICUT** or **SBC MIDWEST REGION 5-STATE** Tandem(s) where Level 3 Offers Service within the area served by that tandem for calls destined to or from all **SBC** End Offices that subtend each Tandem in the LATA.

5.3.3 Direct End Office Trunking

5.3.3.1 The Parties shall establish direct End Office primary high usage ***Local*** Interconnection Trunk Groups for the exchange of traffic where actual or projected traffic demand exceeds one DS1's worth of traffic for three (3) consecutive months as measured during the busy hour.

5.4 Meet Point Trunk Group: **SBC-13STATE**

5.4.1 Meet Point Trunk Groups will be established for the transmission and routing of traffic between **LEVEL 3's** End Users and Interexchange Carriers via **SBC-13STATE** Access or Local/Access Tandem Switches. Traffic sent to or received from Interexchange Carriers shall be transported between **LEVEL 3** and the **SBC-13STATE** Access Tandem Switch or Local/Access Tandem Switch over a Meet Point Trunk Group.

5.4.2 Meet Point Trunk Groups shall be set up as two-way and will utilize SS7 signaling, except multi-frequency ("MF") signaling will be used on a separate Meet Point Trunk Group to complete originating calls to switched access customers that use MF FGD signaling protocol.

5.4.3 When **SBC-13STATE** has more than one Local/Access Tandem or Access Tandem Switch in a local exchange area or LATA, **LEVEL 3** need only establish Meet Point Trunk Groups to those tandems where **LEVEL 3** elects to home its NXX code(s) in the LERG.



- 5.4.4 In SBC-13STATE where there is more than one Local/Access Tandem or Access Tandem Switch in a LATA, and LEVEL 3 had previously established a Meet Point Trunk Group to a SBC-13STATE Local/Access Tandem or Access Tandem Switch and a constrained Local/Access Tandem or Access Tandem Switch condition exist as to such Tandems, the Parties agree to develop a mutually acceptable plan to establish a Meet Point Trunk Group to relieve the constrained tandem condition.
- 5.4.5 FOR SBC CALIFORNIA ONLY: LEVEL 3 will home new codes serving a particular community on the Tandem serving that community, as defined in SCHEDULE CAL.P.U.C. NO. 175—T, Section 6.7.3, Tandem Access Sectorization (TAS). LEVEL 3 is not required, however, to home codes by the sector designations. LEVEL 3 also agrees to locate at least one Local Routing Number (LRN) per home Tandem if LEVEL 3 ports any telephone numbers to its network from a community currently homing on that Tandem.
- 5.4.6 SBC-13STATE: For each NXX code used by either Party, the Party to whom the NXX is assigned by the relevant numbering administrator is responsible for the network facilities (whether owned or leased) used to actively provide, in part, local Telecommunications Service within the NXX code
- 5.4.7 SBC-13STATE will not block traffic delivered to any SBC-13STATE Tandem for completion on LEVEL 3's network or delivered from LEVEL 3 to SBC-13STATE for completion on SBC-13STATE's network. The Parties understand and agree that Meet Point trunking arrangements are available and functional only to/from switched access customers who directly connect with any SBC-13STATE Local Access Tandem or Access Tandem Switch that LEVEL 3 subtends in each LATA. In no event will SBC-13STATE be required to switch such traffic through more than one Tandem for connection to/from switched access customers SBC-13STATE shall have no responsibility to ensure that any switched access customer will accept traffic that LEVEL 3 directs to the switched access customer when that customer has refused to accept such traffic.
- 5.4.8 LEVEL 3 shall provide and SBC-13STATE shall pass all SS7 signaling information including, without limitation, charge number, and originating line information ("OLI"). For terminating Circuit Switched Traffic, such as traffic exchanged over FGD trunks, SBC-13STATE will pass all SS7 signaling information including, without limitation, and CPN if it receives CPN from FGD carriers. All privacy indicators will be honored. Where available, each Party shall pass or provide network signaling information such as transit network selection ("TNS") parameter, carrier identification codes ("CIC") (CCS platform) and CIC/OZZ information (non-SS7 environment) wherever such information is needed for call routing or billing. The Parties will follow all OBF adopted or other mutually agreeable standards pertaining to TNS and CIC/OZZ codes.
- 5.5 800/(8YY) Traffic: SBC-13STATE

- 5.5.1 If Either Party chooses the Other Party to handle 800/(8YY) database queries from its switches, all **LEVEL 3** originating 800/(8YY) traffic may be routed over the Meet Point Trunk Group except that to the extent that an 8YY originated number is local to the point of origination that call may be routed over a local trunk group . This traffic will include a combination of both Interexchange Carrier (IXC), 800/(8YY) service and **LEVEL 3** 800/(8YY) service that will be identified and segregated by carrier through the database query handled through the **SBC-13STATE** Tandem switch.
- 5.5.2 All originating Toll Free Service (800/8YY) calls for which **LEVEL 3** requests that **SBC-13STATE** perform the Service Switching Point (“SSP”) function (e.g., perform the database query) shall be delivered using GR-394 format over the Meet Point Trunk Group. Carrier Code “0110” and Circuit Code (to be determined for each LATA) shall be used for all such calls.
- 5.5.3 **LEVEL 3** may handle its own 800/8YY database queries from its switch. If so, **LEVEL 3** will determine the nature (local/intraLATA/interLATA) of the 800/8YY call based on the response from the database. If the query determines that the call is a local or IntraLATA 800/8YY number, **LEVEL 3** will route the post-query local or IntraLATA converted ten-digit local number to **SBC-13STATE** over the Local Interconnection Trunk Group. In such case **LEVEL 3** is to provide an 800/8YY billing record when appropriate. 8YY calls to numbers that are local to the point where the traffic is handed off will be rated as local. If the query reveals the call is an InterLATA 800/8YY number, **LEVEL 3** will route the post-query inter-LATA call (800/8YY number) directly from its switch for carriers Interconnected with its network or over the Meet Point Trunk Group to carriers not directly connected to its network but are connected to **SBC 13-STATE**’s Local/Access Tandem or Access Tandem or its equivalent. Each Party will route calls to the other party over the appropriate trunk groups within the LATA in which the calls originate.
- 5.5.4 All post-query Toll Free Service (800/8YY) calls for which **LEVEL 3** performs the SSP function, if delivered to **SBC 13-STATE** shall be delivered using GR-394 or other mutually agreeable format over the Meet Point Trunk Group or other designated Trunk Group for Circuit-Switched calls destined to IXCs. All post-query Toll Free Service (800/8YY) calls for which **LEVEL 3** performs the SSP function, if delivered to **SBC-13STATE** shall be delivered using the GR-317 format over the Local Interconnection Trunk Group for delivery to SBC End Offices directly subtending the Tandem.

## 5.6 E911 Trunk Group

- 5.6.1 A dedicated trunk group for each NPA shall be established to each appropriate E911 switch within the local exchange area or LATA in which **LEVEL 3** offers exchange service. **LEVEL 3** will have administrative control for the purpose of issuing ASRs on this one-way trunk group. This trunk group shall be set up as a one-way outgoing only and will utilize MF CAMA signaling or, where available, SS7 signaling. Where the parties utilize SS7 signaling and the E911 network has the technology available, only one E911 trunk group shall be established to

handle multiple NPAs within the local exchange area or LATA. If the E911 network does not have the appropriate technology available, a SS7 trunk group shall be established for each NPA in the local exchange area or LATA. **LEVEL 3** shall provide a minimum of two (2) one-way outgoing channels on E911 trunks dedicated for originating E911 emergency service calls from the Point of Interconnection (POI) to the **SBC-13STATE** E911 switch.

- 5.6.2 In **SBC CONNECTICUT** only, **LEVEL 3** will comply with the CT DPUC directives regarding the E911 trunk groups. The current directive requires **LEVEL 3** to establish three dedicated separate trunk groups for each Connecticut NPA, from its switch to each of the Connecticut E911 tandems. For each NPA, one trunk group using SS7 signaling will go to the Primary E911 tandem. A second trunk group using SS7 will go to the Secondary E911 tandem. The third trunk group will have MF CAMA signaling and will go to the Primary E911 tandem and serve as a backup. These trunk groups shall be set up as a one-way outgoing only by **LEVEL 3**. **LEVEL 3** will have administrative control for the purpose of issuing ASRs.
- 5.6.3 **LEVEL 3** and **SBC-13STATE** will cooperate to promptly test all 9-1-1 trunks and facilities between **LEVEL 3** network and the **SBC-13STATE** 9-1-1 Tandem to assure proper functioning of 9-1-1 service. **LEVEL 3** will not turn-up live traffic until successful testing is completed by both Parties and therefore **SBC-13STATE** and **LEVEL 3** both agree to use best efforts to complete testing as soon as is reasonably possible once **LEVEL 3** has requested interconnection at the **SBC-13STATE** 9-1-1 Tandem.
- 5.7 High Volume Call In (HVCi) / Mass Calling (Choke) Trunk Group: **SBC-12STATE**
- 5.7.1 A dedicated trunk group shall be required to the designated Public Response HVCi/Mass Calling Network Access Tandem in each serving area. This trunk group shall be one-way outgoing only and shall utilize MF signaling. As the HVCi/Mass Calling trunk group is designed to block all excessive attempts toward HVCi/Mass Calling NXXs, it is necessarily exempt from the one percent blocking standard described elsewhere for other final Local Interconnection trunk groups. **LEVEL 3** will have administrative control for the purpose of issuing ASRs on this trunk group. The Parties will not exchange live traffic until successful testing is completed by both Parties.
- 5.7.2 This group shall be sized as follows

Number of Access Lines Served	Number of Mass Calling Trunks
0 – 10,000	2
10,001 – 20,000	3
20,001 – 30,000	4

30,001 – 40,000	5
40,001 – 50,000	6
50,001 – 60,000	7
60,001 – 75,000	8
75,000 +	9 maximum

- 5.7.3 If **LEVEL 3** should acquire an HVCI/Mass Calling customer, *e.g.*, a radio station, **LEVEL 3** shall notify **SBC-12STATE** at least sixty (60) days in advance of the need to establish a one-way outgoing SS7 or MF trunk group from the **SBC-12STATE** HVCI/Mass Calling Serving Office to **LEVEL 3's** customer's serving office. **LEVEL 3** will have administrative control for the purpose of issuing ASRs on this one-way trunk group.
- 5.7.4 If **LEVEL 3** finds it necessary to issue a new choke telephone number to a new or existing HVCI/Mass Calling customer, **LEVEL 3** may request a meeting to coordinate with **SBC-12STATE** the assignment of HVCI/Mass Calling telephone number from the existing choke NXX. In the event that **LEVEL 3** establishes a new choke NXX, **LEVEL 3** may notify **SBC-12STATE** a minimum of ninety (90) days prior to deployment of the new HVCI/Mass Calling NXX. **SBC-12STATE** will perform the necessary translations in its End Offices and Tandem(s) and **LEVEL 3** will issue ASRs to establish a one-way outgoing SS7 or MF trunk group from the **SBC-12STATE** Public Response HVCI/Mass Calling Network Access Tandem to **LEVEL 3's** choke serving office.
- 5.7.5 In **SBC CONNECTICUT**, where HVCI/Mass Calling NXXs have not been established, the Parties agree to utilize "call gapping" as the method to control high volumes of calls, where technically feasible in the originating switch, to specific high volume customers or in situations such as those described in Section 36 Network Maintenance and Management of the General Terms and Conditions.
- 5.8 Operator Services/Directory Assistance Trunk Group(s)
- 5.8.1 If **SBC-13STATE** agrees to provide Inward Assistance Operator Services for **LEVEL 3**, please see section 4.1 of Appendix INW for the trunking requirements to provide this service.
- 5.8.2 If **SBC-13STATE** agrees through a separate appendix or contract to provide Directory Assistance and/or Operator Services for **LEVEL 3** the following trunk groups are required:
- 5.8.2.1 Directory Assistance (DA)

5.8.2.1.1 **LEVEL 3** may contract for DA services only. A segregated trunk group for these services will be required to the appropriate **SBC-13STATE** OPERATOR SERVICES Tandem in the LATA for the NPA **LEVEL 3** wishes to serve. This trunk group is set up as one-way outgoing only and utilizes Modified Operator Services Signaling (2 Digit Automatic Number Identification (ANI)). **LEVEL 3** will have administrative control for the purpose of issuing ASR's on this one-way trunk group.

5.8.2.2 Directory Assistance Call Completion (DACC)

5.8.2.2.1 Where **LEVEL 3** contracts for DA services SBC will also permit it to contract for DACC. This requires a segregated one-way trunk group to each **SBC-13STATE** OPERATOR SERVICES Tandem within the LATA for the combined DA and DACC traffic. This trunk group is set up as one-way outgoing only and utilizes Modified Operator Services Signaling (2 Digit ANI). **LEVEL 3** will have administrative control for the purpose of issuing ASR's on this one-way trunk group.

5.8.2.3 Busy Line Verification/Emergency Interrupt (BLV/EI)

5.8.2.3.1 When **SBC-13STATE's** operator is under contract to verify the busy status of **LEVEL 3** End Users, **SBC-13STATE** will utilize a segregated one-way with MF signaling trunk group from **SBC-13STATE's** Operator Services Tandem to **LEVEL 3** switch. **LEVEL 3** will have administrative control for the purpose of issuing ASR's on this one-way trunk group.

5.8.2.4 Operator Assistance (0+, 0-)

5.8.2.4.1 This service requires a one-way trunk group from **LEVEL 3** switch to **SBC-13STATE's** OPERATOR SERVICES Tandem. Two types of trunk groups may be utilized. If the trunk group transports DA/DACC, the trunk group will be designated with the appropriate traffic use code and modifier. If DA is not required or is transported on a segregated trunk group, then the group will be designated with a different appropriate traffic use code and modifier. Modified Operator Services Signaling (2 Digit ANI) will be required on the trunk group. **LEVEL 3** will have administrative control for the purpose of issuing ASR's on this one-way trunk group.

5.8.2.5 Digit-Exchange Access Operator Services Signaling

5.8.2.5.1 **LEVEL 3** will employ Exchange Access Operator Services Signaling (EAOSS) from the equal access End Offices (EAEO) to the OPERATOR SERVICES switch that are equipped to accept 10 Digit Signaling for Automatic Number Identification (ANI).

5.8.2.6 OS QUESTIONNAIRE

5.8.2.6.1 If **LEVEL 3** chooses **SBC-13STATE** to provide either OS and/or DA, then **LEVEL 3** agrees to accurately complete the OS Questionnaire prior to submitting ASRs for OS and DA trunks.

**6. FORECASTING RESPONSIBILITIES: SBC-13STATE**

6.1 **LEVEL 3** agrees to provide an initial forecast for establishing the initial Interconnection facilities. **SBC-13STATE** shall review this forecast and if it has any additional information that will change the forecast it shall provide this information to **LEVEL 3**. Subsequent forecasts shall be provided on a semi-annual basis, not later than January 1 and July 1. This forecast should include yearly forecasted trunk quantities for all appropriate trunk groups described in this Appendix for a minimum of three years. Parties agree to the use of Common Language Location Identification (CLLI) coding and Common Language Circuit Identification for Message Trunk coding (CLCI-MSG) which is described in TELCORDIA TECHNOLOGIES documents BR795-100-100 and BR795-400-100 respectively. Inquiries pertaining to use of TELCORDIA TECHNOLOGIES Common Language Standards and document availability should be directed to TELCORDIA TECHNOLOGIES at 1-800-521-2673. Analysis of trunk group performance, and ordering of relief if required, will be performed on a monthly basis at a minimum.

6.2 The semi-annual forecasts shall include:

6.2.1 Yearly forecasted trunk quantities (which include measurements that reflect actual Tandem Local Interconnection Trunk Groups and Meet Point Trunk Groups and End Office Local Interconnection trunks), for a minimum of three (current plus 2 future) years; and

6.2.2 A description of major network projects anticipated for the following six months. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, orders greater than four (4) DS1's, or other activities that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.

6.2.3 The Parties shall agree on a forecast provided above to ensure efficient utilization of trunks. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as mutually agreed to by the Parties.

Parties shall make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate these orders.

6.3 **LEVEL 3** shall be responsible for forecasting two-way trunk groups. **SBC-13STATE** shall be responsible for forecasting and servicing the one way trunk groups terminating to **LEVEL 3** and **LEVEL 3** shall be responsible for forecasting and servicing the one way trunk groups terminating to **SBC-13STATE**, unless otherwise specified in this Appendix. Standard trunk traffic engineering methods will be used by the parties as described in Bell Communications Research, Inc. (TELCORDIA TECHNOLOGIES) document SR TAP 000191, Trunk Traffic Engineering Concepts and Applications.

6.4 If forecast quantities are in dispute, the Parties shall meet to reconcile the differences.

6.5 Each Party shall provide a specified point of contact for planning, forecasting and trunk servicing purposes.

## 7. **TRUNK DESIGN BLOCKING CRITERIA: SBC-13STATE**

7.1 Trunk requirements for forecasting and servicing shall be based on the blocking objectives shown in Table 1. Trunk requirements shall be based upon time consistent average busy season busy hour twenty (20) day averaged loads applied to industry standard Neal-Wilkinson Trunk Group Capacity algorithms (use Medium day-to-day Variation and 1.0 Peakedness factor until actual traffic data is available).

TABLE 1

<u>Trunk Group Type</u>	<u>Design Blocking Objective</u>
Local Tandem	1%
Local Direct End Office (Primary High)	ECCS*
Local Direct End Office (Final)	2%
IntraLATA	1%
Local/IntraLATA	1%
InterLATA (Meet Point) Tandem	0.5%
911	1%
Operator Services (DA/DACC)	1%
Operator Services (0+, 0-)	1%
Busy Line Verification-Inward Only	1%

\*During implementation the Parties will mutually agree on an Economic Centum Call Seconds (ECCS) or some other means for the sizing of this trunk group.

## 8. **TRUNK SERVICING: SBC-13STATE**

8.1 Orders between the Parties to establish, add, change or disconnect trunks shall be processed by using an Access Service Request (ASR). **LEVEL 3** will have administrative control for the purpose of issuing ASR's on two-way trunk groups. In **SBC CONNECTICUT** where one-way trunks will be provisioned, **SBC CONNECTICUT**

will issue ASRs for trunk groups for traffic that originates in **SBC-13STATE** and terminates to **LEVEL 3**. The Parties agree that neither Party shall alter trunk sizing without first conferring with the other party.

8.2 Both Parties will jointly manage the capacity of Local Interconnection Trunk Groups. Both Parties may send a Trunk Group Service Request (TGSR) to the other Party to trigger changes to the Local Interconnection Trunk Groups based on capacity assessment. The TGSR is a standard industry support interface developed by the Ordering and Billing Forum of the Carrier liaison Committee of the Alliance for Telecommunications Solutions (ATIS) organization. TELCORDIA TECHNOLOGIES Special Report STS000316 describes the format and use of the TGSR. Contact TELCORDIA TECHNOLOGIES at 1-800-521-2673 regarding the documentation availability and use of this form.

8.3 Utilization: Utilization shall be defined as Trunks Required as a percentage of Trunks In Service

8.3.1 In A Blocking Situation (Over-utilization)

8.3.1.1 In a blocking situation **LEVEL 3** is responsible for issuing an ASR on all two-way trunk groups and one-way **LEVEL 3** originating trunk groups to reduce measured blocking to design objective blocking levels based on analysis of trunk group data. If an ASR is not issued, **SBC-13STATE** will issue a TSGR. **LEVEL 3** will issue an ASR within three (3) days after receipt and review of the TGSR, **LEVEL 3** will note "Service Affecting" On the ASR.

8.3.1.2 In a blocking situation **SBC-13STATE** is responsible for issuing an ASR on one-way **SBC-13STATE** originating trunk groups to reduce measured blocking to design objective blocking levels based on analysis of trunk group data. If an ASR is not issued, **LEVEL 3** will issue a TSGR. **SBC-13STATE** will issue an ASR within three (3) days after receipt and review of the TGSR. **SBC-13 STATE** will note "Service Affecting" on the ASR.

8.3.1.3 If an Alternate Final trunk group is at 75 % utilization, a TGSR is sent to **LEVEL 3** for the final and all subtending High Usage's that are contributing any amount of overflow to the Final route. If a Direct Final Direct End Office trunk group is at 75% utilization, a TGSR is sent to **LEVEL 3** with a recommendation to augment that trunk group.

8.3.2 Underutilization

8.3.2.1 Underutilization of Interconnection trunks and facilities exists when provisioned capacity is greater than the current need. Those



situations where more capacity exists than actual usage requires will be handled in the following manner:

8.3.2.1.1 If a trunk group is under seventy-five percent (75%) of CCS capacity on a monthly average basis, for each month of any three (3) consecutive months period, either Party may request the issuance of an order to resize the trunk group, which shall be left with not less than 25 percent (25%) excess capacity. In all cases grade of service objectives shall be maintained.

8.3.2.1.2 If a Direct Final Direct EO trunk group in a serving area where there is no Local Tandem is under sixty-five percent (65%) of CCS capacity on a monthly average basis, for each month of any three (3) consecutive month period, either Party may request the issuance of an order to resize the trunk group, which shall be left with not less than thirty-five percent (35%) excess capacity. In all cases grade of service objectives shall be maintained.

8.3.2.1.3 Either party may send a TGSR to the other Party to trigger changes to the Local Interconnection Trunk Groups based on capacity assessment. Upon receipt of a TGSR, the receiving Party will issue an ASR to the other Party within ten (10) business days after receipt of the TGSR.

8.3.2.1.4 Upon review of the TGSR, if a Party does not agree with the resizing, the Parties will schedule a joint planning discussion within twenty (20) business days. The Parties will meet to resolve and mutually agree to the disposition of the TGSR.

8.3.2.1.5 If **SBC-13STATE** does not receive an ASR, or if **LEVEL 3** does not respond to the TGSR by scheduling a joint discussion within the twenty (20) business day period, **SBC-13STATE** will attempt to contact **LEVEL 3** to schedule a joint planning discussion. If **LEVEL 3** will not agree to meet within an additional five (5) business days and present adequate reason for keeping trunks operational, **SBC-13STATE** will issue an ASR to resize the Interconnection trunks and facilities.

8.4 In all cases except a blocking situation, either Party upon receipt of a TGSR will issue an ASR to the other Party within twenty (20) business days after receipt of the TGSR.

- 8.4.1 Upon review of the TGSR, if a Party does not agree with the resizing, the Parties will schedule a joint planning discussion within twenty (20) business days. The Parties will meet to resolve and mutually agree to the disposition of the TGSR.
- 8.5 Projects require the coordination and execution of multiple orders or related activities between and among SBC-13STATE and LEVEL 3 work groups, including but not limited to the initial establishment of Local Interconnection or Meet Point Trunk Groups and service in an area, NXX code moves, re homes, facility grooming, or network rearrangements.
- 8.6 Due dates for the installation of Local Interconnection and Meet Point Trunk Groups covered by this Appendix shall be based on each of SBC-13STATE's intrastate Switched Access intervals. If LEVEL 3 is unable to or not ready to perform Acceptance Tests, or is unable to accept the trunks by the due date, LEVEL 3 will provide a requested revised service due date that is no more than thirty (30) calendar days beyond the original service due date for which SBC-13STATE has issued a Firm Order Confirmation ("FOC"). If LEVEL 3 requests a service due date change which exceeds the allowable service due date change period, the ASR must be canceled by LEVEL 3. Should LEVEL 3 fail to cancel such an ASR, SBC-13STATE shall treat that ASR as though it had been canceled.
- 8.7 Trunk servicing responsibilities for Operator Services trunks used for stand-alone Operator Service or Directory Assistance are the sole responsibility of LEVEL 3.
- 8.8 TRUNK SERVICING – SBC SOUTHWEST REGION 5-STATE Exceptions
- 8.8.1 The Parties will process trunk service requests submitted via a properly completed ASR within ten (10) business days of receipt of such ASR unless defined as a major project, as stated in Section 8.6. Incoming orders will be screened by SBC SOUTHWEST REGION 5-STATE trunk engineering personnel for reasonableness based upon current utilization and/or consistency with forecasts. If the nature and necessity of an order requires determination, the ASR will be placed in held status, and a Joint Planning discussion conducted. Parties agree to expedite this discussion in order to minimally delay order processing. Extension of this review and discussion process beyond two days from ASR receipt will require the ordering Party to Supplement the order with proportionally adjusted Customer Desired Due Dates. Facilities must also be in place before trunk orders can be completed.
- 8.9 Projects-Tandem Rehomes/Switch Conversion/Major Network Projects
- 8.9.1 SBC-13STATE will advise LEVEL 3 of all projects significantly affecting LEVEL 3 trunking. Such projects may include Tandem Rehomes, Switch Conversions and other Major Network Changes. An Accessible Letter with project details will be issued at least six (6) months prior to the project due dates. SBC-13 STATE will follow with a Trunk Group Service Request (TGSR)

approximately four (4) to six (6) months before the due date of the project. A separate TGSR will be issued for each **LEVEL 3** trunk group and will specify the required **LEVEL 3** ASR issue date. Failure to submit ASR(s) by the required date may result in **SBC-13STATE** ceasing to deliver traffic until the ASR(s) are received and processed.

## **9. TRUNK DATA EXCHANGE: SBC-13STATE**

- 9.1 Each Party agrees to service trunk groups to the foregoing blocking criteria in a timely manner when trunk groups exceed measured blocking thresholds on an average time consistent busy hour for a twenty (20) business day study period. The Parties agree that twenty (20) business days is the study period duration objective. However, a study period on occasion may be less than twenty (20) business days but at minimum must be at least three (3) business days to be utilized for engineering purposes, although with less statistical confidence.
- 9.2 Exchange of traffic data enables each Party to make accurate and independent assessments of trunk group service levels and requirements. Parties agree to establish a timeline for implementing an exchange of traffic data utilizing the DIXC process via a Network Data Mover (NDM) or FTP computer to computer file transfer process. Implementation shall be within three (3) months of the date, or such date as agreed upon, that the trunk groups begin passing live traffic. The traffic data to be exchanged will be the Originating Attempt Peg Count, Usage (measured in Hundred Call Seconds), Overflow Peg Count, and Maintenance Usage (measured in Hundred Call Seconds on a seven (7) day per week, twenty-four (24) hour per day, fifty-two (52) weeks per year basis). These reports shall be made available at a minimum on a semi-annual basis upon request. Exchange of data on one-way groups is optional.
- 9.3 A trunk group utilization report (TIKI) is available at no charge upon request. The report is provided in a MS-Excel format.

## **10. NETWORK MANAGEMENT: SBC-13STATE**

### **10.1 Restrictive Controls**

- 10.1.1 Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps set at appropriate levels on traffic toward each other's network, when required, to protect the public switched network from congestion due to facility failures, switch congestion, or failure or focused overload. **LEVEL 3** and **SBC-13STATE** will immediately notify each other of any protective control action planned or executed.

### **10.2 Expansive Controls**

- 10.2.1 Where the capability exists, originating or terminating traffic reroutes may be implemented by either Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes will not be used to

circumvent normal trunk servicing. Expansive controls will only be used when mutually agreed to by the Parties.

### 10.3 Mass Calling

10.3.1 **LEVEL 3** and **SBC-13STATE** shall cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes.

## 11. OUT OF EXCHANGE TRAFFIC

11.1 Interconnection services are available in accordance with section 251(a)(1) of the Act for the purposes of exchanging traffic to/from a non-SBC incumbent exchange and consistent with the Appendix Out of Exchange Traffic attached to this Agreement.

## 12. CIRCUIT SWITCHED TRAFFIC

**12.1 The Parties agree to the definition, terms, and conditions, applicable to Circuit Switched Traffic as stated in Sections 3.4 and 16 of Appendix IC to this Agreement.**

*For purposes of this Agreement only, Switched Access Traffic shall mean all traffic that originates from an end user physically located in one local exchange and delivered for termination to an end user physically located in a different local exchange (excluding traffic from exchanges sharing a common mandatory local calling area as defined in SBC-13STATE's local exchange tariffs on file with the applicable state commission) including, without limitation, any traffic that (i) terminates over a Party's circuit switch, including traffic from a service that originates over a circuit switch and uses Internet Protocol (IP) transport technology (regardless of whether only one provider uses IP transport or multiple providers are involved in providing IP transport) and/or (ii) originates from the end user's premises in IP format and is transmitted to the switch of a provider of voice communication applications or services when such switch utilizes IP technology and terminates over a Party's circuit switch. Notwithstanding anything to the contrary in this Agreement, all Switched Access Traffic shall be delivered to the terminating Party over feature group access trunks per the terminating Party's access tariff(s) and shall be subject to applicable intrastate and interstate switched access charges; provided, however, the following categories of Switched Access Traffic are not subject to the above stated requirement relating to routing over feature group access trunks:*

- (i) IntraLATA toll Traffic or Optional EAS Traffic from a LEVEL 3 end user that obtains local dial tone from LEVEL 3 where LEVEL 3 is both the Section 251(b)(5) Traffic provider and the intraLATA toll provider,*

- (ii) *IntraLATA toll Traffic or Optional EAS Traffic from an SBC end user that obtains local dial tone from SBC where SBC is both the Section 251(b)(5) Traffic provider and the intraLATA toll provider;*
- (iii) *Switched Access Traffic delivered to SBC from an Interexchange Carrier (IXC) where the terminating number is ported to another CLEC and the IXC fails to perform the Local Number Portability (LNP) query; and/or*
- (iv) *Switched Access Traffic delivered to either Party from a third party competitive local exchange carrier over interconnection trunk groups carrying Section 251(b)(5) Traffic and ISP-Bound Traffic (hereinafter referred to as "Local Interconnection Trunk Groups") destined to the other Party.*

*Notwithstanding anything to the contrary in this Agreement, each Party reserves its rights, remedies, and arguments relating to the application of switched access charges for traffic exchanged by the Parties prior to the Effective Date of this Agreement and described in the FCC's Order issued in the Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services Exempt from Access Charges, WC Docket No. 01-361(Released April 21, 2004).*

- 12.2 *In the limited circumstances in which a third party competitive local exchange carrier delivers Switched Access Traffic as described in Section 12.1 (iv) above to either Party over Local Interconnection Trunk Groups, such Party may deliver such Switched Access Traffic to the terminating Party over Local Interconnection Trunk Groups. If it is determined that such traffic has been delivered over Local Interconnection Trunk Groups, the terminating Party may object to the delivery of such traffic by providing written notice to the delivering Party pursuant to the notice provisions set forth in the General Terms and Conditions and request removal of such traffic. The Parties will work cooperatively to identify the traffic with the goal of removing such traffic from the Local Interconnection Trunk Groups. If the delivering Party has not removed or is unable to remove such Switched Access Traffic as described in Section 12.1(iv) above from the Local Interconnection Trunk Groups within sixty (60) days of receipt of notice from the other party, the Parties agree to jointly file a complaint or any other appropriate action with the applicable Commission to seek any necessary permission to remove the traffic from such interconnection trunks up to and including the right to block such traffic and to obtain compensation, if appropriate, from the third party competitive local exchange carrier delivering such traffic to the extent it is not blocked.*

**13. IP TRAFFIC**

**13.1 The Parties agree to the definition, terms, and conditions, applicable to IP Enabled Services Traffic as stated in Sections 3.2 and 17 of Appendix IC to this Agreement.**