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APPENDIX 800
(Access To The Toll Free Calling Database)

1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions for Access to the Toll Free Calling Database provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE means the applicable above listed ILECs doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 As used herein, SBC-12STATE means the applicable above listed ILECs doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.5 As used herein, SBC-7STATE means the applicable above listed ILECs doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.6 As used herein, SBC-2STATE means the applicable above listed ILECs doing business in California and Nevada.
- 1.7 As used herein, SBC-SWBT means the applicable above listed ILECs doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.8 As used herein, SBC-AMERITECH means the applicable above listed ILECs doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.9 As used herein, SNET means the applicable above listed ILEC doing business in Connecticut.

2. DESCRIPTION

- 2.1 Other than as specifically set out elsewhere in this Agreement, SNET does not offer Access to the Toll Free Calling Database under this Agreement. Rather, Access to the Toll Free Calling Database is available from SNET as described in Section 18.2.9, 800 Database Access, of the CT Access Service Tariff.
- 2.2 SBC-12STATE's 800 database, an American National Standards Institute (ANSI) Signaling System 7 (SS7) call-related database system, receives updates processed from the national System Management System (SMS) database. Customer records in the SMS are created or modified by entities known as Responsible Organizations (Resp Org) who obtain access to the SMS via the System Management System/800 database, Tariff FCC No. 1. 800 Service Providers must either become their own Resp Org or use the services of an established Resp Org. The services of a Resp Org include creating and updating 800 records in the SMS to download to the 800 database(s). SBC-12STATE does not, either through a tariff or contract, provide Resp Org service.
- 2.3 After the 800 customer record is created in the SMS, the SMS downloads the records to the appropriate databases, depending on the area of service chosen by the 800 subscriber. An 800 customer record is created in the SMS for each 800 number to be activated. The SMS initiates all routing changes to update information on a nationwide basis.
- 2.4 Access to the Toll Free Calling Database allows CLEC to access SBC-12STATE's 800 database for the purpose of switch query and database response. Access to the Toll Free Calling Database supports the processing of toll free calls (e.g., 800 and 888) where identification of the appropriate carrier (800 Service Provider) to transport the call is dependent upon the full ten digits of the toll free number (e.g., 1+800+NXX+XXXX). Access to the Toll Free Calling Database includes all 800-type dialing plans (i.e., 800, 888, and other codes as may be designated in the future).
- 2.5 Access to the Toll Free Calling Database provides the carrier identification function required to determine the appropriate routing of an 800 number based on the geographic origination of the call, from a specific or any combination of NPA/NXX, NPA or LATA call origination detail.
- 2.6 There are three optional features available with 800 service:
- 2.6.1 Designated 10-Digit Translation;
- 2.6.2 Call Validation; and

2.6.3 Call Handling and Destination.

2.6.4 The Designated 10-Digit Translation feature converts the 800 number into a designated 10-digit number. If the 800 Service Provider provides the designated 10-digit number associated with the 800 number and request delivery of the designated 10-digit number in place of the 800 number, SBC-12STATE will deliver the designated 10-digit number.

2.6.5 The Call Handling and Destination feature allows the customer to create routing schemes utilizing:

2.6.5.1 Time of Day

2.6.5.2 Day of Week

2.6.5.3 Day of Year

2.6.5.4 Allocation of Traffic by Percentage

2.6.5.5 NPA-NXX-XXXX

2.6.6 The Call Validation feature List Turnaround feature (referred to as the Six-Digit Master Number List Turnaround feature in SBC-2STATE) applies when customer identification is performed for Canadian and Caribbean toll free numbers. This feature is billed in lieu of the Basic Toll Free Access Query charge.

3. GENERAL TERMS AND CONDITIONS

3.1 Access to the Toll Free Calling Database provided under these terms and conditions is only available for use in the provision of telephone exchange and Exchange Access Telecommunication Services as specified in the Telecommunications Act of 1996 and any effective rules and regulations of the Federal Communications Commission and the State regulatory Commission.

3.2 Access to the Toll Free Calling Database is offered separate and apart from other unbundled network elements necessary for operation of the network routing function addressed in these terms and conditions, e.g., end office 800 (SSP) functionality and (CCS/SS7) signaling. This Appendix is separate from the prices, terms, conditions and billing for such related elements, and in no way shall this Appendix be construed to circumvent the prices, terms, conditions or billing as specified for such related elements.

- 3.3 CLEC shall address its queries to SBC-12STATE's database to the alias point code of the STP pair identified by SBC-12STATE. CLEC's queries shall use subsystem number 0 in the calling party address field and a translations type of 254 with a routing indicator set to route on global title. CLEC acknowledges that such subsystem number and translation type values are necessary for SBC-12STATE to properly process queries to its 800 database.
- 3.4 Each Party warrants to the other that it shall send queries and SS7 messages conforming to the ANSI approved standards for SS7 protocol and pursuant to the Specifications and Standards documents attached and incorporated herein in Exhibit I. Both Parties acknowledge that transmission in said protocol is necessary for each Party to provision Access to the Toll Free Calling Database (or the equivalent thereof). Each Party reserves the right to modify its network pursuant to other specifications and standards, which may include Telcordia's specifications, defining specific service applications, message types, and formats, that may become necessary to meet the prevailing demands within the U.S. telecommunications industry. All such changes shall be announced in accordance with the then prevailing industry standard procedures. Each Party shall work cooperatively to coordinate any necessary changes.
- 3.5 CLEC acknowledges and agrees that CCS/SS7 network overload due to extraordinary volumes of queries and/or other SS7 network messages can and will have a detrimental effect on the performance of SBC-12STATE's CCS/SS7 network and its 800 database. CLEC further agrees that SBC-12STATE, at its sole discretion, may employ certain automatic and/or manual overload controls within SBC-12STATE's CCS/SS7 network to guard against these detrimental effects. SBC-12STATE shall report to CLEC any instances where overload controls are invoked due to CLEC's CCS/SS7 network. CLEC shall take immediate corrective actions as are necessary to cure the conditions causing the overload situation.
- 3.6 During periods of 800 database system congestion, SBC-12STATE shall utilize an automatic code gapping procedure to control congestion that may affect the service of all customers of SBC-12STATE's 800 database. The automatic code gapping procedure used by SBC-12STATE shall notify the CLEC's switch of the gap length (how long CLEC's switch should wait before sending another query) and the gap duration (how long the switch should continue to perform gapping). For example, during an overload condition, the automatic code gapping procedures shall tell SBC-12STATE's 800 database when to begin to drop one out of three queries received. This code gapping procedure shall be applied uniformly to all users of SBC-12STATE's 800 database. SBC-12STATE reserves the right to manually invoke the automatic code gapping procedure to control congestion.

- 3.7 Prior to SBC-12STATE initiating service under this Appendix, CLEC shall provide an initial forecast of busy hour query volumes. CLEC shall update its busy hour forecast for each upcoming calendar year (January - December) by October 1 of the preceding year and also whenever CLEC anticipates a change to existing forecasts. CLEC shall provide such updates each year for as long as this Appendix is in effect; provided, the obligation to provide updates shall not extend for longer than three years, assuming this Appendix in effect for that long or longer. If prior to the establishment of a mutually agreeable service effective date, in writing, SBC-12STATE, at its discretion, determines that it lacks adequate processing capability to provide Access to the Toll Free Calling Database to CLEC, SBC-12STATE shall notify CLEC of SBC-12STATE's intent not to provide the services under this Appendix and this Appendix will be void and have no further effect.
- 3.8 CLEC shall from time to time at SBC-12STATE's request, provide additional forecasted information as deemed necessary by SBC-12STATE for network planning in connection with this offering.
- 3.9 SBC-12STATE shall test the Access to the Toll Free Calling Database in conjunction with CCS/SS7 Interconnection Service (e.g., Appendix SS7) as outlined in Telcordia Technical References TR-NWT-000533, TR-NWT-000954, TR-TSV-000905, TP76638, GR-954-CORE, GR-905-CORE and Pacific Bell PUB L-780023-PB/NB and SBC-AMERITECH AM-TR-OAT-000069
- 3.10 CLEC shall only use Access to the Toll Free Calling Database to determine the routing requirements for originating 800 calls. Neither CLEC nor carrier customers of CLEC, if CLEC is acting on behalf of other carriers, shall use the database information to copy, store, maintain or create any table or database of any kind or for any purpose. If CLEC acts on behalf of other carriers to access SBC-12STATE's Toll Free Calling Database, CLEC shall prohibit such carriers from copying, storing, maintaining, or creating any table or database of any kind from any response provided by SBC-12STATE after a query to SBC-12STATE's Toll Free Calling Database. CLEC shall only use this network element in connection with the provision of telephone exchange and Exchange Access services.
- 3.11 CLEC shall ensure that it has sufficient link capacity and related facilities to handle its signaling and toll free traffic without adversely affecting other network subscribers.
- 3.12 SBC-12STATE shall provide Access to the Toll Free Calling Database as set forth in this Appendix only as such elements are used for CLEC's activities on behalf of its local service customers where SBC-12STATE is the incumbent

local exchange carrier. CLEC agrees that any other use of SBC-12STATE's Toll Free Calling Database for the provision of 800 database service by CLEC will be pursuant to the terms, conditions, rates, and charges of SBC-12STATE's effective tariffs, as revised, for 800 database services.

3.13 Ordering and Billing Inquiries

3.13.1 Ordering and billing inquiries for the elements described herein shall be directed to:

3.13.1.1 For SBC-7STATE - the Local Service Center (LSC).

3.13.1.2 For SBC-AMERITECH - the AIIIS Service Center in Milwaukee, Wisconsin.

4. **RATE REGULATIONS**

4.1 CLEC shall pay a Local Service Order Request Charge for each CLEC request for service order activity to establish Access to the Toll Free Calling Database in the SBC-12STATE region.

4.2 The prices at which SBC-13STATE agrees to provide CLEC with Access to the Toll Free Calling Database are contained in the applicable Appendix PRICING and/or the applicable Commissioned ordered tariff where stated.

4.3 CLEC shall pay a nonrecurring charge when a CLEC establishes or changes a signaling point code. The rates and charges for Signaling Point Code(s) are described in the Appendix SS7. This charge also applies to point code information provided by CLECs allowing other telecommunications providers to use the CLEC's SS7 signaling network.

4.4 Rate Elements

There are four rate elements associated with Access to the Toll Free Calling Database:

4.4.1 Basic Toll Free Access Query Rate Element

4.4.2 Designated 10-Digit Translation Rate Element (referred to as POTS Translations in SBC-2STATE and SBC-AMERITECH)

4.4.3 Call Validation Rate Element (referred to as Multiple Destination Routing Rate Element in SBC-2STATE).

4.4.4 Call Handling and Destination Rate Element (referred to as Six-Digit Master Number List Turnaround Rate Element in SBC-2STATE and 800 Database Vertical Feature in SBC-AMERITECH).

4.5 CLEC shall pay the Basic Toll Free Access query rate for each query received and processed by SBC-12STATE's database. When applicable, the charge for the additional features (Designated 10-Digit Translation, Call Validation, and Call Handling and Destination) are per query and in addition to the Basic Toll Free Access query charge; and shall also be paid by CLEC.

5. MONTHLY BILLING

5.1 For information regarding billing, non-payment, disconnects, and dispute resolution, see the General Terms and Conditions of this Agreement.

6. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

APPENDIX 800
EXHIBIT I

1. SPECIFICATIONS AND STANDARDS

1.1	<u>Description of Subject Area And Issuing Organization</u>	<u>Document Number</u>
	1.1.1 Telcordia, SS7 Specifications	TR-NWT-000246
	1.1.1.1	TR-NWT-000271
	1.1.1.2	TR-NWT-000533
	1.1.2 Telcordia, CCS Network Interface Specifications	TR-TSV-000905
	1.1.2.1	TP 76638
	1.1.2.2	TR-NWT-00095

APPENDIX COLLOCATION

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APPENDIX COLLOCATION**1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Collocation provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 SBC-13STATE - As used herein, SBC-13STATE means the applicable above listed ILECs doing business Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 SBC-12STATE - As used herein, SBC-12STATE means the applicable above listed ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.5 SBC-8STATE - As used herein, SBC-8STATE means an applicable above listed ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.6 SBC-7STATE - As used herein, SBC-7STATE means the applicable above listed ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.7 SBC-AMERITECH - As used herein, SBC-AMERITECH means the applicable above listed ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.8 SBC-MOKA - As used herein, SBC-MOKA means the applicable above listed ILEC doing business in Arkansas, Kansas, Missouri, and Oklahoma.
- 1.9 SWBT-TX -As used herein, SWBT-TX means the applicable SBC owned ILEC doing business in Texas.
- 1.10 AM-MI - As used herein, AM-MI means the applicable SBC owned doing business in Michigan.

- 1.11 AM-IN - As used herein, AM-IN means the applicable SBC owned ILEC doing business in Indiana.
- 1.12 AM-IL - As used herein, AM-IL means the applicable SBC owned ILEC doing business in Illinois.
- 1.13 AM-WI - As used herein, AM-WI means the applicable SBC owned ILEC doing business in Wisconsin.
- 1.14 AM-OH - As used herein, AM-OH means the applicable SBC owned ILEC doing business in Ohio.
- 1.15 PACIFIC - As used herein, PACIFIC means the applicable above listed ILEC doing business in California.
- 1.16 NEVADA - As used herein, NEVADA means the applicable above listed ILEC doing business in Nevada.
- 1.17 SNET - As used herein, SNET means the applicable above listed ILEC doing business in Connecticut.

2. DEFINITIONS

- 2.1 “Active Central Office Space” denotes the existing, central office switchroom space, which can be designated for physical or virtual collocation, with sufficient infrastructure systems. *Also denotes central office space that may contain obsolete unused equipment.*
- 2.2 “Adjacent Structure” is a Collocator provided structure placed on SBC-13STATE property adjacent to an Eligible Structure. This arrangement is only permitted when space is legitimately exhausted inside the Eligible Structure and to the extent technically feasible.
- 2.3 “Application Fee” includes the costs incurred by SNET/PACIFIC/NEVADA to process the Collocator’s application for physical collocation arrangements.
- 2.4 “Augment” is a request from a Collocator to add equipment, cable, and/or Collocation services to an existing physical collocation arrangement.
- 2.5 “Caged Physical Collocation” is a cage or similar structure (not including a top) enclosing Collocator’s dedicated collocation space in which a Collocator may install its telecommunications equipment.

- 2.6 **"Cageless Physical Collocation"** is a Collocation arrangement, provided in single bay increments, and does not require the construction of a cage or similar structure.
- 2.7 **"Collocation Area for Physical Collocation"** is the common area providing access to an area surrounding the Collocator's dedicated space *as well as the space dedicated to Collocators*.
- 2.8 **"Collocation Interconnection Power Panel (CIPP)" (SBC- 8STATE ONLY)** is a DC Power panel for Power termination. *Two DC Power panels are available: (1) A DC power panel designed to provide either 20, 40 or 50 (Maximum) AMPS (redundant) of DC voltage, (2) A DC Power Panel designed to provide either 100 or 200 (Maximum) AMPS (redundant) of DC voltage.*
- 2.9 **"COBO"** the Central Office Build Out that represents the typical conditioning costs (not to include Extraordinary build out Expenses) to make an unused Premises space suitable for a collocation arrangement (Dedicated Collocation Space) in SBC-AMERITECH.
- 2.10 **"Collocator"** is any individual, partnership, association, joint-stock company, trust corporation, or governmental entity or any other entity who is collocated in Utility location, for purposes of Interconnection with the Utility or access to Unbundled Network Elements (UNE).
- 2.11 **"Dedicated Collocation Space"** is the space dedicated for the Collocator's physical collocation arrangement located within a SBC-13STATE Eligible Structure.
- 2.12 **"Delivery Date"** the date upon which the CLEC or Requesting Carrier will be provided the collocated space or Dedicated Collocation Space in SBC-AMERITECH.
- 2.13 **"Eligible Structure"** is (1) a SBC-13STATE central office, serving wire center or tandem office, or (2) a building or similar structure owned or leased by SBC-13STATE that houses its network facilities, or (3) a structure that houses SBC-13STATE transmission facilities on public rights-of-way.
- 2.14 **"Engineering Design Charge"** is the cost for SBC-MOKA employees to perform the central office survey for caged and cageless serving arrangements and to implement the collocation area.
- 2.15 **"Extraordinary Costs** or extraordinary expenses include such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, individualized DC power system infrastructure needs,

increasing the capacity of the AC system, or the existing commercial power facility requirements, installation, maintenance, repair, monitoring of securing measures, conversion of non-collocation space, compliance with federal and state requirements or other modifications required by local ordinances in SBC-AMERITECH.

- 2.16 **"Individual Case Basis (ICB)"** is a pricing method used for services that are not tariffed or are not standard offerings or configurations.
- 2.17 **"Interconnector's Collocation Services Handbook"** is a publication provided to the CLECs which provides information on how to order collocation arrangements from SBC-8STATE. The document also provides information about SBC-8STATE's collocation processes and requirements and is located on the CLEC website (<https://clec.sbc.com/>).
- 2.17.1 SBC-AMERITECH provides similar information at a website (<http://tcnet.ameritech.com/>).
- 2.18 **"Non Standard Collocation Request (NSCR)"** in SBC-AMERITECH, is a pricing method used for services that are not tariffed or are not standard offerings or configurations.
- 2.19 **"Occupancy date"** the date that SBC-AMERITECH may begin billing recurring charges and the Dedicated Collocation Space is made available for occupancy by the CLEC or Requesting Carrier.
- 2.20 **"Other Central Office Space"** denotes the space within the central office which can be designated for physical collocation where infrastructure systems do not currently exist and must be constructed.
- 2.21 **"Preparation Charges"** are the charges applicable to the preparation of SBC-AMERITECH Premises for Collocation, including any COBO charges, cage enclosure charges, cage enclosure charges, and extraordinary charges or expense.
- 2.22 **"Point of Termination (POT)"** denotes the point of demarcation, within an Eligible Structure at which the SBC-13STATE responsibility for the provisioning of service ends.
- 2.23 **"Project Coordination Fee"** reflects SNET/PACIFIC/NEVADA's labor costs to manage the provisioning of the individual Collocator's space requirements for a particular physical collocation space request. This fee is applicable upon the submission of an application.

- 2.24 **"Shared Physical Collocation Cage"** is a caged dedicated collocation space that is shared by two or more Collocators within the SBC-13STATE's Eligible Structure.
- 2.25 **"Unused Space"** denotes any space in the Eligible Structure which is not occupied by SBC-13STATE personnel and/or occupied by or reserved for SBC-13STATE network equipment including affiliates and 3rd parties. May also be used to denote space within a specific Collocator's area that is not occupied by or reserved for Collocator's equipment. (See also sections 4.1.2.1, 4.1.3.1, 5.12, & 10.1)

3. **PURPOSE AND SCOPE OF AGREEMENT**

- 3.1 The Parties agree that this Agreement does not constitute, and shall not be asserted to constitute, an admission or waiver or precedent with the State Tariffs in California, Texas, Connecticut, Illinois, Michigan, Wisconsin or the State Commission, the Federal Communications Commission, any other regulatory body, any State or Federal Court, or in any other forum that SBC-13STATE has agreed or acquiesced that any piece of Collocator equipment or facility is "equipment necessary for interconnection or access to unbundled network elements" under 47 U.S.C. 251(c)(6).
- 3.2 Nothing in this agreement requires SBC-13STATE to permit collocation of equipment used solely for switching (e.g. 5ESS, DMS 100, etc.) or solely to provide enhanced services; provided, however, that SBC-13STATE may not place any limitations on ability of Collocator to use all features, functions, and capabilities of collocated equipment including switching and routing features and functions and enhanced services functionalities if such equipment is necessary for access to UNEs or for interconnection with SBC-13STATE's network. SBC-13STATE may require Collocator's employees to undergo the same level of security training, or its equivalent, that SBC-13STATE's own employees, or third party contractors providing similar functions must undergo; provided that SBC-13STATE may not require Collocator's employees to receive such training from SBC-13STATE itself, but must provide information to Collocator on the specific type of training required so Collocator's employees can conduct their own training.
- 3.3 Submission to State Commission
- 3.3.1 The effectiveness of this Agreement is conditioned upon the unqualified approval of this Agreement, whether as a result of an approval process or by operation of law, under 47 U.S.C. 252(a)(1). After execution of this Agreement, SBC-13STATE and parties shall submit it to the State commission for the State in which Collocator desires physical collocation

as thereby required for approval, and shall defend the Agreement and support any reasonable effort to have this Agreement so approved, including the supplying of witnesses and testimony if a hearing is to be held.

3.4 Failure to Receive Approval

3.4.1 In the event that this Agreement does not receive such unqualified approval, this Agreement shall be void upon written notice of either party to the other after such regulatory action becomes final and unappealable. Thereafter Collocator may request to begin negotiations again under 47 U.S.C. 251. Alternatively, SBC-13STATE and parties may both agree to modify this Agreement to receive such approval, but neither shall be required to agree to any modification. Any agreement to modify shall not waive the right of either party to pursue any appeal of the ruling made by any reviewing regulatory commission.

3.5 Preparation Prior to Regulatory Approval

3.5.1 Upon the written request of Collocator, SBC-13STATE shall consider an application for collocation space submitted prior to receiving the approval required by Section 3.3. Upon such an election, this Agreement shall become effective but only insofar as to be applicable to the consideration of an application for collocation space. In the event that the Agreement does not become fully effective as contemplated by this Section, Collocator shall not be entitled to any refund or return of any such payments beyond any portion of the charges paid but not attributable to costs incurred by SBC-13STATE. To the extent that SBC-13STATE has incurred preparation costs not included within any payment made by Collocator, Collocator shall pay those costs within thirty (30) days of notice by SBC-13STATE.

3.6 Price Quote or Response Intervals are as follows and will run concurrent with the ten (10) day notification interval for availability of space. The Price Quote (Quotation) Interval relates to the period in which SBC-8STATE will provide the CLEC with a quotation of rates and a Construction Interval for the desired arrangement. The Response Interval is the time period at the end of which SBC-13STATE must advise the CLEC if space is available for the Collocation arrangement requested.

3.6.1 SBC-MOKA

<i>Number of Applications By One Collocator Within 5 Days</i>	<i>Quotation Interval</i>
1 - 5	35 Business Days
6 - 10	40 Business Days
11 - 15	45 Business Days

Should Collocator submit sixteen (16) or more applications within five (5) business days, the quotation interval will be increased by five (5) business days for every five (5) additional applications or fraction thereof. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above.

3.6.2 SBC-AMERITECH

<i>Number of Applications By One Collocator Within 5 Days</i>	<i>Response Interval</i>
1 - 5	10 Business Days
6 - 10	15 Business Days
11 - 15	20 Business Days

Should Collocator submit sixteen (16) or more applications within five (5) days, the quotation response will be increased by five (5) business days for every five (5) additional applications or fraction thereof. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above.

3.6.3* PACIFIC

<i>Number of Applications By One Collocator Within 5 Days*</i>	<i>Response Interval*</i>
1 - 10	10 Days
11 - 20	20Days
21 - 30	30 Days

Should Collocator submit thirty-one (31) or more applications within ten (10) business days, the quotation interval will be increased by ten (10) business days

* Available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1.

for every ten (10) additional applications or fraction thereof. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above.

3.6.4 **NEVADA**

<i>Number of Applications by One Collocator Within 5 Days</i>	<i>Quotation Interval</i>
1 – 10	35 Days
11 – 20	45 Days
21 – 30	55 Days

Should Collocator submit thirty-one (31) or more applications within ten (10) business days, the quotation interval will be increased by ten (10) business days for every ten (10) additional applications or fraction thereof. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above.

3.6.5** **SNET**

<i>Number of Applications By One Collocator Within 5 Days</i>	<i>Quotation Interval</i>
1 – 5	30 Business Days
6 – 10	40 Business Days
11 - 15	45 Business Days
16-20	50 Business Days

Should Collocator submit twenty-one (21) or more applications within five (5) business days, the quotation interval will be increased by five (5) business days for every five (5) additional applications or fraction thereof. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above.

3.6.6 Collocator may obtain a shorter interval for the return of price quotes or responses than that set forth above by scheduling a meeting with **SBC-13STATE** at least twenty (20) business days prior to submission of the first application to discuss, coordinate and prioritize Collocator applications.

** Available only in the State of Connecticut. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1.

- 3.6.7 In SBC-MOKA/SNET/NEVADA, the Collocator has sixty-five (65) business days from receipt of the quotation to accept the quotation. The quotation expires after sixty-five (65) business days. After sixty-five (65) business days, a new application, application fee, and engineering design charge are required.

3.7 Construction Intervals

- 3.7.1 SBC-MOKA/SNET/SBC-AMERITECH will complete construction of all Active Central Office Switchroom Space requests for caged, shared, and cageless collocation in 90 days from the receipt of Collocator's acceptance of the quotation or initial COBO (Central Office Build Out).

- 3.7.1.1 In SBC-AMERITECH, should the Collocator submit 11 or more applications within 10 business days the provisioning interval will be increased by 10 business days for every 10 additional applications.

- 3.7.2 Unless otherwise mutually agreed to by the Parties in writing, where power does not exist or in Other Central Office Space, SBC-MOKA/SNET/SBC-AMERITECH will complete construction of requests for caged, shared, or cageless collocation within 180 days from receipt of Collocator's acceptance of the quotation.

- 3.7.2.1 In SBC-AMERITECH, should the Collocator submit 11 or more applications within 10 business days the provisioning interval will be increased by 10 business days for every 10 additional applications.

3.7.3... Caged Collocation Installation Interval – PACIFIC/NEVADA

- 3.7.3.1 Dedicated space for Cageless physical collocation is reserved upon notification to the Collocator that space is available.
- 3.7.3.2 Should the Collocator submit 11 or more applications within 10 business days the provisioning interval will be increased by 10 business days for every 10 additional applications.
- 3.7.3.3 Where space that is suitable for central office equipment (Active Central Office Space) is available, PACIFIC/NEVADA will

deliver Caged Collocation within 120 business days from the completion of the application process.

3.7.3.4 Where space that is not suitable for central office equipment (Other Central Office Space) must be converted to Active Central Office Space, the provisioning interval will be 150 days.

3.7.3.5 Any material revision to a completed application will be treated as a new application following revision.

3.7.4 **Cageless Collocation Installation Interval – PACIFIC/NEVADA***

3.7.4.1 Dedicated space for Cageless physical collocation is reserved upon Notification to the Collocator that space is available.

3.7.4.2 Should the Collocator submit 11 or more applications within 10 business days the provisioning interval will be increased by 10 business days for every 10 additional applications.

3.7.4.3 Where space is suitable for central office equipment (active Central Office Space) is available, **PACIFIC/NEVADA** will deliver Cageless collocation within 110 Calendar days from the completion of the application process.

3.7.4.4 Where space that is not suitable for central office equipment (Other Central Office Space) is converted to Active Central Office Space, the Provisioning interval will be 140 days from the completion of the Application process.

3.7.5 **Adjacent Structure Collocation Installation Intervals**

3.7.5.1 **SBC-13STATE** installation interval, rates, terms and conditions for Adjacent Structures Collocation will be determined on an individual case basis (ICB)/Non Standard Collocation Request (NSCR).

3.7.6 **CLEC Installation Intervals**

3.7.6.1 CLEC will, whenever possible, place their telecom equipment in the dedicated space within 30 calendar days of space turnover. CLEC must complete placement of CLEC Telecom Equipment in the Dedicated Space and interconnect to **SBC-13STATE**'s network or to its unbundled network elements within one hundred eighty (180) calendar days after space turnover. If CLEC

fails to do so, SBC-13STATE may, upon notice, terminate that Physical Collocation arrangement, and CLEC shall be liable in an amount equal to the unpaid balance of the charges due under and, further, shall continue to be bound by the provisions of this Appendix, the terms or context of which indicate continued viability or applicability beyond termination. For purposes of this Section, CLEC Telecom Equipment is considered to be interconnected when physically connected to SBC-13STATE's network or a SBC-13STATE unbundled network element for the purpose of CLEC providing a telecommunications service.

3.8 Augments

- 3.81. SBC-13STATE shall allow CLEC to augment its collocation space when they reach a 60 percent utilization rate and shall allow CLEC to begin the applications process prior to reaching the 60% utilization rate if CLEC expects to achieve 60% utilization before the process is completed.

4. GENERAL OFFERINGS

- 4.1 Except where physical collocation is not practical for technical reasons or because of space limitations, SBC-13STATE will provide physical collocation to CLEC for the purpose of interconnecting with SBC-13STATE's network or for obtaining access to SBC-13STATE's unbundled network elements pursuant to 47 U.S.C. 251(c). Physical collocation shall be provided on a non-discriminatory basis, on a "first-come, first served" basis, and otherwise in accordance with the requirements of the Act (including 47 U.S.C. 251(c)(6), and applicable FCC rules thereunder. SBC-13STATE's physical collocation offering includes the following:

4.1.1 Caged Physical Collocation

- 4.1.1.1 In the SBC-13STATE's, CLEC may apply for Caged Physical Collocation in initial and subsequent increments of 50 square feet. The caged serving arrangement is an area designated by SBC-13STATE within an Eligible Structure to be used by a CLEC for the sole purpose of installing, maintaining and operating Collocator provided equipment. SBC-13STATE will provide floor space, floor space conditioning, cage common systems and safety and security on a per square foot basis. SBC-13STATE will prorate the charge for site conditioning and preparation undertaken to construct or condition the collocation space so the first Collocator in a SBC-13STATE premise will not be responsible for the entire cost of site preparation.

4.1.2 Shared Caged Collocation

4.1.2.1 Upon request, SBC-13STATE shall provide CLEC Shared Caged Collocation in any Unused Space. **"Shared Caged Collocation"** is caged Physical Collocation space shared by CLEC and one or more other CLECs pursuant to terms and conditions agreed upon by such carriers.

4.1.2.1.1 A CLEC may request that SBC-13STATE provide Shared Caged Collocation via a new request for Physical Collocation whereby the CLEC requesting such space allocates the requested space among the number of CLECs initially requesting such space (**"New Shared Collocation"**) or a request by CLEC to enter into a sublease arrangement with another Resident Collocators(s) in CLEC's existing Physical Collocation (**"Subleased Shared Collocation"**). In each Shared Caged Collocation arrangement, SBC-13STATE's single point of contact (SPOC) with respect to such arrangement shall be referred to as the **"Primary Collocator"**. For New Shared Collocation, the Primary Collocator shall be the single CLEC that submits the request for New Shared Collocation on behalf of the other Resident Collocators. For Subleased Shared Collocation, the Primary Collocator shall be the CLEC that originally requested and occupied such space and is the sublessor in such arrangement. For purposes of this section, each CLEC (including Resident Collocator(s) and the Primary Collocator) to a Shared Caged Collocation arrangement is sometimes referred to as a **"Resident Collocator"**. An order for Shared Caged Collocation shall include blanket letters of authorization signed by the Primary Collocator that authorize each other Resident Collocator to utilize the Connecting Facility Assignments associated with the Primary Collocator and signed by each Resident Collocator that authorize the Primary Collocator to request and place firm orders for Shared Caged Collocation and facilities on behalf of such Resident Collocators.

- 4.1.2.1.2 New Shared Collocation is available in minimum increments of fifty (50) square feet (per caged space dimensions, not per CLEC Resident Collocators shall request New Shared Collocation from SBC-13STATE in a single application. A request and any subsequent order for New Shared Collocation shall be submitted by the Primary Collocator. When making New Shared Collocation available, SBC-13STATE shall not, except as otherwise specifically required to accommodate a Resident Carrier's specific instructions, increase the Preparation Charges above the cost of provisioning a cage of similar dimensions and materials to a single collocating CLEC. SBC-13STATE will prorate the Preparation Charges incurred by SBC-13STATE to construct the shared Collocation cage or condition the space for Collocation use among the Resident Collocators utilizing the New Shared Collocation space, by determining the total preparation charges to make that space available and allocating that charge to each Resident Collocator based on the percentage attributable to each Resident Collocator as provided on the Collocation order by the Primary Collocator, provided that the percentage divided among the Resident Collocators in a New Shared Collocation space equals one hundred percent (100%) of such Preparation Charges. Allocation of Preparation Charges shall occur only upon the initial delivery of New Shared Collocation and SBC-13STATE shall not be required to adjust such allocation if another Resident Collocator subsequently shares such space. Except with respect to prorated Preparation Charges, SBC-13STATE shall bill only the Primary Collocator for, and the Primary Collocator shall be the primary obligor with respect to the payment of, all charges other than Preparation Charges billed on New Shared Collocation. It is the Primary Collocator's responsibility to recover from each other Resident Collocator such CLEC's proportionate share of such other charges billed to the Primary Collocator for the New Shared Cage Collocation. If CLEC is a Resident Collocator but not the Primary Collocator in a New Shared

Collocation arrangement, CLEC agrees that the rates, terms and conditions of the Collocation provisions of the Primary Collocator's Section 251/252 agreement shall apply to its New Shared Collocation arrangement in lieu of those set forth herein. Further, if CLEC is the Primary Collocator in a New Shared Collocation arrangement, as a condition of ordering New Shared Allocation, CLEC shall require its Resident Collocator(s) to execute an agreement prior to the Delivery Date that, inter alia, requires such Resident Collocator(s)' compliance with the terms, conditions and restrictions relating to Collocation contained in this Agreement and designates **SBC-13STATE** as a third party beneficiary of such agreement. CLEC, acting in its capacity as Primary Collocator, shall notify its Resident Collocator(s) of the obligation to comply with the Collocation provisions of this Agreement and shall be responsible for any breach of such provisions by the Resident Collocator(s).

- 4.1.2.1.3 For Subleased Shared Collocation, if the CLEC is the Primary Collocator, then CLEC shall be responsible for its and its Resident Collocator's compliance with the terms, conditions and restrictions of this Agreement. As a condition to permitting another CLEC to sublease space from CLEC, CLEC shall require such other CLEC(s) to execute a sublease agreement prior to the Delivery Date that, inter alia, requires such CLEC's compliance with the terms, conditions and restrictions relating to Collocation contained in this Agreement and designates **SBC-13STATE** as a third party beneficiary of such agreement. CLEC, acting in its capacity as Primary Collocator, shall notify its Resident Collocator(s) of the obligation to comply with the Collocation provisions of this Agreement and shall be responsible for any breach of such provisions by the Resident Collocator(s). If CLEC is the sublessee (i.e., not the Primary Collocator) in a Subleased Shared Collocation arrangement, CLEC agrees that the rates, terms and conditions of the Collocation provisions of the Primary Collocator's Section 251/252 agreement

shall apply to its Subleased Shared Collocation arrangement in lieu of those set forth herein.

4.1.2.1.4 The Primary Collocator represents and warrants to SBC-13STATE that each Resident Collocator with which it shares Shared Caged Collocation space shall Collocate equipment only as permitted by 5.1 and which is necessary to Interconnect with SBC-13STATE or for access to SBC-13STATE's unbundled Network Elements. SBC-13STATE shall provide CLEC access to SBC-13STATE's unbundled Network Elements and permit CLEC to Interconnect its network with SBC-13STATE from Shared Caged Collocation, regardless if CLEC was the original Collocator. CLEC, however, shall have no right to request and SBC-13STATE shall have no obligation to provide CLEC's Resident Collocators access to SBC-13STATE's unbundled Network Elements or SBC-13STATE's network. Instead, a Resident Collocator's rights shall be as determined by such Resident Collocator's contractual arrangement (Section 251/252 agreement or tariff, as applicable) with SBC-13STATE.

4.1.2.1.5 As a condition of entering into Shared Caged Collocation, CLEC agrees that if it is not the Primary Collocator in a New Shared Collocation, or if it is the sublessee in a Subleased Shared Collocation arrangement, it unconditionally and irrevocably undertakes and guarantees SBC-13STATE the prompt and full payment of any charges assessed on the Shared Caged Collocation. If the Primary Collocator in a Shared Caged Collocation arrangement no longer occupies the space, the other Resident Collocators must immediately identify a new Primary Collocator. If only one CLEC remains in the Shared Cage Collocation, that CLEC shall become the Primary Collocator. SBC-13STATE shall bill the new Primary Collocator any applicable charges to change SBC-13STATE's records and databases to reflect such new Primary Collocator.

4.1.3 Cageless Physical Collocation

- 4.1.3.1 Subject to technical feasibility and security requirements, SBC-13STATE will allow CLEC to collocate in any unused space (space that is vacant and does not contain SBC-13STATE equipment, is not reserved for growth, is not used for administrative or other functions, and is not needed for access to, egress from, or work within occupied or reserved space) in SBC-13STATE's Eligible Structure (eg. Central Office), without requiring the construction of a cage or similar structure, and without requiring the creation of a separate entrance to CLEC's dedicated space. SBC-13STATE will designate the space to be used for cageless collocation. SBC-13STATE may require CLEC to use a central entrance to the building in which the cageless collocation is provided, but may not require construction of a new entrance for CLEC's or other collocating carriers' use, and once inside the building, SBC-13STATE must permit CLEC to have direct access to CLEC's equipment.
- 4.1.3.2 SBC-13STATE may not require CLEC to use an intermediate interconnection arrangement (i.e., a POT bay) that simply increases collocation costs without a concomitant benefit to incumbents, in lieu of direct connection to SBC-13STATE's network if technically feasible. In addition, SBC-13STATE may not require CLEC to collocate in a room or isolated space, separate from SBC-13STATE's own equipment, which only serves to increase the cost of collocation and decrease the amount of available collocation space. SBC-13STATE may take reasonable steps to protect its own equipment, such as, but not limited to, enclosing SBC-13STATE equipment in its own cage, and other reasonable security measures examples of which are described herein. SBC-13STATE may utilize reasonable segregation requirements that do not impose unnecessary additional cost on CLEC.
- 4.1.3.3 SBC-13STATE must make cageless collocation space available in single-bay increments, meaning that CLEC can purchase space in single bay increments. SBC-13STATE will prorate the charge for site conditioning and preparation undertaken to construct or condition the collocation space so the first Collocator in a SBC-13STATE premise will not be responsible for the entire cost of site preparation.

4.1.4 Adjacent Structure Collocation

4.1.4.1 When space is legitimately exhausted inside an SBC-13STATE Eligible Structure, SBC-13STATE will permit CLEC to physically collocate in an Adjacent Structure (e.g. controlled environmental vaults or similar structures such as those used by SBC-13STATE to house telecommunications equipment) to the extent technically feasible. SBC-13STATE will permit CLEC to construct or otherwise procure such adjacent structure, subject to reasonable safety and maintenance requirements, zoning and other state and local regulations, and SBC-13STATE's right to exercise reasonable control over the design, construction, and placement of such Adjacent Structures. SBC-13STATE will allow the CLEC to provide equipment installed within the Adjacent Structure. CLEC will be responsible for securing the required licenses and permits, the required site preparations, and will retain responsibility for building and site maintenance associated with placing the Adjacent Structure. SBC-13STATE may reserve reasonable amounts of space adjacent to its Eligible Structure needed to expand its Eligible Structure to meet building growth requirements. SBC-13STATE will assign the location of the Designated Space where the Adjacent Structure will be placed.

4.1.4.2 When requested, SBC-13STATE will provide up to 100 AMPS of AC power to the Adjacent Structure when Central Office Switchboard AC capacity exists and up to 200 AMPS of DC power to the Adjacent Structure up to 200 cable feet from the Central Office power source. When power requirements are beyond these office capacities and distance limitations, SBC-13STATE will treat the requirements as a non-standard request (ICB or NSCR) and coordinate a mutually agreeable solution for provisioning power with CLEC. At its option, CLEC may choose to provide its own AC and DC power to the Adjacent Structure. SBC-13STATE will provide power and physical collocation services and facilities to such Adjacent Structures, subject to the same nondiscrimination requirements as other physical collocation arrangements in this Agreement.

4.2 All requests for Other Physical Collocation arrangements will be considered on a case-by-case basis (ICB or NSCR). When CLEC requests a particular collocation arrangement, the CLEC is entitled to a rebuttable presumption that such arrangement is technically feasible if any incumbent LEC with a substantially similar network has deployed such collocation arrangement in any incumbent

LEC Dedicated Space. If SBC-13STATE refuses to provide a collocation arrangement, or an equally cost effective arrangement, it may do so if it rebuts the presumption before the state commission that the particular premises in question cannot support the arrangement because of either technical reasons or lack of space.

- 4.3 Interconnection Arrangement- SBC-13STATE shall provide, at the request of the CLEC, the connection between the CLEC's optional POT frame or equipment bay and the SBC-13STATE network. The CLEC cannot provide the connection. The CLEC will not be permitted access to the SBC-13STATE Main Distribution Frame or Intermediate Distribution Frame. If regeneration equipment is required, for any reason, it will be at the CLEC's expense. Interconnection Arrangements options are as follows: DS0 Arrangement, DS1 Arrangement, DS3 Arrangement and Fiber Arrangement.
- 4.4 SBC-13STATE shall provide, at the request of CLEC, the connection between the equipment in the physical collocation spaces of two or more telecommunications carriers. Available connections include copper cable, coaxial cable, and fiber optic cable. Upon request, SBC-13STATE shall permit CLEC to construct its own connection between CLEC's equipment and that of one or more collocating carriers, if CLEC does not request SBC-13STATE's construction of such facilities. SBC-13STATE shall permit CLEC to construct such facilities using copper, coaxial or optical fiber equipment.
- 4.5 Within a contiguous area within the Eligible Structure, SBC-13STATE shall permit CLEC to connect its equipment with that of another collocated telecommunications carriers within the same Eligible Structure provided that the collocated equipment is also used for interconnection with SBC-13STATE or for access to SBC-13STATE's unbundled network elements.
- 4.5.1 CLEC will not be permitted to place cable over SBC-13STATE's switches or other critical equipment. SBC-13STATE will designate the route and space to be used for such facilities. SBC-13STATE shall permit CLEC to construct such facilities using copper or optical fiber facilities subject to the same reasonable safety requirements that SBC-13STATE imposes on its own equipment and facilities, without requiring the Collocator to purchase any equipment or connecting facilities solely from SBC-13STATE.
- 4.6 If the Collocators are not located on the same floor and cannot physically pull the cable themselves through the SBC-13STATE provided structure(s), SBC-13STATE will perform the necessary construction and perform the cable pull on a time and materials basis. At no time will CLEC be allowed access to any portion of the central office other than the collocation area — except for

reasonable access to restrooms and parking lots where available. SBC-13STATE will not make the physical connection with CLEC's equipment, SBC-13STATE will not accept any liability for the cable or the connections and SBC-13STATE will not maintain any records concerning these connections.

- 4.7 SBC-13STATE shall permit CLEC to place its own connecting transmission facilities within SBC-13STATE's Eligible Structure in the physical collocation space, without requiring the Collocator to purchase any equipment or connecting facilities solely from SBC-13STATE, subject to reasonable safety limitations. CLEC shall not have access to SBC-13STATE's Main Distribution Frame and/or Intermediate Distribution Frame. As provided herein, SBC-13STATE may require reasonable security arrangements to protect its equipment and ensure network reliability. Except as provided below, SBC-13STATE may only impose security arrangements that are as stringent as the security arrangements that SBC-13STATE maintains at its own premises for its own employees or authorized contractors. SBC-13STATE must allow CLEC to access its installed physical collocation equipment 24 hours a day, seven days a week, in SBC-13STATE Eligible Structures without requiring either a security escort of any kind or delaying a CLEC's employees' entry into SBC-13STATE's Eligible Structure. Reasonable security measures that SBC-13STATE may adopt include, but are not limited to, the following:

- 4.7.1 Installing security cameras or other monitoring systems; or
- 4.7.2 Requiring CLEC personnel to use badges with computerized tracking systems; or
- 4.7.3 Requiring CLEC employees to undergo the same level of security training, or its equivalent, that SBC-13STATE's own employees, or third party contractors providing similar functions, must undergo; provided, however, that SBC-13STATE may not require CLEC employees to receive such training from SBC-13STATE itself, but must provide information to CLEC on the specific type of training required so CLEC's employees can conduct their own training.
- 4.7.4 SBC-13STATE may take reasonable steps to protect its own equipment, such as enclosing the equipment in a cage.

- 4.8 Relocation – In the event SBC-13STATE determines it necessary for Dedicated Collocation Space to be moved within the Eligible Structure in which the Dedicated Collocation Space is located or to another Eligible Structure, CLEC is required to do so. If such relocation arises from circumstances beyond the reasonable control of SBC-13STATE, including condemnation or government order or regulation that makes the continued occupancy of the dedicated

collocation space or Eligible Structure too costly in SBC-13STATE's sole judgment, CLEC shall be responsible for the cost of preparing the new dedicated collocation space at the new location. Otherwise SBC-13STATE shall be responsible for any reasonable preparation costs

- 4.8.1 In the event that CLEC requests that the Dedicated Collocation Space be moved within the SBC-13STATE Eligible Structure or to another Eligible Structure, SBC-13STATE shall permit CLEC to relocate the Dedicated Collocation Space, subject to the availability of space and associated requirements. CLEC shall be responsible for all charges associated with the move, including the reinstallation of its equipment and facilities and the preparation of the new Dedicated Collocation Space and the new Wire Center as applicable.
- 4.9 CLECs will conduct background checks of their personnel and technicians who will have access to the Collocation Area. CLEC technicians will be security qualified by the CLEC and will be required to be knowledgeable of SBC-13STATE's security standards. CLEC personnel and technicians will undergo the same level of security training, or its equivalent, that SBC-13STATE's own employees and authorized contractors must undergo. SBC-13STATE will not, however, require CLECs to receive security training from SBC-13STATE. CLECs can then provide their employees with their own security training. Qualification program and security training details shall be included in SBC-13STATE's technical publications and/or Collocation website(s).
- 4.10 CLECs and SBC-13STATE will each establish disciplinary procedures up to and including dismissal or denial of access to the Eligible Structure and other SBC-13STATE's property for certain specified actions that damage, or place the equipment, facilities, or the network or personnel of the CLECs or SBC-13STATE in jeopardy. The following are actions that could damage or place the Eligible Structure, or the network or the personnel of the CLECs or SBC-13STATE, in jeopardy and may justify disciplinary action up to and including dismissal or the denial of access to the Eligible Structure and other SBC-13STATE property:
- 4.10.1 Theft or destruction of SBC-13STATE's or any CLEC's property.
- 4.10.2 Use or attempted use/sale of alcohol or illegal drugs on SBC-13STATE's property.
- 4.10.3 Industrial espionage.
- 4.10.4 Threats or violent acts against other persons on SBC-13STATE's property.

- 4.10.5 Knowing violations of any local, state or federal law on SBC-13STATE's property.
- 4.10.6 Permitting unauthorized persons access to SBC-13STATE's or CLEC's equipment on SBC-13STATE's property.
- 4.10.7 Carrying a weapon on SBC-13STATE's property.
- 4.11 In addition, the CLEC and SBC-13STATE will take appropriate disciplinary steps as determined by each party to address any violations reported by SBC-13STATE or the CLEC of SBC-13STATE's policies and practices on security, safety, network reliability, and business conduct as defined in SBC-13STATE's Interconnector's Collocation Services Handbook and/or Collocation website(s), provided the such information and any and all updates to it are timely provided to the CLEC.
- 4.12 CLECs will provide indemnification and insurance as set forth in this agreement to cover any damages caused by the CLEC's technicians at a level commensurate with the indemnification and insurance provided by SBC-13STATE's authorized contractors with equivalent access. The indemnification provisions and requirements are reciprocal to SBC-13STATE as well.
- 4.13 SBC-13STATE may use reasonable security measures to protect its equipment, including, but not limited to, enclosing its equipment in its own cage, the use of security cameras or other monitoring devices, badges with computerized tracking systems, identification swipe cards, keyed access, and/or logs, as appropriate for the Eligible Structures where physical collocation will take place. SBC-13STATE's enclosure of its own equipment will not be a basis for a claim that space is exhausted.

5. SPACE AVAILABILITY

- 5.1 At the request of CLEC, SBC-13STATE will provide space for physical collocation as described above. SBC-13STATE is not required to provide physical collocation at a particular Eligible Structure if it demonstrates that physical collocation is not practical for technical reasons or because of space limitations. In such cases and with the qualifications set forth above, SBC-13STATE will provide Adjacent Structure Collocation as described above or Virtual Collocation, except at points where SBC-13STATE proves that Adjacent Structure Collocation and/or Virtual Collocation is not technically feasible. If Adjacent Structure Collocation or Virtual Collocation is not technically feasible, SBC-13STATE will make a good faith effort to negotiate other methods of interconnection and access to unbundled network elements to the extent technically feasible.

- 5.2 The determination whether there is sufficient space to accommodate physical collocation at a particular Eligible Structure will be made initially by SBC-13STATE. SBC-13STATE will notify CLEC within ten (10) business days of submission of a completed Application for physical collocation by CLEC as to whether its request for space is been granted or denied due to a lack of space.
- 5.2.1 When space for physical collocation in a particular Eligible Structure is not available, SBC-13STATE shall place CLEC on the waiting list for collocation in a particular Eligible Structure according to the date CLEC submitted its application for physical collocation in that Eligible Structure
- 5.2.2---In PACIFIC/NEVADA, any nonrecurring charges collected with the application, except the application fee will be returned to the CLEC. PACIFIC/NEVADA will, at the same time, forward a copy of the letter denying the CLEC's request to the California or Nevada Commission.
- 5.3 If SBC-13STATE contends space for physical collocation is not available in a premises, SBC-13STATE must allow CLEC to tour the entire central office or other Eligible Structure in question, not just the area in which space was denied, without charge, within ten business days, or such later date as mutually agreed, of the receipt of SBC-13STATE's denial of space. Prior to taking a tour, each representative must execute and deliver to SBC-13STATE a standard nondisclosure agreement. In no event shall any camera or other video/audio-recording device be brought on or utilized during any tour of an SBC-13STATE's Premises.
- 5.3.1 If CLEC disputes SBC-MOKA's determination, CLEC can elect a review to be made by a mutually agreed to third party engineer, under a non-disclosure agreement. All costs of the third-party inspection, including but not limited to all payments to the third-party engineer in connection with the inspection, shall be shared equally by SBC-MOKA and CLEC. The engineer shall take into consideration SBC-MOKA's planned use for the Eligible Structure under review.
- 5.3.2* In the event of a denial, PACIFIC will concurrently submit to both the California Commission and the CLEC, in support of its denial, provided under seal and subject to proprietary protections: Central office common language identifier, where applicable, the identity of the requesting CLEC, including amount of space requested by the CLEC, the total amount of space at the Dedicated Space, floor plans documented as provided for in the Interconnector's Collocation Services Handbook, identification of

switch turnaround plans and other equipment removal plans and timelines, if any, central office rearrangement/expansion plans, if any, and description of other plans, if any that may relieve space exhaustion.

5.3.3* In the event PACIFIC denies a CLEC's request and the CLEC disputes the denial the CLEC may request a tour of the entire Eligible Structure to verify space availability or the lack thereof. The request shall be submitted to PACIFIC designated representative in writing. The inspection tour shall be scheduled within five (5) business days of receipt of the request for a tour and the tour shall be conducted within ten (10) days of the denial of space or at some mutually acceptable time if greater than (10) days

5.3.3.1* Prior to the inspection tour, a "Reciprocal Non-disclosure Agreement" shall be signed by the PACIFIC representative and the designated agent for the CLEC, who will participate in the tour.

5.3.3.2* PACIFIC will provide all relevant documentation to the CLEC agent including floor plans and plans for future facility expansions or enhancements, subject to executing the non-disclosure agreement. The PACIFIC representative will accompany and supervise the CLEC agent on the inspection tour.

5.3.3.3* If the CLEC agent believes, based on the inspection tour of the Eligible Structure facilities, that the denial of collocation space is insupportable, the CLEC and PACIFIC shall then each concurrently prepare a report detailing its own findings of the inspection tour. The CLEC and the PACIFIC reports shall be on concurrently served on each other and submitted to the California Public Utility's Commission no later than 45 days following the filing of the request for space. Burden of proof shall be on PACIFIC to justify the basis for any denial of collocation space requests.

5.3.4 If SBC-MOKA/NEVADA/SNET/SBC-AMERITECH denies CLEC's Physical Collocation request because of space limitations and, after touring the applicable Premises, the Parties are unable to resolve the issue of whether the denial of space was proper, SBC-MOKA/NEVADA/SNET/SBC-AMERITECH shall, in connection with any complaint filed by CLEC, file with the Commission detailed floor plans or diagrams of such Premises, subject to protective order.

- 5.3.4.1* Within ten (10) days of CLEC submitting a request to PACIFIC for physical collocation, if PACIFIC finds that it must deny the request, PACIFIC must file its response, under seal, with the Commission. The response includes the following information:
- 5.3.4.2* Central Office Common Language Identifier, where applicable;
- 5.3.4.3* The identity of the requesting CLEC, including amount of space sought by CLEC;
- 5.3.4.4* Total amount of space at the premises;
- 5.3.4.5* Floor plans including measurements of the PACIFIC premises, showing:
 - 5.3.4.5.1* Space housing PACIFIC network equipment or administrative offices;
 - 5.3.4.5.2* Space housing unused obsolete equipment, if any;
 - 5.3.4.5.3* Space which does not currently house PACIFIC equipment or administrative offices but is reserved by PACIFIC for future use;
 - 5.3.4.5.4* Space occupied by Collocators for the purpose of network interconnection or access to unbundled network elements;
 - 5.3.4.5.5* Space, if any, occupied by third parties for other purposes;
 - 5.3.4.5.6* Remaining space, if any.
 - 5.3.4.5.7* Identification of turnaround space for the switch or other equipment, if any;
 - 5.3.4.5.8* Central office rearrangement/expansion plans, if any and
 - 5.3.4.5.9* Description of other plans, if any, that may relieve space exhaustion.

* Available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1.

- 5.4 SBC-13STATE will maintain a publicly available document, posted for viewing on SBC-13STATE's Internet site(s), indicating all premises that are full, and will update such a document within ten days of the date at which a premises runs out of physical collocation space.
- 5.5 Upon request, SBC-13STATE must submit to the requesting carrier within ten days of the submission of the request a report indicating the available collocation space in a particular SBC-13STATE Eligible Structure. This report will specify the amount of collocation space available at each requested Dedicated Space, the number of Collocators, and any modifications in the use of the space since the last report. This report will also include measures that SBC-13STATE is taking to make additional space available for collocation. SBC-13STATE will provide a report for 1 to 5 requests in 10 business days and 6 to 20 requests in 25 business days. Should the CLEC submit more than 20 requests at once for central offices where there is no current collocation or collocation forecasted, SBC-13STATE will provide the information on a scheduled basis of ten additional offices every ten days.
- 5.5.1 In SBC-13STATE, Reports shall be ordered via the Collocation order form and shall specifically identify the CLLI code of each Premises for which a report is ordered.
- 5.6 In any Central Office in which all options for physical collocation offered by SBC-13STATE have been exhausted, SBC-13STATE shall not be permitted to provide additional space in that Central Office for any of its affiliates
- 5.7 SBC-13STATE is not required to lease or construct additional space to provide for physical collocation when existing space has been exhausted. Moreover, SBC-13STATE is not required to, nor shall this Appendix create any obligation or expectation, to relinquish used, or forecasted space to undertake the construction of new quarters or to construct additions to existing quarters in order to satisfy any request for additional space or the placement of CLEC equipment or facilities, whether through an initial request for physical collocation or a subsequent request for more space in an Eligible Structure. SBC-13STATE and CLEC shall not unreasonably warehouse forecasted space.
- 5.8 To the extent possible, SBC-13STATE will make contiguous space available to CLEC if CLEC seeks to expand an existing physical collocation arrangement and such request meets SBC-13STATE's non-discriminatory practices regarding efficient space utilization.
- 5.9 When planning renovations of existing Eligible Structures or constructing or leasing new Eligible Structures, SBC-13STATE will take into account future demand based upon its knowledge of CLEC demand for Collocation. CLEC will

provide SBC-13STATE with a two (2)-year rolling forecast of its requirements for Collocation that will be reviewed jointly on a yearly basis by the Parties.

- 5.10 SBC-13STATE may retain a limited amount of floor space for SBC-13STATE's own specific future uses for a time period on terms no more favorable to SBC-13STATE for like equipment than those that apply to other telecommunications carriers, including CLEC, seeking to reserve Collocation space for their own future use. Except for space needed for switching equipment "turnaround" (e.g., the installation of new switching equipment to replace then-existing switching equipment), other telecommunications equipment and infrastructure, if any, and/or otherwise permitted or directed by applicable rule or order, SBC-13STATE will relinquish any space held for future use before denying a request for Virtual Collocation on grounds of space limitations, unless SBC-13STATE proves to the Commission that Virtual Collocation at that point is not technically feasible, including that space does not exist. In any such event, SBC-13STATE and CLEC will attempt to reach a mutually agreeable alternative method of interconnection.
- 5.11 At the request of the Commission or CLEC, SBC-13STATE shall remove any obsolete and unused equipment (e.g., retired in-place") from its Premises. SBC-13STATE shall be permitted to recover the cost of removal and/or relocation of such equipment if SBC-13STATE incurs expenses that would not otherwise have been incurred (at the time of the request or subsequent thereto) except to increase the amount of space available for collocation (e.g., costs to expedite removal of equipment or store equipment for reuse).
- 5.12 SBC-13STATE may impose reasonable restrictions on its provision of additional unused space available for Collocation (so-called "warehousing") as described in paragraph 586 of the First Report and Order (96-325); provided, however, that SBC-13STATE shall not set a maximum space limitation on CLEC unless SBC-13STATE proves to the Commission that space constraints make such restrictions necessary

6. DENIAL OF COLLOCATION EQUIPMENT

- 6.1 All types of network equipment placed in SBC-13STATE network equipment areas of Eligible Structures by SBC-13STATE or CLECs must meet the SBC-13STATE minimum safety standards. The minimum safety standards are:
- 6.1.1 Equipment compliance to SBC-13STATE technical publication TP 76200MP Level 1 requirements, (see Texas Tariff section 5 paragraph 10.1 for Texas specific Tariff requirements for this standard), or

6.1.2 Equipment history of safe operation demonstrated by placement in an ILEC network premise prior to January 1, 1998 with no documented or known history of safety problems.

6.2 SBC-13STATE is not required to permit collocation of equipment that is not necessary for either access to UNEs or for interconnection with SBC-13STATE, nor such as equipment used exclusively for switching or for enhanced services. Nothing in this Agreement requires SBC-13STATE to permit collocation of equipment used solely for switching or solely to provide enhanced services; provided, however, that SBC-13STATE may not place any limitations on the ability of CLEC to use all the features, functions, and capabilities of equipment collocated, including, but not limited to, switching and routing features and functions and enhanced services functionalities.

7. DEDICATED COLLOCATION SPACE CHARGES

7.1 Dedicated Collocation Space

7.1.1 SBC-MOKA/SNET: For each Eligible Structure in which CLEC desires to physically collocate equipment, CLEC must submit a Physical Collocation Application with the applicable Engineering Design Charge and/or application fee. A copy of the Physical Collocation Application may be obtained from the SBC-MOKA/SNET Collocation Services account manager. The Physical Collocation Application must also be used for each subsequent request to place equipment in an Eligible Structure.

7.1.2 In SBC-AMERITECH the installation interval begins after CLEC has submitted a complete order and rendered the associated initial COBO payment (denotes the firm order) as required in conjunction with the appropriate Notification Interval as in 2.6.

7.1.3 The installation interval begins after CLEC has submitted a complete application, with appropriate fees and prepayment as defined in NEVADA's tariff, and NEVADA has completed processing of the application NEVADA agrees to pursue diligently the preparation of the Dedicated Space for use by CLEC

7.1.3.1 NEVADA shall provide information to CLEC at the "Initial Contact," not incorporated herein but as described in the Interconnector's Collocation Services Handbook 6.3.

7.1.3.2 NEVADA and CLEC shall conduct two operational meetings prior to turnover of the dedicated space.

- 7.1.4* The installation interval begins after CLEC has submitted a complete application, with appropriate fees and prepayment as defined in PACIFIC's tariff, and PACIFIC has completed processing of the application. PACIFIC agrees to pursue diligently the preparation of the Dedicated Space for use by CLEC.
- 7.1.4.1* PACIFIC shall provide information to CLEC at the "Initial Contact," not incorporated herein but as described in the Interconnector's Collocation Services Handbook.
- 7.1.4.2* PACIFIC and CLEC shall conduct two operational meetings prior to turnover of the dedicated space.
- 7.2 SBC-13STATE will contract for and perform the construction and preparation activities necessary to prepare the dedicated space, Dedicated Space using the same or consistent practices that are used by SBC-13STATE for other construction and preparation work performed in the Eligible Structure.
- 7.2.1 Notwithstanding the above, SBC-13STATE will permit CLEC to subcontract the construction of Physical Collocation arrangements with contractors approved by SBC-13STATE, provided that SBC-13STATE will not unreasonably withhold approval of contractors.
- 7.2.1.1 Certification by SBC-8STATE will be based on the same criteria SBC-8STATE uses in certifying contractors for its own purposes.
- 7.3 Recurring/Non-Recurring charges - CLEC shall pay PACIFIC/SWBT-TX/SNET/SBC-AMERITECH a per month charge and non-recurring charges for use of the Dedicated Collocation Space and any Telco provided equipment/facilities therein. These charges are contained in the state specific Appendix Pricing and/or in the applicable tariff. The recurring monthly charges for each Dedicated Collocation Space shall stay fixed for the term of this agreement and may be modified upon renegotiation of the Interconnection Agreement.
- 7.3.1 An ICB quote is prepared by SBC-MOKA/NEVADA to estimate non-recurring and recurring charges associated with the requested collocation space. This ICB quote is prepared specifically for collocation requests and is not associated in any way with the Bona Fide Request (BFR) process

* Available only in the State of California. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1.

used to request UNEs or other unique items not contained in a CLEC Interconnection Agreement.

- 7.4 CLEC shall pay its proportionate share of any reasonable security arrangements SBC-13STATE employs to protect SBC-13STATE equipment and ensure network reliability.
- 7.5 Payment of Preparation Charge - Prior to any obligation on SBC-8STATE to start any preparation of the Dedicated collocation space, CLEC shall pay SBC-8STATE fifty percent (50%) of the Preparation Charge and eighty-five percent (85%) of any custom work charge required to create or vacate any entrance facility for the CLEC ("Custom Work"). CLEC also has the option of submitting a surety bond to cover these charges, in lieu of a check. The remainder of the Preparation Charge and any Custom Work charge are due upon completion and prior to occupancy by the CLEC.
- 7.5.1 SBC-AMERITECH requires, before any obligation by SBC-AMERITECH to begin any preparation work associated with the Dedicated Collocation Space that CLEC shall pay SBC-AMERITECH fifty percent (50%) of the COBO charge in states where the COBO is a non-recurring charge. Twenty-five percent (25%) of the COBO charge is due at the midpoint of the preparation of the Dedicated Collocation Space with the remaining twenty-five percent (25%) of the COBO charge due upon completion of the Dedicated Collocation Space. Any extraordinary expenses, if applicable, must be agreed to by the CLEC prior to actual commencement of the physical construction of the Dedicated Collocation Space.
- 7.6 Occupancy Conditioned on Payment - SBC-13STATE shall not permit CLEC to have access to the dedicated collocation space for any purpose other than inspection during construction of CLEC's dedicated physical collocation space until SBC-13STATE is in receipt of complete payment of the Preparation Charge and any Custom Work charges and/or applicable COBO.
- 7.7 Breach Prior to Commencement Date - In the event that the CLEC materially breaches this Agreement by purporting to terminate this Agreement after SBC-13STATE has begun preparation of the dedicated collocation space but before SBC-13STATE has been paid the entire amounts due under this Article, then in addition to any other remedies that SBC-13STATE might have, the CLEC shall be liable in the amount equal to the non-recoverable costs less estimated net salvage. Non-recoverable costs include the non-recoverable cost of equipment and material ordered, provided or used; the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided or used; labor; transportation and any other associated costs.

- 7.8 Late Payment Charge - In the event that any charge is not paid when due, the unpaid amounts shall bear interest in accordance with the terms and conditions set forth in SBC-13STATE's intrastate tariff late payment provision(s) applicable to access services for the State in which the dedicated collocation space is located, or the highest rate permitted by law, whichever is lower, from the due date until paid.
- 7.9 Charges will begin to accrue on the Effective Billing Date - The Effective Billing Date is the date SBC-13STATE made the Dedicated Collocation Space available to CLEC
- 7.9.1... PACIFIC/NEVADA: The charges for a Physical Collocation arrangement in an Eligible Structure where interstate expanded interconnection is required to be provided pursuant to 47 C.F.R. [two section symbols] 64.1401(a), 64.1401(b) shall be as set forth in the applicable Tariff(s). To the extent that any of those charges are subject to appeal, the result of any such appeal shall be retroactively applied to any Physical Collocation arrangement ordered or provided under any such charge. To the extent that rates are not provided in the applicable Tariff(s), rates shall be determined on Individual Case Basis "ICB." Any ICB quote shall be included as part of the quote provided to the CLEC in response to its Physical Collocation application
- 7.10 The monthly recurring charge(s) shall begin to apply within, but no later than 30 days from the date that SBC-13STATE has turned over the dedicated space to the CLEC, Dedicated Space regardless of any failure by CLECs to complete its work. The fact that SBC-13STATE may have additional work to perform after CLEC does complete its work shall not bar the start of such charges.
- 7.11 The charges for a Adjacent Structure Collocation and for a Physical Collocation arrangement that is provided in Eligible Structures other than Central Offices shall be determined on Individual Case Basis (ICB/NSCR) in the SBC-13STATEs.
- 7.12 Restroom access and parking will be provided on a reasonable basis in the SBC-13STATEs.
- 7.13 NEVADA: In the event that any CLEC Telecom Equipment that is to be placed in the Premises was not contemplated by that interstate tariff (which was based upon the requirements of 47 C.F.R. § 64.1401), CLEC may be subject to charges under an ICB if NEVADA's costs of providing the necessary Premises requirements (e.g., space, power, environmental, grounding) for any such CLEC Telecom

Equipment is not recovered by those tariffed rates. Any ICB quote shall be included as part of the quote provided to the CLEC in response to its Physical Collocation application.

7.14--- CLEC and PACIFIC/NEVADA will complete an acceptance walk-through of the Dedicated Space prior to turning the Dedicated Space over to CLEC. Exceptions that are noted during this acceptance walk-through shall be corrected by PACIFIC/NEVADA as soon as commercially reasonable after those exceptions are provided in writing, which exceptions shall be provided no more than 5 business days after the walk through. The correction of these exceptions from CLEC's Physical Collocation request shall be at PACIFIC/NEVADA's expense.

7.15 SBC-13STATE shall ensure that the Dedicated Space and the Eligible Structure comply with all applicable fire and safety codes. The preparation shall be arranged by SBC-13STATE in compliance with all applicable codes, ordinances, resolutions, regulations and laws.

8. USE OF DEDICATED COLLOCATION SPACE

8.1 Nature of Use – The dedicated collocation space is to be used by CLEC for purposes of collocating equipment and facilities within SBC-13STATE's Eligible Structure for interconnection with SBC-13STATE's network, pursuant to 47 U.S.C. 251(c)(2), and for obtaining access to SBC-13STATE's unbundled network elements, pursuant to 47 U.S.C. 251 (c)(3). Consistent with the nature of the Eligible Structure and the environment of the dedicated collocation space, CLEC shall not use the dedicated collocation space for office, retail, or sales purposes. No signage or markings of any kind by CLEC shall be permitted on the Eligible Structure or on the grounds surrounding the Building.

8.2 CLEC shall not have access to SBC-13STATE's Main Distribution Frame or Intermediate Distribution Frame, DSXs, DCS, or any other SBC-13STATE equipment or facilities not specifically designated by SBC-13STATE for CLEC access.

8.3 A list of all of CLEC Telecom Equipment that will be placed within the Dedicated Space shall be set forth on the CLEC's Physical Collocation application, which includes associated power requirements, floor loading, and heat release of each piece of CLEC Telecom Equipment. CLEC warrants and represents that the Physical Collocation application contains a complete and accurate list of such CLEC Telecom Equipment. CLEC shall not place or leave any other equipment

or facilities within the Dedicated Space without the express written consent of SBC-13STATE.

- 8.4 In the event that subsequent to the submission of the Physical Collocation application and its list of CLEC Telecom Equipment with the required technical information, CLEC desires to place in the Dedicated Space any telecommunications equipment or such ancillary telecommunications facilities not so set forth in the Physical Collocation application, CLEC shall furnish to SBC-13STATE a new Physical Collocation application and any Applicable charges to cover such equipment or facilities. Thereafter, consistent with its obligations under the Act and applicable FCC and Commission rules, orders, and awards, SBC-13STATE may provide such written consent or may condition any such consent on additional charges arising from the request, including any applicable fees and any additional requirements such as power and environmental requirements for such requested telecommunications equipment and/or facilities. Upon the execution by both SBC-13STATE and CLEC of a final list and description and receipt by SBC-13STATE of payment of any applicable non-recurring charges, the Physical Collocation arrangement shall be deemed to have been amended and such requested telecommunications equipment and/or facilities shall be included within "CLEC Telecom Equipment."
- 8.5 CLEC may use the Dedicated Space for placement of CLEC telecommunications equipment that is necessary ("used or useful") for interconnection or access to UNE's. CLEC's employees, agents and contractors shall be permitted access to the Dedicated Space at all times, provided that CLEC's employees, agents and contractors comply with SBC-13STATE's policies and practices pertaining to fire, safety and security. CLEC agrees to comply promptly with all laws, ordinances and regulations affecting the use of the Dedicated Space.
- 8.6 CLEC Telecom Equipment, CLEC operating practices, or other activities or conditions attributable to CLEC that represent a demonstrable threat to SBC-13STATE's network, equipment, or facilities, including the Eligible Structure, or to the network, equipment, or facilities of any person or entity located in the Eligible Structure, are strictly prohibited.
- 8.7 Operation of any equipment, facilities or any other item placed in the Dedicated Space shall not interfere with or impair service over SBC-13STATE's network, equipment, or facilities, or the network, equipment, or facilities of any other person or entity located in the Eligible Structure; create hazards for or cause damage to those networks, equipment, or facilities, the Dedicated Space, or the Eligible Structure; impair the privacy of any communications carried in, from, or through the network, equipment, facilities the Dedicated Space or the Eligible Structure; or create hazards or cause physical harm to any person, entity, or the public. Any of the foregoing events would be a material breach of this Appendix.

- 8.8 Subject to the limitations and restrictions of this Appendix, CLEC may place or install in or on the Dedicated Space such fixtures and unpowered facilities as it shall deem desirable for the proper use of the Dedicated Space as described above, in SBC-13STATEs. Personal property, fixtures and unpowered facilities placed by CLEC in the Dedicated Space shall not become a part of the Dedicated Space, even if nailed, screwed or otherwise fastened to the Dedicated Space, but shall retain their status as personal property and may be removed by CLEC at any time. Any damage caused to the Dedicated Space by the removal of such property shall be repaired at CLEC's expense.
- 8.9 In no case shall CLEC or any person or entity purporting to be acting through or on behalf of CLEC make any significant rearrangement, modification, improvement, addition, repair, or other alteration to the Dedicated Space or the Eligible Structure without the advance written permission and direction of SBC-13STATE. SBC-13STATE shall consider a modification, improvement, addition, repair, or other alteration requested by CLEC, provided that SBC-13STATE shall have the right to reject or modify any such request. SBC-13STATE will perform any such construction, and the associated cost shall be paid by CLEC in accordance with SBC-13STATE's then-standard custom work order process or NSCR.
- 8.10 This Appendix and the Collocation provided hereunder is made available subject to and in accordance with Sections 8.10.1, 8.10.2, 8.10.3, 8.10.4, and 8.10.5. CLEC shall strictly observe and abide by each in SBC-13STATE's.
- 8.10.1 SBC Local Exchange Carriers TP 76200MP, Network Equipment: Power, Grounding, Environmental, and Physical Design Requirements, and any successor document(s), including as such may be modified at any time and from time to time;
- 8.10.2 SBC-13STATE's most current Interconnector's Collocation Services Handbook and any successor document(s), as may be modified from time to time as set forth below.
- 8.10.3 TP 76300MP, SBC Local Exchange Carriers Installation Requirements, and any successor documents should be followed in installing network equipment, and facilities within SBC-13STATE central offices and may be modified from time to time.
- 8.10.4 Any statutory and/or regulatory requirements in effect at the time of the submission of the Physical Collocation application or that subsequently become effective and then when effective.

- 8.10.5 The Interconnector's Collocation Services Handbook, TP 76300MP and the TP 76200MP Standards are not incorporated herein but are available on the appropriate SBC ILEC's Collocation Internet site.
- 8.11 If the Interconnector's Collocation Services Handbook, Collocation website(s) or the TP 76300MP, is modified subsequent to the effective date of this agreement from the attached, the following shall apply:
- 8.11.1 If a modification is made after the date on which CLEC has or orders a Physical Collocation arrangement, SBC-13STATE shall provide CLEC with those modifications or with revised versions of such, listing or noting the modifications as appropriate. Any such modification shall become effective and thereafter applicable under this Agreement thirty (30) days after such amendment is released by SBC-13STATE, except for those specific amendments to which CLEC objects to within thirty (30) days of receipt, providing therewith an explanation for each such objection. The Parties shall pursue such objections informally with each other and, if not resolved within forty-five (45) days, either Party will have fourteen (14) days to invoke the dispute resolution procedures applicable to this Agreement. If neither Party invokes those procedures, the modification is deemed effective and applicable.
- 8.11.2 If a modification is made after this Appendix becomes part of an effective "Statement of Generally Available Terms and Conditions" or similar document for SBC-13STATE (and the modification has not been included in a change to that "Statement" or this Appendix), then SBC-13STATE will provide CLEC with a copy of such modifications or the most recent version or revision of the particular document promptly after receipt of CLEC's physical collocation application. Any CLEC objection to those modifications must be received by SBC-13STATE by the thirtieth (30th) day after their receipt by CLEC. Thereafter, the same process and procedure (including timelines) for resolving any objection made under Section 8.11.1 shall apply.
- 8.11.3 Notwithstanding Sections 8.11.1 and/or 8.11.2, any modification made to address situations potentially harmful to SBC-13STATE's or another's network, equipment, or facilities, the Eligible Structure, the Dedicated Space, or to comply with statutory or regulatory requirements shall become effective immediately and shall not be subject to objection. SBC-13STATE will immediately notify CLEC of any such modification.
- 8.12 The terms and conditions expressly set forth in this Appendix shall control in the event of an irreconcilable conflict with the Collocation Services Handbook, Collocation website(s) and the TP 76300MP, or the TP76200MP (including any

modification to any of them that can be objected to under this Section 8.11, regardless of whether CLEC objected to such modification) in the SBC-13STATEs. Notwithstanding the immediately preceding, modifications that are governed by Section 8.11.3 shall apply regardless of any conflict or inconsistency with any other term or condition governing a Physical Collocation arrangement unless contrary to law.

8.12.1 CLEC warrants and represents, for each item of the CLEC Telecom Equipment, that such equipment meets the SBC-13STATE minimum safety standards. The minimum safety standards are: (1) Equipment compliance to SBC LEC technical publication TP 76200MP Level One requirements and to corrosion protection requirements contained in Telcordia NEBS document GR-1089-CORE, Criteria [72, 73], except in the State of Texas where equipment compliance to Telcordia NEBS Level 1 requirements are the minimum safety requirements for CLEC equipment, or (2) Equipment history of safe operation demonstrated by placement as network equipment in an ILEC prior to January 1, 1998 with no documented or known history of safety problems. CLEC also warrants and represents that any other telecommunications equipment or ancillary telecommunications facilities that may be placed in the Dedicated Space as permitted hereunder or otherwise shall be so compliant. SBC-13STATE may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that SBC-13STATE applies to its own equipment. SBC-13STATE may not deny collocation of Collocator equipment because the equipment fails to meet TP76200MP reliability standards. If SBC-13STATE denies collocation of CLEC equipment, citing non-compliance to the minimum safety standards, SBC-13STATE must provide to the CLEC within five business days of the denial a list of all network equipment that SBC-13STATE has placed within the network area(s) of the premises in question since January 1, 1998, together with an affidavit attesting that all of that equipment meets or exceeds the minimum safety standards. DISCLOSURE OF ANY NON-COMPLIANT EQUIPMENT OR FACILITIES TO SBC-13STATE IN A PHYSICAL COLLOCATION APPLICATION OR OTHERWISE SHALL NOT QUALIFY THIS ABSOLUTE CERTIFICATION REQUIREMENT IN ANY MANNER.

8.13 Unless otherwise expressly agreed in writing, SBC-13STATE will provide for all AC and DC power requirements in the Eligible Structure. The CLEC is not permitted to, and will not, place any AC or DC power-generating or power-storing devices (including, for example but not limited to rectifiers, battery plants, AC or DC generators) in the Eligible Structure. Power will support CLEC Telecom Equipment at the specified DC and AC voltages. At a minimum, the Power and

SBC-13STATE's associated performance, availability, restoration, and other operational characteristics shall be at parity with that provided to SBC-13STATE's substantially similar telecommunications equipment unless otherwise mutually agreed in writing. Loads specified by the CLEC represent the peak current that will be imposed on a power feeder at any voltage within the emergency operating limits of the equipment and any normal operating condition (i.e. not a short circuit or other malfunction). Even though circuit design is based on peak current, DC power plant design sizing by the SBC-13STATE's is based on demand management. All necessary Power will be supplied on a timely basis. A physical collocation space will be considered timely delivered only if it is fully operational, including power, at the time it is turned over to CLEC.

- 8.14 Other than the security restrictions described herein, SBC-13STATE shall place no restriction on access to CLEC's central office Dedicated Space by CLEC's employees and designated agents. Such space shall be available to CLEC designated agents twenty-four (24) hours per day each day of the week. SBC-13STATE will not impose unreasonable security restrictions for the Eligible Structure, including the Dedicated Space.
- 8.15 Fiber Entrances – CLEC shall use a single mode dielectric fiber optic cable as a transmission medium to the dedicated collocation space. CLEC shall be permitted no more than two (2) entrance routes into the Building, if available.
- 8.16 Demarcation Point – SBC-13STATE shall designate the point(s) of termination within the Eligible Structure as the point(s) of physical demarcation between CLEC's network and SBC-13STATE's network, with each being responsible for maintenance and other ownership obligations and responsibilities on its side of that demarcation point.

9. OPERATIONAL RESPONSIBILITIES

- 9.1 CLEC and SBC-13STATE are each responsible for providing to the other contact numbers for technical personnel who are readily accessible twenty-four (24) hours a day, seven (7) days a week.
- 9.2 CLEC and SBC-13STATE are each responsible for providing trouble report status or any network trouble of problems when requested by the other.
- 9.3 SBC-13STATE shall provide an interconnection point or points, physically accessible by both SBC-13STATE and CLEC (typically a SBC-13STATE manhole) at which a CLEC fiber optic cable can enter the Eligible Structure, provided that SBC-13STATE will designate interconnection points as close as reasonably possible to the Eligible Structure. SBC-13STATE will provide at least two such interconnection points at each Eligible Structure where there are at

least two entry points for SBC-13STATE's cable facilities and at which space is available for new facilities in at least two of those entry points.

- 9.3.1 CLEC is responsible for bringing its fiber optic cable to an accessible point outside of the Eligible Structure designated by SBC-8STATE, and for leaving sufficient cable length in order for SBC-8STATE to fully extend such CLEC-provided cable to the Dedicated Space.
- 9.3.2 CLEC is responsible for bringing its fiber optic cable to an accessible point outside of the Eligible Structure designated by SBC-AMERITECH, and for leaving sufficient cable length in order for SBC-AMERITECH to extend such CLEC-provided cable to the cable vault.
- 9.4 Regeneration of either DS-1 or DS-3 signal levels may be provided by CLEC or SBC-13STATE under its then-standard custom work order process or NSCR, including payment requirements prior to the installation of the regeneration equipment.
- 9.5 If CLEC fails to remove its equipment and facilities from the Dedicated Space within thirty (30) days after discontinuance of use, SBC-13STATE may perform the removal and shall charge CLEC for any materials used in any such removal, and the time spent on such removal at the then-applicable hourly rate for custom work. Further, in addition to the other provisions herein, CLEC shall indemnify and hold SBC-13STATE harmless from any and all claims, expenses, fees, or other costs associated with any such removal by SBC-13STATE.
- 9.6 CLEC is solely responsible for the design, engineering, testing, performance, and maintenance of the CLEC Telecom Equipment used by CLEC in the Dedicated Space. CLEC may not disassemble, remove or otherwise reconfigure the cage enclosure (Dedicated Space) at any time unless it has been provided by the CLEC. CLEC is also responsible for servicing, supplying, repairing, installing and maintaining the following facilities within the Dedicated Space in the SBC-13STATEs:
 - 9.6.1 Its fiber optic cable(s);
 - 9.6.2 Its CLEC Telecom Equipment;
 - 9.6.3 Optional point of termination cross connects in its dedicated collocation space or the optional POT Frame/cabinet located in the collocation common area except if on SBC-8STATE's equipment.
 - 9.6.4 CLEC requested dedicated point of termination frame maintenance, including replacement of fuses and circuit breaker restoration, to the extent

that such fuses and circuit breakers are within CLEC's dedicated collocation space or in the optional POT frame located in the collocation common area if and as required; and

- 9.6.5 The connection cable and associated equipment which may be required within CLEC's dedicated collocation space or in the optional POT frame/cabinet located in the collocation common area to the point(s) of termination of that cable within CLEC's dedicated space.
- 9.6.6 Any power cables required beyond the SBC-8STATE provided Collocation Interconnection Power Panel (CIPP) to CLEC's equipment. SBC-8STATE must always engineer, furnish and install the Collocation Interconnect Power Panel (CIPP) within CLEC-provided equipment bay, the associated power cables to the CIPP from the SBC-8STATE provided power distribution source and terminate and test the power cables. The CIPP will be placed within CLEC-provided equipment bay in a location within the bay as designated by CLEC.

SBC-13STATE NEITHER ACCEPTS NOR ASSUMES ANY RESPONSIBILITY WHATSOEVER IN ANY OF THESE AREAS.

- 9.7 SBC-13STATE will allow CLEC to select its own contractors for all required engineering and installation services associated with the CLEC Telecom Equipment (e.g., SBC-13STATE shall not require CLEC to use SBC-13STATE's internal engineering or installation work forces for the engineering and installation of the CLEC Telecom Equipment). Installation of the CLEC Telecom Equipment in the Dedicated Space must nevertheless comply with TP76300MP.. CLEC-selected contractors must agree to all policies and procedures in this appendix. Access to the Eligible Structure and the Dedicated Space for CLEC contractors must meet the same requirements as the CLEC.
- 9.7.1 In SBC- 8STATE, CLEC contractors must be certified as required in the Interconnector's Collocation Handbook which is not incorporated herein but available on appropriate ILEC's website.
- 9.8 In SBC-8STATE, each Party is responsible for immediate verbal notification to the other of significant outages or operations problems which could impact or degrade that other's network, equipment, facilities, or services, and for providing an estimated clearing time for restoration. In addition, written notification must be provided within twenty-four (24) hours.
- 9.9 CLEC is responsible for coordinating with SBC-13STATE to ensure that services are installed in accordance with a service request.

- 9.10 CLEC is responsible for testing, isolating and clearing trouble when the trouble has been isolated to inside the Dedicated Space, or to any piece of CLEC Telecom Equipment, or any other CLEC-provided facility or piece of equipment. If SBC-13STATE testing is also required, it will be provided at applicable charges.

10. VIRTUAL COLLOCATION

- 10.1 Upon request, SBC-13STATE shall provide CLEC Virtual Collocation in any Unused Space. If CLEC wishes to Virtually Collocate a bay other than a Standard Bay, it must request such Virtual Collocation via an ICB/NSCR. CLEC shall not have physical access to its Virtually Collocated equipment but may, at its expense, electronically monitor and control its Virtually Collocated equipment. SBC-13STATE shall, subject to CLEC's payment of the applicable rates, fees and charges, be responsible for installing, maintaining and repairing CLEC's equipment. CLEC cannot convert its Virtually Collocated equipment "in-place" to a method of Physical Collocation available herein (e.g., no "in-place" conversion of Virtual Collocation to Cageless Physical Collocation). In addition to the rates set forth in the Pricing appendix and applicable tariffs, if SBC-13STATE must locate CLEC's Virtual Collocation bays in its switch line-up, CLEC shall also be responsible for any extraordinary costs necessary to condition such space.
- 10.2 SBC-13STATE shall deliver to CLEC the requested space on or before the later of (i) 110 Calendar Days from SBC-13STATE's receipt of CLEC's Collocation Order for Virtual Collocation and (ii) such other reasonable date that Parties may agree upon if it is not feasible for SBC-13STATE to deliver to CLEC such space within 110 Calendar Days and SBC-13STATE notified CLEC of this fact within ten (10) Business Days after the initial walk-through.
- 10.3 SBC-13STATE shall coordinate, on a case by case basis, the installation of the Virtual Collocation equipment with the CLEC based on availability and equipment delivery intervals.
- 10.4 SBC-13STATE shall install applicable Cross-Connects as directed by CLEC, at the rates provided in the Pricing appendix or applicable tariffs.
- 10.5 SBC-13STATE shall allow periodic inspections of the Virtual Collocation space where CLEC equipment is located, during construction.
- 10.6 SBC-13STATE shall ensure that all applicable alarm systems (e.g., power) that support CLEC equipment are operational and the supporting databases are accurate so that equipment that is in alarm will be properly identified.

11. CASUALTY LOSS

11.1 If the Eligible Structure or the Dedicated Space are damaged by fire or other casualty, and:

11.1.1 The Dedicated Spaces are not rendered untenable in whole or in part, SBC-13STATE shall repair the same at its expense (as herein limited) and the recurring charges shall not be abated, or

11.1.2 The Dedicated Spaces are rendered untenable in whole or in part and such damage or destruction can be repaired within ninety (90) days, SBC-13STATE has the option to repair the Dedicated Space at its expense (as herein limited) and the recurring charges shall be proportionately abated to the extent and while CLEC was deprived of the use. If the Dedicated Space cannot be repaired within ninety (90) days, or SBC-13STATE opts not to rebuild, then the Physical Collocation arrangement provided in the Dedicated Space shall (upon notice to CLEC within thirty (30) days following such occurrence) terminate as of the date of such damage. SBC-13STATE shall endeavor to relocate CLEC equipment in alternative location, or assist CLEC in developing alternative to physical location.

11.2 Any obligation on the part of SBC-13STATE to repair the Dedicated Space shall be limited to repairing, restoring and rebuilding the Dedicated Space as originally prepared for CLEC and shall not include any obligation to repair, restore, rebuild or replace any alterations or improvements made by CLEC or by SBC-13STATE on request of CLEC; any CLEC Telecom Equipment; or other facilities or equipment located in the Dedicated Space by CLEC or by SBC-13STATE on request of CLEC.

11.3 In the event that the Eligible Structure shall be so damaged by fire or other casualty that closing, demolition or substantial alteration or reconstruction thereof shall be necessary then, notwithstanding that the Dedicated Space may be unaffected thereby, SBC-13STATE, at its option, may terminate any Physical Collocation arrangement in that Eligible Structure by giving CLEC ten (10) days prior written notice within thirty (30) days following the date of such occurrence, if at all possible.

12. RE-ENTRY

12.1 Unless otherwise set forth herein, if CLEC shall default in performance of any term or condition herein, and the default shall continue for thirty (30) days after receipt of written notice, or if CLEC is declared bankrupt or insolvent or makes an assignment for the benefit of creditors, SBC-13STATE may, immediately or at

any time thereafter, without notice or demand, enter and repossess the Dedicated Space, expel CLEC and any claiming under CLEC, remove any CLEC Telecom Equipment and any other items in the Dedicated Space, forcibly if necessary, and thereupon such Physical Collocation arrangement shall terminate, without prejudice to any other remedies SBC-13STATE might have. SBC-13STATE may exercise this authority on a Dedicated Space-by-Dedicated Space basis. SBC-13STATE may also refuse additional applications for collocation and/or refuse to complete any pending orders for additional space or collocation by CLEC at any time thereafter.

13. LIMITATION OF LIABILITY

13.1 Limitation – With respect to any claim or suit for damages arising in connection with the mistakes, omissions, interruptions, delays or errors, or defects in transmission occurring in the course of furnishing service hereunder, the liability of SBC-13STATE, if any, shall not exceed an amount equivalent to the proportionate monthly charge to CLEC for the period during which such mistake, omission, interruption, delay, error, or defect in transmission or service occurs and continues. However, any such mistakes, omissions, interruptions, delays, errors, or defects in transmission or service which are caused or contributed to by the negligence or willful act of CLEC or which arise in connection with the use of CLEC-provided facilities or equipment shall not result in the imposition of any liability whatsoever upon SBC-13STATE.

13.1.1 Neither party shall be responsible to the other for any indirect, special, consequential, lost profit, or punitive damages, whether in contract or tort.

13.1.2 Each party shall be indemnified and held harmless by the other against claims and damages by any third party arising from provision of the other party's services or equipment except those claims and damages directly associated with the provision of services to the other party which are governed by the provisioning party's applicable tariffs.

13.1.3 Neither party shall have any liability whatsoever to the customers of the other party for claims arising from the provision of the other party's service to its customers, including claims for interruption of service, quality of service or billing disputes.

13.1.4 The liability of either party for its willful misconduct, if any, is not limited by this Agreement. With respect to any other claim or suit, by a customer or by any others, for damages associated with the installation, provision, preemption, termination, maintenance, repair or restoration of service, SBC-13STATE's liability, if any, shall not exceed an amount equal to the proportionate monthly charge for the affected period.

13.1.5 SBC-13STATE shall not be liable for any act or omission of any other carrier or customer providing a portion of a service, nor shall SBC-13STATE for its own act or omission hold liable any other carrier or customer providing a portion of a service.

13.1.6 When CLEC is provided service under this Agreement, SBC-13STATE shall be indemnified, defended and held harmless by CLEC against any claim, loss or damage arising from the customer's use of services offered under this Agreement, involving:

13.1.6.1 Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the customer's own communications;

13.1.6.2 Claims for patent infringement arising from the customer's acts combining or using the service furnished by SBC-13STATE in connection with facilities or equipment furnished by the customer; or

13.1.6.3 All other claims arising in connection with any act or omission of in the course of using services provided pursuant to this Agreement.

13.2 Third Parties – CLEC acknowledges and understands that SBC-13STATE may provide space in or access to the Eligible Structure to other persons or entities ("Others"), which may include competitors of CLEC; that such space may be close to the dedicated collocation space, possibly including space adjacent to the dedicated collocation space and/or with access to the outside of the dedicated collocation space; and that if CLEC requests a cage around its equipment, the cage dedicated collocation space is a permeable boundary that will not prevent the Others from observing or even damaging CLEC's equipment and facilities. In addition to any other applicable limitation, SBC-13STATE shall have absolutely no liability with respect to any action or omission by any other, regardless of the degree of culpability of any such other or SBC-13STATE, and regardless of whether any claimed SBC-13STATE liability arises in tort or in contract. CLEC shall save and hold SBC-13STATE harmless from any and all costs, expenses, and claims associated with any such acts or omission by any Other acting for, through, or as a result of CLEC.

14. INDEMNIFICATION OF SBC-13STATE

14.1 In addition to any other provision hereof, CLEC agrees to indemnify, defend and save harmless SBC-13STATE (including its officers, directors, employees, and other agents) from any and all claims, liabilities, losses, damages, fines, penalties,

costs, attorney's fees or other expenses of any kind, arising in connection with CLEC's use of the dedicated collocation space, conduct of its business or any activity, in or about the dedicated collocation space, performance of any terms of this Agreement, or any act or omission of CLEC (including its officers, directors, employees, agents, contractors, servants, invitees, or licensees). Defense of any claim shall be reasonably satisfactory to SBC-13STATE.

15. OSHA STATEMENT

- 15.1 CLEC, in recognition of SBC-13STATE's status as an employer, agrees to abide by and to undertake the duty of compliance on behalf of SBC-13STATE with all federal, state and local laws, safety and health regulations relating to the dedicated collocation space which CLEC has assumed the duty to maintain pursuant to this Agreement, and to indemnify and hold SBC-13STATE harmless for any judgments, citations, fines, or other penalties which are assessed against SBC-13STATE as the result of CLEC's failure to comply with any of the foregoing. SBC-13STATE, in its status as an employer, shall comply with all federal, state and local laws, safety and health standards and regulations with respect to the structural and those other portions of the dedicated collocation space which SBC-13STATE has agreed to maintain pursuant hereto.

16. NOTICES

- 16.1 Except in emergency situations, SBC-13STATE shall provide CLEC with written notice five (5) business days prior to those instances where SBC-13STATE or its subcontractors may be undertaking a major construction project in the general area of the Dedicated Space or in the general area of the AC and DC power plants which support the Dedicated Space.
- 16.2 SBC-13STATE will inform CLEC by telephone of any emergency-related activity that SBC-13STATE or its subcontractors may be performing in the general area of the Dedicated Space occupied by CLEC or in the general area of the AC and DC power plants which support the Dedicated Space. Notification of any emergency related activity should be made to CLEC as soon as reasonably possible so that CLEC can take any action required to monitor or protect its service.
- 16.3 SBC-13STATE will provide CLEC with written notification within ten (10) business days of any scheduled AC or DC power work or related activity in the Eligible Structure that will cause an outage or any type of power disruption to CLEC Telecom Equipment. SBC-13STATE shall provide CLEC immediate notification by telephone of any emergency power activity that would impact CLEC Telecom Equipment.

- 16.4 Except as may be specifically permitted in this Agreement, any notice or demand, given by one party to the other shall be in writing and shall be valid and sufficient if dispatched by registered or certified mail, return receipt requested, postage prepaid, in the United States mails, or by facsimile transmission; provided, however, that notices sent by such registered or certified mail shall be effective on the third business day after mailing and those sent by facsimile transmission shall only be effective on the date transmitted if such notice is also sent by such registered or certified mail no later than the next business day after transmission, all addressed as follows:

If to SBC-13STATE:

Account Manager - Collocation
Four Bell Plaza, 9th Floor
311 S. Akard St.
Dallas, TX 75202-5398

If to CLEC:

Clay Arendes
Vice President and General Counsel
Vectris Telecom, Inc.
5000 Plaza on the Lake, Suite 305
Austin, TX 78746

Either party hereto may change its address by written notice given to the other party hereto in the manner set forth above.

- 16.5 Except as may be specifically permitted in this Agreement, any payment desired or required to be given by one party to the other shall be dispatched by registered or certified mail, return receipt requested, postage prepaid, in the United States mails, and shall be addressed as follows:

If to SBC-8STATE

ICSC
Attn: Kathy Smith
2180 N. Glenville Dr., 2nd Floor
Richardson, TX 75082

If to SBC-AMERITECH

AIS Service Center
Attn: Collocation
2nd Floor
804 North Milwaukee
Milwaukee, WI 53202

If to CLEC:

Clay Arendes
Vice President and General Counsel
Vectris Telecom, Inc.
5000 Plaza on the Lake, Suite 305
Austin, TX 78746

17. INSURANCE

- 17.1 CLEC shall, at its sole cost and expense procure, maintain, pay for and keep in force the following insurance coverage and any additional insurance and/or bonds required by law and underwritten by insurance companies having a BEST Insurance rating of A+VII or better, and which is authorized to do business in the State of SBC-13STATE. SBC-13STATE shall be named as an ADDITIONAL INSURED on general liability policy.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED OR MATERIALLY CHANGED, THE ISSUING COMPANY WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER (S)

- 17.1.1 Comprehensive General Liability insurance including Products/Completed Operations Liability insurance including the Broad Form Comprehensive General Liability endorsement (or its equivalent(s)) with a Combined Single limit for Bodily Injury and Property Damage of \$1 million. Said coverage shall include the contractual, independent contractors products/completed operations, broad form property, personal injury and fire legal liability.
- 17.1.2 If use of an automobile is required or if CLEC is provided or otherwise allowed parking space by SBC-13STATE in connection with Physical Collocation provided under this Appendix, automobile liability insurance with minimum limits of \$1 million each accident for Bodily Injury, Death and Property Damage combine. Coverage shall extend to all owned, hired and non-owned automobiles. CLEC hereby waives any rights of recovery against SBC-13STATE for damage to CLEC's vehicles while on the grounds of the Eligible Structure and CLEC will hold SBC-13STATE harmless and indemnify it with respect to any such damage or damage to vehicles of CLEC's employees, contractors, invitees, licensees or agents.
- 17.1.3 Workers' Compensation insurance with benefits afforded in accordance with the laws of the state of SBC-13STATE.
- 17.1.4 Employer's Liability insurance with minimum limits of \$100,000 for bodily injury by accident, \$100,000 for bodily injury by disease per employee and \$500,000 for bodily injury by disease policy aggregate.

- 17.1.5 Umbrella/Excess liability coverage in an amount of \$5 million excess of coverage specified above.
- 17.1.6 All Risk Property coverage on a full replacement cost basis insuring all of CLEC's personal property situated on or within the Eligible Structure or the Dedicated Space. CLEC releases SBC-13STATE from and waives any and all right of recovery, claim, action or cause of action against SBC-13STATE, its agents, directors, officers, employees, independent contractors, and other representatives for any loss or damage that may occur to equipment or any other personal property belonging to CLEC or located on or in the space at the instance of CLEC by reason of fire or water or the elements or any other risks would customarily be included in a standard all risk casualty insurance policy covering such property, regardless of cause or origin, including negligence of SBC-13STATE, its agents, directors, officers, employees, independent contractors, and other representatives. Property insurance on CLEC's fixtures and other personal property shall contain a waiver of subrogation against SBC-13STATE, and any rights of CLEC against SBC-13STATE for damage to CLEC's fixtures or personal property are hereby waived. CLEC may also elect to purchase business interruption and contingent business interruption insurance, knowing that SBC-13STATE has no liability for loss of profit or revenues should an interruption of service occur that is attributable to any Physical Collocation arrangement provided under this Appendix.
- 17.2 The limits set forth in this Section may be increased by SBC-13STATE from time to time during the term of a Collocation arrangement to at least such minimum limits as shall then be customary in respect of comparable situations within the existing SBC-13STATE structure.
- 17.3 All policies purchased by CLEC shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by SBC-13STATE.
- 17.4 All insurance must be in effect on or before occupancy date and shall remain in force as long as any of CLEC's Telecom Equipment or other CLEC facilities or equipment remain within the Dedicated Space or the Eligible Structure.
- 17.5 CLEC shall submit certificates of insurance and policy binders reflecting the coverages specified above prior to, and as a condition of, SBC-13STATE's obligation to turn over the Dedicated Space to CLEC or to permit any CLEC-designated subcontractors into the Eligible Structure pursuant to Sections 3.7 and 3.7.3. CLEC shall arrange for SBC-13STATE to receive thirty-(30) day's advance written notice from CLEC's insurance company(ies) of cancellation, non-renewal or substantial alteration of its terms.

- 17.6 CLEC must also conform to recommendations made by SBC-13STATE's Property Insurance Company, if any, unless a recommendation is also applicable to SBC-13STATE and SBC-13STATE does not so conform in the Eligible Structure where the Dedicated Space is located.
- 17.7 Failure to comply with the provisions of this "Insurance" Section will be deemed a material breach of this Appendix.

18. PROTECTION OF SERVICE AND PROPERTY

- 18.1 SBC-13STATE shall use its existing power back-up and power recovery plan in accordance with its standard policies for the specific Central Office.
- 18.2 For the purpose of notice permitted or required by this Appendix, each Party shall provide the other Party a Single Point of Contact (SPOC) available twenty-four (24) hours a day, seven (7) days a week.
- 18.3 Except as may otherwise be provided:
- 18.3.1 SBC-13STATE and CLEC shall each exercise reasonable care to prevent harm or damage to the other Party, its employees, agents or customers, or their property; and
- 18.3.2 Each Party, its employees, agents, or representatives agree to take reasonable and prudent steps to ensure the adequate protection of property and services of the other Party.
- 18.3.3 Each Party shall restrict access to the Eligible Structure and the Dedicated Space to employees and authorized agents of that other Party to the extent necessary to perform their specific job function.
- 18.4 SBC-13STATE shall use electronic access controls to protect all spaces which house or contain CLEC equipment or equipment enclosures, but if electronic controls are not available, SBC-13STATE shall either furnish security guards at those SBC-13STATE locations already protected by security guards on a seven (7) day per week, twenty-four (24) hour a day basis; and if none, SBC-13STATE shall permit CLEC to install monitoring equipment in the collocation space to carry data back to CLEC's work center for analysis. CLEC agrees that CLEC is responsible for problems or alarms related to CLEC's equipment or equipment enclosures located on SBC-13STATE's Dedicated Space.
- 18.5 SBC-13STATE shall furnish CLEC with the identifying credentials to be carried by its employees and authorized agents to be paid for by the CLEC. The CLEC

must maintain an updated list of all authorized employees and authorized agents on a Dedicated Space-by-Dedicated Space basis for every Eligible Structure where there are SBC-13STATE security guards.

- 18.6 CLEC shall comply with the security and safety procedures and requirements of SBC-13STATE, including but not limited to sign-in, and identification.
- 18.7 SBC-13STATE shall furnish CLEC with all keys, entry codes, lock combinations, or other materials or information that may be needed to gain entry into any secured CLEC space in central offices. In the event of an emergency, CLEC shall contact a SPOC provided by SBC-13STATE for access to spaces which house or contain CLEC equipment or equipment enclosures.
- 18.8 SBC-13STATE shall use reasonable measures to control unauthorized access from passenger and freight elevators to spaces which contain or house CLEC equipment or equipment enclosures.
- 18.9 SBC-13STATE shall use best efforts to provide notification within two (2) hours to designated CLEC personnel to indicate an actual security breach.
- 18.10 SBC-13STATE shall be responsible for the security of the Eligible Structure. If a security issue arises or if CLEC believes that SBC-13STATE's security measures are unreasonably lax, CLEC shall notify SBC-13STATE and the Parties shall work together to address the problem. SBC-13STATE shall, at a minimum, do the following:
 - 18.10.1 Where a cage is used, SBC-13STATE shall design collocation cages to prevent unauthorized access; provided, however, that CLEC realizes and assents to the fact that the cage will be made of wire mesh.
 - 18.10.2 SBC-13STATE shall establish procedures for controlling access to the collocation areas by employees, security guards and others. Those procedures shall limit access to the collocation areas to SBC-13STATE's employees, agents or invitees having a business need, such as a periodic review of the Dedicated Space, to be in these areas. SBC-13STATE shall require all persons entering the collocation areas to wear identification badges.
 - 18.10.3 SBC-13STATE shall provide card key access to all collocation equipment areas where a secured pathway to the collocation space is made available to Collocators, along with a positive key control system for each Collocator's caged Dedicated Space. SBC-13STATE shall respond immediately to reported problems with CLEC key cards.

18.10.4 In emergency situations common courtesy will be extended between CLEC and **SBC-13STATE**'s employees, including the provision of first aid and first aid supplies.

18.11 CLEC shall limit access to CLEC employees directly to and from the Dedicated Space and will not enter unauthorized areas under any circumstances.

19. MISCELLANEOUS

19.1 Variations – In the event of variation or discrepancy between any duplicate originals hereof, including exhibits, the original Agreement held by **SBC-13STATE** shall control.

19.2 Governing Law – This Agreement shall be governed by the laws of the State in which the dedicated collocation space is located, without regard to the choice of law principles thereof.

19.3 Joint and Several – If CLEC constitutes more than one person, partnership, corporation, or other legal entities, the obligation of all such entities under this Agreement is joint and several.

19.4 Future Negotiations – **SBC-13STATE** may refuse requests for space in an Eligible structure if CLEC is in material breach of this Agreement, including having any past due charges hereunder. In any and each such event, CLEC hereby releases and holds **SBC-13STATE** harmless from any duty to negotiate with CLEC or any of its affiliates for any additional space or physical collocation.

19.5 Severability – With the exception of the requirements, obligations, and rights set forth in this Appendix, if any of the provisions herein are otherwise deemed invalid, such invalidity shall not invalidate the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid provision(s), and the rights and obligations of **SBC-13STATE** and CLEC shall be construed accordingly.

19.6 Paragraph Headings and Article Numbers – The headings of the articles and paragraphs herein are inserted for convenience only and are not intended to affect the meaning or interpretation of this Agreement.

19.7 Entire Agreement – This Agreement along with any schedules, exhibits, referenced documentation and materials set forth the entire understanding of the parties and supersedes all prior agreements, arrangements and understandings relating to this subject matter and may not be changed except in writing by the parties; provided, however, that this provision shall not affect current or pending tariffs, under investigation or otherwise, including any charges due thereunder.

No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein, and there are no other oral or written understandings or agreements between the parties relating to the subject matter hereof except as may be referenced herein.

- 19.8 No Third Party Beneficiaries – Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.
- 19.9 Construction – This Agreement shall be interpreted and governed without regard to which party drafted this Agreement.
- 19.10 Multiple Originals – This Agreement may be executed in multiple copies, each of which shall be deemed an original.
- 19.11 Waver of Obligations
- 19.11.1 Whenever this Agreement requires the consent of a party, any request for such consent shall be in writing.
- 19.11.2 Neither party shall be deemed to have waived or impaired any right, authority, or option reserved by this Agreement (including the right to demand exact compliance with every term, condition and covenant herein, or to declare any breach hereof to be a default and to terminate this Agreement prior to the expiration of its term), by virtue of any custom or practice of the parties at variance with the terms hereof or any failure, refusal or neglect to exercise any right under this Agreement or to insist upon exact compliance by the other with its obligations hereunder, including any rule or procedure, or any waiver, forbearance, delay, failure or omission by SBC-13STATE to exercise any right, power or option, whether of the same, similar or different nature, with respect to one or more other Collocators.
- 19.12 Rights of Review with Remedies – The parties acknowledge and agree that the rates, terms, and conditions set forth in this Amendment, including among others those above relating to cageless collocation, are subject to any legal or equitable rights of review and remedies (including, but not limited to, the need to renegotiate this Amendment if any agency reconsideration and/or court review results in changes in FCC 99-48).
- 19.13 Rights Cumulative – The rights of a party hereunder are cumulative and no exercise or enforcement by such party of any right or remedy hereunder shall preclude the exercise or enforcement of any other right or remedy hereunder or to which such party is entitled to enforce.

- 19.14 Binding Effect – This Agreement is binding upon the parties hereto, their respective executors, administrators, heirs, assigns and successors in interest. All obligations by either party which expressly or by their nature survive the expiration or termination of this Agreement shall continue in full force and effect subsequent to and notwithstanding its expiration or termination and until they are satisfied in full or by their nature.
- 19.15 Impossibility of Performance – Neither party shall be liable for loss or damage or deemed to be in breach of this Agreement if its failure to perform its obligations results from: (a) compliance with any law, ruling, order, regulation, requirement or instruction of any federal, state or municipal government or any department or agency thereof or court of competent jurisdiction; (b) acts of God; (c) acts of omissions of the other party; (d) fires, strikes, labor difficulties, embargoes, war, insurrection or riot; or any other intervening act beyond the reasonable control of the party claiming such a delay. Any delay resulting from any of said causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable. In any such event, CLEC's authorized agents and contractors will comply with the Emergency Operating Procedures established by SBC-13STATE.
- 19.16 Survival – The terms, provisions, representations, and warranties contained in this Agreement that by their nature and/or context are intended to survive the performance thereof by either or both parties hereunder shall so survive the completion of performances and termination of this Agreement, including the making of any and all payments due hereunder.
- 19.17 Successors Bound – The conditions and agreements contained herein shall bind and inure to the benefit of SBC-13STATE, CLEC and their respective successors and, except as otherwise provided herein, assigns.
- 19.18 Conflict of Interest – CLEC represents that no employee or agent of SBC-13STATE has been or will be employed, retained, paid a fee, or otherwise has received or will receive any personal compensation or consideration from CLEC, or any of CLEC's employees or agents in connection with the arranging or negotiation of this Agreement or associated documents.
- 19.19 Non-Exclusive Remedies – No remedy herein conferred upon is intended to be exclusive of any other remedy in equity, provided by law, or otherwise, but each shall be in addition to every other such remedy.
- 19.20 Assignment – CLEC shall not assign or otherwise transfer this Agreement, neither in whole nor in part, or permit the use of any part of the dedicated collocation space by any other person or entity, without the prior written consent of SBC-13STATE which shall not be unreasonable withheld. Any purported assignment

or transfer made without such consent shall be voidable at the option of SBC-13STATE including subleased or shared caged physical collocation arrangements.

20. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

APPENDIX DSL

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APPENDIX DSL
(Digital Subscriber Line (DSL)-Capable Loops)

1. INTRODUCTION

- 1.1 This Appendix sets forth terms and conditions for providing DSL by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-12STATE means the above listed ILECs doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 SNET -As used herein, SNET means the applicable above listed ILEC doing business in Connecticut.
- 1.5 The prices at which SBC-12STATE agrees to provide CLEC with DSL are contained in the applicable Appendix Pricing and/or the applicable Commissioned ordered tariff where stated.
- 1.6 For CLECs operating in Connecticut, Southern New England Telephone's (SNET's) unbundled DSL offering may be found in the Commission-ordered Connecticut Access Service Tariff, Section 18.2.
- 1.7 The term Digital Subscriber Line (DSL) describes various technologies and services. SBC-12STATE's unbundled DSL loop offerings are set forth below for CLECs to use in conjunction with their desired DSL technologies and equipment to provision DSL services to their End-User. The Parties will comply with the FCC's rules on spectrum compatibility and management that enable the reasonable and safe deployment of Advanced Services prior to, during, and after the development of industry standards. SBC-12STATE shall publish Technical Publications for the purpose of communicating current standards and their application within the Public Switched Telephone Network (PSTN), as set forth in paragraph 72 of FCC Order 99-48 (rel. March 31, 1999) CC Docket No. 98-147.

2. UNBUNDLED DSL-CAPABLE LOOP OFFERINGS

2.1 DSL-Capable Loops that Comply with Existing Industry Standard DSL Technology: All loops listed in this category support technologies that conform to the current ANSI draft standard for spectrum management T1E1.4/99-002(R6). CLEC's transmission rate over these DSL-capable loops shall not be limited, except as may be required to conform to the total power, spectrum, transverse balance, and other parameters set forth in the ANSI draft standard. Each PSD referenced below is intended to include all parameters of its representative spectrum management class, as found in the ANSI draft standard. **SBC-12STATE** and CLEC recognizes that ANSIs current spectrum management classes and PSDs are in draft form and that as ANSI's standards become final, all Parties will adopt the final standards as set forth in Section 2.3.4.

2.1.1 PSD Class #1 Capable Loop supports:

2.1.1.1 2-Wire Digital ISDN Digital Subscriber Line (IDSL) technology:--See current 2-Wire Digital Loop offering (which complies with ANSI standard T1.601), as found in Appendix UNE of this Agreement.

2.1.1.2 2-Wire PSD Class #1 (copper only facilities) Loop is used at some operating speeds to provision Symmetric Digital Subscriber Line (SDSL): Loop Qualification and optional conditioning as described in Section 4 are applicable to this 2-Wire capable loop for which a copper only facility is ordered.

2.1.2 PSD Class #2 Capable Loop - 2-Wire PSD Class #2 capable loop may be used to support the deployment of any DSL technology as referenced in Section 2.1. Loop Qualification and optional conditioning as described in Section 4 are applicable to the PSD #2 capable loop.

2.1.3 PSD Class #3 Capable Loop supports:

2.1.3.1 2-Wire PSD Class #3 capable loop may be used to support the deployment of any DSL technology as referenced in Section 2.1 including 2-wire HDSL technologies. Loop Qualification and optional conditioning as described in Section 4 are applicable to the PSD #3 capable loop.

- 2.1.3.2 4-Wire PSD Class #3 capable loop may be used to support the deployment of any DSL equipment as referenced in Section 2.1 including 4-wire HDSL technologies. Loop Qualification and optional conditioning as described in Section 4 are applicable to the PSD #3 capable loop.
- 2.1.4 **PSD Class #4 Capable Loop** – 2-Wire PSD Class #4 capable loop may be used to support the deployment of any DSL technology as referenced in Section 2.1 including 2-wire HDSL 2 technologies. Loop Qualification and optional conditioning as described in Section 4 are applicable to the PSD #4 capable loop.
- 2.1.5 **PSD Class #5 2-Wire Capable Loop** - 2-Wire PSD Class #5 capable loop may be used to support the deployment of any DSL equipment transmission of ADSL technologies which comply with current national standards (ANSI T1.413-1998). Although the current national standard provides for the use of echo cancellation in some situations, ANSI T1E1.4 has determined that echo canceled ADSL systems interfere with other echo canceled and non-echo canceled systems, thus reducing the reach of all DSL services. Therefore, echo-cancellation will not be deployed on the 2-Wire ADSL capable loops. Loop Qualification and optional conditioning as described in Section 4 are applicable to the PSD #5 capable loop.
- 2.1.6 **PSD Class #7 2-Wire Capable Loop** – 2-Wire PSD Class #7 capable loop may be used to support the deployment of any DSL technology as referenced in Section 2.1. Loop Qualification and optional conditioning as described below are applicable to the PSD Class #7 capable loop.
- 2.2 **Other Industry Standard DSL-capable loops**: If an industry standards body adopts other national standard technologies (PSDs) for which **SBC-12STATE** does not have an existing supporting loop as defined above, **SBC-12STATE** will provide a loop capable of supporting the new technology for CLEC as follows:
- 2.2.1 If the new technology requires the use of a 2-Wire or 4-Wire loop materially the same as described in Section 2, with materially the same loop conditioning, then **SBC-12STATE** will provide CLEC a loop capable of supporting the new technology at the same rates listed for the appropriate 2-wire and 4-wire loops and associated loop conditioning as needed. **SBC-12STATE** will supply CLEC

with the appropriate ordering procedures within fifteen (15) business days of CLEC's request for a loop capable of supporting the new technology.

- 2.2.2 If the new technology requires a loop type that materially differs from the existing 2-Wire and/or 4-Wire loops defined above (e.g. different loop design, different conditioning, significantly different spectrum impact, etc.), the Parties shall expend diligent efforts to arrive at an agreement as to the rates, terms and conditions for an unbundled loop capable of supporting the proposed technology. If negotiations fail, disputes between the Parties concerning the rates, terms and conditions for an unbundled loop capable of supporting the proposed technology shall be resolved pursuant to the dispute resolution process provided for in Section 10 of the General Terms and Conditions of this Agreement.

2.3 Non-Standard DSL-Capable Loops:

- 2.3.1 Approved or successfully deployed non-standard DSL technologies: In addition to DSL capable loops referenced in Sections 2.1 and 2.2 above, non-standard DSL technologies which have been approved by the FCC or any state Commission which have been successfully deployed by any Telecommunications Carrier without significantly degrading the performance of other services are presumed acceptable for deployment. In such event, CLEC shall provide SBC-12STATE with written certification that the CLEC's proposed technology has been successfully deployed in advance of CLEC's deployment of such technology. SBC-12STATE will provide a loop capable of supporting a new, non-standard technology approved by a Commission or successfully deployed for the CLEC as follows:

- 2.3.1.1 If the new technology requires the use of a 2-Wire or 4-Wire loop materially the same as described in Section 2, with materially the same loop conditioning, then SBC-12STATE will provide CLEC a loop capable of supporting the new technology at the same rates listed for the appropriate 2-Wire and 4-Wire loops and associated loop conditioning as needed. SBC-12STATE will supply CLEC with the appropriate ordering procedures within fifteen (15) business days of CLEC's request for a loop capable of supporting the new technology.

- 2.3.1.2 If the new technology requires a loop type that materially differs from the existing 2-Wire and/or 4-Wire DSL-capable loops defined in Section 2 (e.g. different loop design, different conditioning, significantly different spectrum impact, etc.), the Parties shall expend diligent efforts to arrive at an agreement as to the rates, terms and conditions for an unbundled loop capable of supporting the proposed technology and for loop qualification and conditioning if needed. If negotiations fail, dispute between the Parties concerning the rates, terms and conditions for an unbundled loop capable of supporting the proposed technology, shall be resolved pursuant to the dispute resolution process provided for in Section 10 of the General Terms and Conditions.
- 2.3.2 Other non-standard DSL technologies: CLEC may deploy new technologies that do not conform to the national standards and have not yet been approved by a standards body (or otherwise authorized by the FCC, any state Commission or which have not been successfully deployed by any Telecommunications Carrier without significantly degrading the performance of other services) if the CLEC can demonstrate to the state Commission that the particular technology will not significantly degrade the performance of other Advanced Services or traditional voice band services. In this situation, there would be no presumption in favor of deployment and the burden would be on the CLEC to make the appropriate showing.
- 2.3.2.1 Upon request by CLEC, SBC-12STATE will cooperate in the testing and deployment of new technologies or may direct the CLEC, at CLEC's expense, to a third party laboratory for such evaluation.
- 2.3.2.2 If it is demonstrated that the new technology will not significantly degrade the other Advanced Services or traditional voice based services, SBC-12STATE will provide a loop to support the new technology for CLEC under the same terms and conditions as set forth in Section 2.3.1 above.
- 2.3.3 Each Party agrees that should it cause any non-standard DSL technologies described in Sections 2.3.1 and 2.3.2 above to be deployed or used in connection with or on SBC-12STATE facilities, that Party (the Indemnifying Party) will assume full and

sole responsibility for any damage, service interruption or other telecommunications service degradation affects and will indemnify the other Party (the Indemnified Party) for any damages to the Indemnified Party's facilities, as well as any other claims for damages, including but not limited to direct, indirect or Consequential Damages made upon the Indemnified Party by any provider of Telecommunications Services or Telecommunications user (other than any claim for damages or losses alleged by an End User of the Indemnified Party for which the Indemnified Party shall have sole responsibility and liability), when such arises out of, or results from, the use of such non-standard DSL technologies by the Indemnifying Party. Further, the Indemnifying Party agrees that it will undertake to defend the Indemnified Party against and assume payment for all costs or judgments arising out of any such claims made against the Indemnified Party.

2.3.4 For such non-standard DSL technologies deployed under Sections 2.3.1 and 2.3.2, once national ANSI standards are adopted, the Parties shall begin the process of bringing its deployed DSL technologies into compliance with such new standards within thirty (30) calendar days and shall complete the transition within one hundred eighty (180) calendar days.

2.3.5 Until such time the FCC defines the term more precisely, "significantly degrade" is defined as an action that noticeably impairs a service from a user's perspective. FCC Order 99-48, Paragraph 66.

3. PRE-QUALIFICATION OF LOOPS

3.1 SBC-12STATE will make available the capability for CLECs to pre-qualify PSD Class #5 capable loops on a mechanized basis through enhancements to Verigate/DataGate OSS interfaces, where Verigate/DataGate are generally available. In order to obtain access to this OSS functionality, CLEC must have the applicable terms and conditions for such OSS in its Agreement. The pre-qualification process will permit a database query, which will result in the retrieval of an indicator with limited loop length and facility data. Loop makeup and spectrum inventory data are not available through this process. This is an optional service to the CLEC.

4. LOOP QUALIFICATION

- 4.1 SBC-12STATE will require a loop qualification be performed (Loop Qualification) in connection with the ordering and provisioning of DSL-capable loops requiring spectrum management and “copper only” facilities with specific physical characteristics. The Loop Qualification process examines the available loop facilities for suitability in terms of physical characteristics and spectrum compatibility based upon the conditions set forth in industry standards. The Loop Qualification process provides loop make-up data, such as loop length and existence of load coils, repeaters, and bridge tap. Spectrum management analysis is also performed, and spectrum inventory data (i.e. disturber occurrence) is also provided for PSD Class #5 capable loops. Any Loop Qualification provided to the CLEC is based on the data and records contained in SBC-12STATE databases and physical records as of the date the request was processed. No physical or outside plant review has been performed to verify the accuracy of such data and records. The Loop Qualification information addresses only a transmission path serving the requested address/telephone number. SBC-12STATE makes no warranty, express or implied, regarding the accuracy or completeness of the information provided and expressly excludes all warranties of merchantability and fitness for a particular purpose. If results of the Loop Qualification are found to be inaccurate, SBC-12STATE will immediately notify the CLEC of the error(s). It will then be at the CLEC's discretion whether to continue or discontinue with the provisioning of the DSL-capable loop that was originally ordered. In any event, CLEC shall pay the rate set forth in Appendix Pricing for each Loop Qualification performed by SBC-12STATE, whether or not any loop is identified which will support the desired technology, and if conditioning is requested, CLEC shall in all cases pay the applicable conditioning charges set forth in Appendix Pricing.
- 4.2 Until a mechanized process is in place for Loop Qualification, requests for Loop Qualification shall be submitted to SBC-12STATE on a manual basis. A standard Loop Qualification interval of three (3) to five (5) business days is available for requests in markets where the Loop Qualification process is currently in place.
- 4.3 If the results of the Loop Qualification indicate that the loop is less than 12,000 feet and meets the technical parameters for PSD #5 ADSL Capable Loop without additional conditioning, CLEC will be notified, provided loop makeup data and the charges set forth in Appendix Pricing for the DSL-capable loop and cross-connect will apply if such loop is ordered by CLEC. Should the loop meet SBC-12STATE design requirements but not

function as desired by CLEC, CLEC may request, and must pay for, any requested conditioning at the rates set forth in Appendix Pricing. Loops less than 12,000 feet that do not meet SBC-12STATE's design criteria for the PSD #5 ADSL Capable Loop, but that could be conditioned to meet the minimum requirements defined in the associated SBC-12STATE Technical Publications through the removal of load coils, bridged taps and/or repeaters will be so conditioned at no charge to CLEC during the interim period between Merger Close Date and approval of cost studies by the state Commission. At such time as the Commission approves rates, the interim rates will be subject to true-up based on the final outcome of the relevant cost proceeding.

- 4.4 If the results of the Loop Qualification indicate that conditioning is recommended to permit use of such loop for a requested PSD, CLEC will be provided conditioning recommendations and the associated loop makeup data. The charges set forth in Appendix Pricing for conditioning the DSL-capable loop and the associated cross-connect will apply if such loop is ordered by CLEC as recommended. The CLEC may order the loop without conditioning or with partial conditioning if desired.

5. SERVICE PERFORMANCE

- 5.1 If the results of the Loop Qualification indicate: (i) that the loop is between 12,000 feet and 17,500 feet and does not meet the technical parameters for the PSD #5 ADSL Capable Loop, but will do so with optional conditioning and CLEC elects to order such loop without all the recommended conditioning; or (ii) that the loop is between 12,000 feet and 17,500 feet and does not meet the technical parameters for the PSD #5 ADSL Capable Loop and will not do so even with optional conditioning and CLEC elects to order such loop with some or all of the conditioning; or (iii) that the loop exceeds 17,500 feet and CLEC elects to order the loop with or without any of optional conditioning; then SBC-12STATE will not apply maintenance performance measures to the loop, nor will SBC-12STATE be held responsible for any service-related issues on such loop; provided, however, SBC-12STATE will maintain electrical continuity and line balance on the loop at parity with SBC-12STATE's tariffed POTS services. CLEC will not hold SBC-12STATE responsible and will indemnify and hold SBC-12STATE harmless from any claims by CLEC and/or CLEC's End Users for any damages arising from SBC-12STATE's provision of such loop.
- 5.2 Unconditioned or partly conditioned loops in excess of 12,000 feet for which SBC-12STATE has recommended conditioning, will not be

included in any service performance measurements. No DSL-capable loops in excess of 17,500 feet will be included in any performance measurements.

- 5.3 If the CLEC specifies non-shielded cross connects and tie cables be used on a PSD #5 ADSL Capable Loop request, SBC-12STATE will not apply maintenance performance measures to the loop, nor will SBC-12STATE be held responsible for any service-related issues on such loop; provided, however, SBC-12STATE will maintain electrical continuity and line balance on the loop at parity with SBC-12STATE's tariffed POTS services. CLEC will not hold SBC-12STATE responsible and will indemnify and hold SBC-12STATE harmless from any claims by CLEC and/or CLEC's End Users for any damages arising from SBC-12STATE's provision of such loop.

6. MAINTENANCE

- 6.1 Maintenance, other than assuring loop continuity and balance, on unconditioned or partially conditioned loops in excess of 12,000 feet will only be provided on a time and material basis as set out elsewhere in this Agreement. On loops where CLEC has requested recommended conditioning not be performed, SBC-12STATE's maintenance will be limited to verifying loop suitability for POTS. For loops having had partial or extensive conditioning performed at CLEC's request, SBC-12STATE will verify continuity, the completion of all requested conditioning, and will repair at no charge to CLEC any gross defects which would be unacceptable for POTS and which do not result from the loop's modified design.

7. PROVISIONING AND INSTALLATION

- 7.1 The provisioning and installation interval for DSL loops that are materially the same, as defined in Section 2, where no conditioning is requested, will be five (5) to seven (7) business days after receipt of a valid Local Service Request (LSR) which requires the completion of the Loop Qualification process. The provisioning and installation intervals for DSL-capable loops where conditioning is requested will be fifteen (15) business days for loops up to 17,500 feet. A DSL-capable loop in excess of 17,500 feet, where conditioning is requested, will have a provisioning and installation interval agreed upon by the Parties for each instance of special construction. PSD #1 VLS Capable Loops using the ISDN standard will be ordered and provisioned under the terms of the 2-Wire Digital Loop as described in Appendix UNE of this Agreement.

- 7.2 Subsequent to the initial order for a DSL-capable loop, additional conditioning may be requested on such loop at the rates set forth in Appendix Pricing and the applicable service order charges will apply; provided, however, when requests to add or modify conditioning are received within twenty-four (24) hours of the initial order for a DSL-capable loop, no additional service order charges shall be assessed, but may be due date adjusted as necessary. The provisioning interval for additional requests for conditioning pursuant to this subsection will be the same as set forth in Section 7.1.

8. SPECTRUM MANAGEMENT

- 8.1 CLEC will advise SBC-12STATE of the Power Spectral Density ("PSD") mask approved or proposed by T1.E1 that reflects the service performance parameters of the technology to be used. The CLEC, at its option and without further disclosure to SBC-12STATE, may provide any service complaint with that PSD mask to long as it stays within the allowed service performance parameters. At the time of ordering a xDSL-capable loop, CLEC will notify SBC-12STATE as to the type of PSD mask CLEC intends to use on the ordering form, and if and when a change in PSD mask is made, CLEC will notify SWBT. CLEC will abide by standards pertinent for the designated PSD mask type.
- 8.2 SBC-12STATE agrees that as a part of spectrum management, it will maintain an inventory of the existing services provisioned on the cable. SBC-12STATE may not segregate xDSL technologies into designated binder groups without Commission review and approval. SBC-12STATE shall not deny CLEC a loop based upon spectrum management issues, subject to 8.3 below. In all cases, SBC-12STATE will manage the spectrum in a competitively neutral manner consistent with all relevant industry standards regardless of whether the service is provided by a CLEC or by SBC-12STATE, as well as competitively neutral as between different xDSL services. Where disputes arise, SBC-12STATE and CLEC will put forth a good faith effort to resolve such disputes in a timely manner. As a part of the dispute resolution process, SBC-12STATE will, upon request from a CLEC, disclose within 3-5 business days information with respect to the number of loops using advanced services technology within the binder group and the type of technology deployed on those loops so that the involved parties may examine the deployment of services within the affected loop plant.
- 8.3 In the event that the FCC or the industry establishes long-term standards and practices and policies relating to spectrum compatibility and spectrum management that differ from those established in this Agreement, SBC-

12STATE and CLEC agree to comply with the FCC and/or industry standards, practices and policies and will establish a mutually agreeable transition plan and timeframe for achieving and implementing such industry standards, practices and policies.

- 8.4 Within thirty (30) days after general availability of equipment conforming to applicable industry standards or the mutually agreed upon standards developed by the industry in conjunction with the Commission or FCC, then SBC-12STATE and/or CLEC must begin the process of bringing its deployed xDSL technologies and equipment into compliance with such standards at its own expense.

9. RATES FOR DSL CAPABLE LOOPS AND ASSOCIATED CHARGES

- 9.1 SBC-12STATE's rate for DSL-capable loops, and associated charges, are set forth in Appendix Pricing, which is attached hereto and incorporated herein by reference.

10. RESERVATION OF RIGHTS

- 10.1 The Parties acknowledge and agree that the provision of these DSL-capable loops and the associated rates, terms and conditions set forth in this Appendix are subject to any legal or equitable rights of review and remedies (including agency reconsideration and court review). Any reconsideration, agency order, appeal, court order or opinion, stay, injunction or other action by any state or federal regulatory body or court of competent jurisdiction which stays, modifies, or otherwise affects any of the rates, terms and conditions herein, specifically including those arising with respect to the Federal Communications Commission (whether from the Memorandum Opinion and Order, and Notice of Proposed Rulemaking, FCC 98-188 (rel. August 7, 1998), in CC Docket No. 98-147, or the FCC's First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48 (rel. March 31, 1999), in CC docket 98-147, or any other proceeding, the Parties shall expend diligent efforts to arrive at an agreement on conforming modifications to this Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or the provisions affected shall be handled under the dispute resolution procedures set forth in this Agreement.
- 10.2 SBC-12STATE's provision of UNEs identified in this Agreement is subject to the provisions of the Federal Act, including but not limited to, Section 251(d). Both Parties reserve the right to dispute whether any UNEs identified in the Agreement must be provided under Section

251(c)(3) and Section 251(d) of the Act, and under this Agreement. In the event that the FCC, a state regulatory agency or a court of competent jurisdiction, based upon any action by any Telecommunications Carrier, finds, rules and/or otherwise orders ("order") that any of the UNEs and/or UNE combinations provided for under this Agreement do not meet the necessary and impair standards set forth in Section 251(d)(2) of the Act, the affected provision will be invalidated, modified or stayed as required to immediately effectuate the subject order upon written request of either Party. In such event, the Parties shall expend diligent efforts to arrive at an agreement on the modifications required to the Agreement to immediately effectuate such order. If negotiations fail, disputes between the Parties concerning the interpretations of the actions required or the provisions affected by such order shall be handled under the Dispute Resolution Procedures set forth in this Agreement.

11. LINE SHARING

- 11.1 The Parties agree to negotiate an Agreement addressing issues relating to line sharing in connection with deployment of Advanced Services by the Parties. Both Parties agree to negotiate language compliant with the FCC's Third Report and Order in CC Docket No. 98-147 (released December 9, 1999) that unbundles the high frequency portion of the loop.
- 11.2 If the Parties fail to reach agreement within thirty (30) days of the written request for negotiations, either Party may invoke the Alternative Dispute Resolution process set in other portions of this agreement.

12. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

- 12.1 Every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local

exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

APPENDIX DIRECT

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**APPENDIX DIRECT
(DIRECT ACCESS AGREEMENT
FOR LOCAL DIRECTORY ASSISTANCE LISTINGS)**

1. INTRODUCTION

- 1.1 This Appendix sets forth terms and conditions for electronic access to the Directory Assistant data-base provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
 - 1.1.1 Southern New England Telephone (SNET) will provide electronic access to its Directory Assistance (DA) database through the FCC 39 Access Tariff.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE means the applicable above listed ILECs doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Oklahoma, Texas and Wisconsin.
- 1.4 As used herein, SBC-SWBT means the applicable above listed ILECs doing business in Arkansas, Kansas, Missouri, Oklahoma and Texas.
- 1.5 As used herein, SBC-AMERITECH means the applicable above listed ILECs doing business in Illinois, Indiana, Michigan, Ohio and Wisconsin.
- 1.6 As used herein, PACIFIC means the applicable above listed ILECs doing business in California.
- 1.7 As used herein, NEVADA means the applicable above listed ILECs doing business in Nevada.
- 1.8 As used herein, SNET means the applicable above listed ILECs doing business in Connecticut.
- 1.9 The Prices at which SBC-13STATE agrees to provide electronic access to its Directory Assistance (DA) database are contained in the applicable Appendix Pricing and/or the applicable Commissioned ordered tariff where stated.

2. DEFINITIONS

- 2.1 **"Automated Message According (AMA)"** - Billing detail recordings in the switch.
- 2.2 **"Call Processing Data Link - (CPDL)"** - CPDL is a proprietary, licensable interface that utilizes a standard format message protocol for transport of messages between Directory One Call Control and a switching entity.
- 2.3 **"Data Terminating Equipment (DTE)"** - A terminal attached to a data network as an End User node.
- 2.4 **"Nortel Digital Multiplexing Switch (DMS 200)"** - DMS performs base call processing functions and supports service capabilities.
- 2.5 **"IBM RISC 6000 Processor"** - The IBM platform that enables database search capabilities.
- 2.6 **"Nortel Directory One (D1)"** - D1 offers directory search applications built on a standard operating software environment.
- 2.7 **"Nortel Directory One Call Control"** - Allows bi-directional call control capability between the TOPS switch and the D1 network.
- 2.8 **"Electronic White Pages (EWP)"** - EWP allows telephone companies to offer fully customized electronic directory assistance services for all types of users.
- 2.9 **"Nortel Interactive Voice System (IVS)"** - Peripheral off the switch that provides interactive audio.
- 2.10 **"Nortel Multi Purpose Position (MP, MPX or MPX-IWS)"** - Operator Workstations.
- 2.11 **"Non-Published Number (NP)"** - A telephone number that at the request of the telephone subscriber, is neither published in a telephone directory nor provided by an Operator.
- 2.12 **"Operator Service Center (OSC)"** - Physical location of the Operators/workstations.
- 2.13 **"Published Number"** - A telephone number that is published in a telephone directory and is available upon request by calling an SBC-12STATE DA Operator.

- 2.14 “Nortel Queue Management System (QMS)” - Supports up to 255 unique queues on calls to operator positions.
- 2.15 “Nortel Traffic Operating Position System (TOPS)” - Performs base call processing functions and support service capabilities.
- 2.16 “Nortel/IBM Protocol” – Allows communication between Nortel Switch and IBM database.
- 2.17 “IBM Platform” – Offers directory search applications built on a standard operating software environment.

3. SERVICE

- 3.1 Direct Access allows CLECs access to SBC-12STATE’s Directory Assistance (DA) database (which includes residence, business, and government listings) for the sole purpose of providing DA to CLEC’s End User. This service shall allow the CLEC to obtain listed name, address, zip code and telephone numbers, except that access to non-published telephone numbers or other information that the customer has asked to make unavailable is not allowed, with the exception of customer name and address SBC-12STATE will provide CLECs nondiscriminatory access to the same directory listing information available to its own directory assistance operators.
- 3.2 Where technically feasible and/or available, CLEC may receive Direct Access from SBC-12STATE’s host switches via a CLEC Nortel DMS200 TOPS Host Switch, a LUCENT 5ESS OSPS switch or any other Operator assistance switch type with Call Processing Data Link (CDPL). CDPL is a proprietary, licensable interface that utilizes a standard format message protocol for transport of messages between Nortel Directory One Call Control and a switching entity. CPDL provides the protocol by which the CLEC switch may provide auto and offer DACC.

4. RESPONSIBILITIES OF SBC-12STATE

- 4.1 SBC-12STATE shall provide and maintain its own Directory Assistance platform equipment to furnish DA services to CLEC for all SBC-12STATE listings.
- 4.2 SBC-12STATE shall provide DA listings to CLEC from its current DA records and in accordance with SBC-12STATE’s methods, practices, and procedures.
- 4.3 SBC-12STATE shall provide CLEC access to the same listing information that is available to its own operators.

- 4.4 SBC-12STATE shall maintain the same level of system performance for CLEC as it provides to itself.

5. RESPONSIBILITIES OF CLEC

- 5.1 CLEC shall submit requests for Direct Access in writing to SBC-12STATE. Requests for Direct Access will be pursuant to the Bona Fide Request (BFR) Process as outlined in the attached procedures. The FCC ruled that OS/DA were not UNEs.
- 5.2 When CLEC utilizes a switch other than those specified in TR-BX.25, the CLEC must obtain CPDL/D1 certification of their switch from NORTEL. The CLEC shall bear all costs of obtaining any vendor certification including payment of any applicable vendor license fees. SBC-7STATE shall supply Nortel D1 hardware and software; i.e., two (2) ADAX cards per 9,000 Busy Hour calls. SBC-7STATE shall bear the cost of this hardware and software, but the CLEC will be responsible for Engineering, Furnish and Installation charges.
- 5.2.1 SBC-AMERITECH – The IBM RISC 6000 does not support the CDPL technology.

6. RESPONSIBILITIES OF BOTH PARTIES

- 6.1 The CLEC providing the circuit between CLEC's office and SBC-12STATE's office shall make such circuits available for use in connection with the DA services covered herein. When the total traffic exceeds the capability of the existing circuits, additional circuits will be provided by the CLEC.
- 6.2 Where applicable, if additional ADAX cards and ASN Routers (with sync and token ring cards) are necessary, they will be provided by SBC-12STATE, and CLEC will reimburse SBC-12STATE for the cost, plus Engineering, Furnish and Installation.

7. LIABILITY

- 7.1 The limitation of liability and indemnification provisions of the Agreement shall govern performance under this Appendix CLEC also agrees to release, defend, indemnify, and hold harmless SBC-12STATE from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly, or indirectly, by SBC-12STATE employees and equipment associated with provision of the DA Services. This provision includes but is not limited to suits arising from disclosure of the telephone number, address, or name associated with the telephone called or the telephone used to call the DA Services.

8. BILLING

- 8.1 SBC-12STATE shall bill through the appropriate SBC-12STATE regional Mechanized Bill Process.

9. USE OF SUBSCRIBER LISTING INFORMATION

- 9.1 CLEC is authorized to use the subscriber listing information accessed and provided pursuant to this Appendix for the sole purpose of providing local DA for its own End User customers.

10. ASSIGNMENT

- 10.1 The subscriber listing information accessed shall remain the property of SBC-12STATE. CLEC shall not download, store, print or otherwise extract the DA listing information made available through Direct Access nor shall the CLEC authorize any other company or any person to use any subscriber listing information for any purpose. Each party shall take appropriate measures to guard against any unauthorized use of the listings provided to it hereunder, whether by the other party, its agents or employees.

11. TERM OF CONTRACT AND RATE STRUCTURE

- 11.1 Upon CLEC's request, and pursuant to the terms and conditions herein, SBC-12STATE will set rates and other appropriate criteria for provision of Direct Access to CLEC pursuant to the BFR process.

- 11.2 The following types of rates shall apply to Direct Access.

11.2.1 Service Establishment

- 11.2.1.1 CLEC shall pay a Direct Access Service Establishment Charge (a non-recurring charge) applied at the time a CLEC orders Direct Access.

11.2.2 Direct Access Database Service

- 11.2.2.1 CLEC shall pay a monthly recurring charge for Direct Access Database Service which provides for database security and administration and ongoing support.

11.2.3 Direct Access Per Search

- 11.2.3.1 Where applicable, CLEC shall pay a Direct Access Per Search charge for each CLEC subscriber listing search queried from SBC-12STATE's listing database.

12. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

APPENDIX DA

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**APPENDIX DA
(DIRECTORY ASSISTANCE SERVICE)**

1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions for Directory Assistance (DA) Services for CLEC provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications, Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE means the applicable above listed ILECs doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 As used herein, SBC-12STATE means an ILEC doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.5 As used herein, SBC-7STATE means an ILEC doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma and Texas.
- 1.6 As used herein, SBC-SWBT means an ILEC doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.7 As used herein, SBC-AMERITECH means an ILEC doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.8 As used herein, PACIFIC means an ILEC doing business in California.
- 1.9 As used herein, NEVADA means an ILEC doing business in Nevada.
- 1.10 As used herein, SNET means an ILEC doing business in Connecticut.
- 1.11 The prices at which SBC-13STATE agrees to provide CLEC with Directory Services are contained in the applicable Appendix Pricing and/or the applicable Commissioned ordered tariff where stated.

2. SERVICES

2.1 Where technically feasible and/or available, SBC-13STATE will provide the following DA Services:

2.1.1 DIRECTORY ASSISTANCE (DA)

Consists of providing subscriber listing information (name, address, and published telephone number or an indication of “non-published status”) where available to CLEC’s End Users who dial 411, 1/0+411, 555-1212, 1/0+555-1212, or 1/0+NPA-555-1212.

2.1.2 DIRECTORY ASSISTANCE CALL COMPLETION (DACC) or Express Call Completion (ECC)

A service in which a local or an intraLATA call to the requested number is completed on behalf of CLEC’s End User, utilizing an automated voice system or with operator assistance.

2.1.3 DIRECTORY ASSISTANCE Nationwide Listing Service (NLS)

A service in which listed telephone information (name, address, and telephone numbers) is provided for residential, business and government accounts throughout the 50 states to CLEC End Users. CLEC acknowledges that the Federal Communications Commission has issued an order that could affect SBC-12 STATE ability to offer NLS and that SBC-12STATE may have to stop providing NLS at anytime. CLEC releases SBC-12STATE from any and all claims, costs, damages, liabilities, losses, and expenses (including reasonable attorney fees), if SBC-12STATE stops providing NLS. CLEC also agrees to indemnify, defend, and hold harmless SBC-12STATE from any and all third party claims, costs, damages, liabilities, losses, and expenses (including reasonable attorney fees), arising from SBC-12STATE decision to stop providing NLS.

3. DEFINITIONS

3.1 The following terms are defined as set forth below:

3.1.1 **“Call Branding”** -The procedure of identifying a provider’s name audibly and distinctly to the End User at the beginning of each DA Services call.

3.1.2 **“Non-List Telephone Number or DA only Telephone Number”** - A telephone number that, at the request of the telephone subscriber, is not published in a telephone directory, but is available from a DA operator.

3.1.3 “**Non-Published Number**” - A telephone number that, at the request of the telephone subscriber, is neither published in a telephone directory nor available from a DA operator.

3.1.4 “**Published Number**” - A telephone number that is published in a telephone directory and is available upon request by calling a DA operator.

4. CALL BRANDING

4.1 Where technically feasible and/or available, SBC-13STATE will brand DA in CLEC’s name based upon the criteria outlined below:

4.1.1 Where SBC-13STATE provides CLEC Operator Services (OS) and DA services via the same trunk, both the OS and DA calls will be branded with the same brand. Where SBC-13STATE is only providing DA service on behalf of the CLEC, the calls will be branded.

4.1.2 CLEC name used in branding calls may be subject to Commission regulations and should match the name in which CLEC is certified.

4.1.3 SBC-SWBT/SNET/SBC-AMERITECH - CLEC will provide written specifications of its company name to be used by SBC-SWBT/SNET/SBC-AMERITECH to create CLEC specific branding messages for its DA calls in accordance with the process outlined in the Operator Services OS/DA Questionnaire (OSQ). CLEC attests that it has been provided a copy of the Operator Services OS/DA Questionnaire (OSQ).

4.1.4 PACIFIC/NEVADA - CLEC will provide recorded announcement(s) of its company name to be used to brand the CLEC’s DA calls in accordance with the process outlined in the Operator Services OS/DA Questionnaire (OSQ). CLEC attests that it has been provided a copy of the Operator Services OS/DA Questionnaire (OSQ).

4.1.5 A CLEC purchasing SBC-13STATE unbundled local switching is responsible for maintaining CLEC’s End User customer records in SBC-13STATE Line Information Database (LIDB) as described in Appendix LIDB. CLEC’s failure to properly administer customer records in LIDB may result in branding errors.

4.1.6 Multiple Brands:

4.1.6.1 SBC-7STATE can support multiple brands on a single trunk group for a facilities-based CLEC if all End User customer records for all

carriers utilizing the same trunk group are maintained in SBC-7STATE's LIDB.

4.1.7 Branding Load Charges:

4.1.7.1 SBC-SWBT - An initial non-recurring charge applies per state, per brand, per Operator assistance switch, for the establishment of CLEC specific branding. An additional non-recurring charge applies per state, per brand, per Operator assistance switch for each subsequent change to the branding announcement. In addition, a per call charge applies for every DA call handled by SBC-SWBT on behalf of CLEC when such services are provided in conjunction with: i) the purchase of SBC-SWBT unbundled local switching; or ii) when multiple brands are required on a single Operator Services trunk.

4.1.7.2 PACIFIC/NEVADA – An initial non-recurring charge applies per state, per brand, per Operator assistance switch, for the establishment of CLEC specific branding. An additional non-recurring charge applies per state, per brand, per Operator assistance switch for each subsequent change to the branding announcement.

4.1.7.3 SNET – An initial non-recurring charge applies per brand, per load, per Operator assistance switch for the establishment of CLEC specific branding. An additional non-recurring charge applies per brand, per load, per Operator assistance switch for each subsequent change to the branding announcement.

4.1.7.4 SBC-AMERITECH – An initial non-recurring charge applies per brand, per Operator Assistance Switch, per trunk group for the establishment of CLEC specific branding. An additional non-recurring charge applies per brand, per Operator assistance switch, per trunk group for each subsequent change to the branding announcement.

5. **DIRECTORY ASSISTANCE (DA) RATE/REFERENCE INFORMATION**

5.1 Where technically feasible and/or available, SBC-13STATE will provide CLEC DA Rate/Reference Information based upon the criteria outlined below:

5.1.1 CLEC will furnish DA Rate and Reference Information in a mutually agreed to format or media thirty (30) calendar days in advance of the date when the DA Services are to be undertaken.

- 5.1.2 CLEC will inform SBC-13STATE, in writing, of any changes to be made to such Rate/Reference Information fourteen (14) calendar days prior to the effective Rate/Reference change date. CLEC acknowledges that it is responsible to provide SBC-13STATE updated Rate/Reference Information fourteen (14) calendar days in advance of when the updated Rate/Reference Information is to become effective.
- 5.1.3 An initial non-recurring charge will apply per state, per Operator assistance switch for loading of CLEC's DA Rate/Reference Information. An additional non-recurring charge will apply per state, per Operator assistance switch for each subsequent change to either the CLEC's DA Services Rate or Reference Information.
- 5.1.4 When an SBC-13STATE Operator receives a rate request from a CLEC End User, SBC-13STATE will quote the applicable DA rates as provided by CLEC.
- 5.1.4.1 PACIFIC/NEVADA/SBC-AMERITECH – In the interim, when an Operator receives a rate request from a CLEC End User, PACIFIC/NEVADA/SBC-AMERITECH will transfer the CLEC End User to a customer care number specified by the CLEC in the OSQ. When PACIFIC/NEVADA/SBC-AMERITECH has the capability to quote specific CLEC rates and reference information the parties agree that the transfer option will be eliminated.

6. RESPONSIBILITIES OF THE PARTIES

- 6.1 CLEC agrees that due to customer quality and work force schedule issues, SBC-13STATE will be the sole provider of DA Services for CLEC's local serving area(s).
- 6.2 CLEC will be responsible for providing the equipment and facilities necessary for signaling and routing calls with Automatic Number Identification (ANI) to each SBC-13STATE Operator assistance switch. Should CLEC seek to obtain interexchange DA Service from SBC-13STATE, CLEC is responsible for ordering the necessary facilities under the appropriate interstate or intrastate Access Service Tariffs. Nothing in this Agreement in any way changes the manner in which an interexchange Carrier obtains access service for the purpose of originating or terminating interexchange traffic.
- 6.2.1 PACIFIC/NEVADA - Services that require ANI, such as branding and call completion, can not be provided when CLEC utilizes a LISA trunking arrangement. LISA trunks for DA will be eliminated when PACIFIC/NEVADA's 5ACD switches are eliminated. At such time,

CLEC will be responsible for providing direct trunks to each PACIFIC/NEVADA Operator assistance switch.

- 6.3 Facilities necessary for the provision of DA Services shall be provided by the Parties hereto, using standard trunk traffic engineering procedures to insure that the objective grade of service is met. Each Party shall bear the costs for its own facilities and equipment.
- 6.4 CLEC will furnish to SBC-13STATE a completed OSQ thirty (30) calendar days in advance of the date when the DA Services are to be undertaken.
- 6.5 CLEC will provide SBC-13STATE updates to the OSQ fourteen (14) calendar days in advance of the date when changes are to become effective.
- 6.6 CLEC will send the DA listing records to SBC-13STATE for inclusion in SBC-13STATE DA database via electronic gateway as described in Appendix WP.
- 6.7 CLEC agrees that SBC-13STATE may utilize CLEC's End User's listings contained in SBC-13STATE directory assistance database in providing existing and future SBC-13STATE directory assistance or DA related services.
- 6.8 CLEC further agrees that SBC-13STATE can release CLEC's directory assistance listings stored in SBC-13STATE directory assistance database to competing providers.

7. METHODS AND PRACTICES

- 7.1 SBC-13STATE will provide DA Services to CLEC's End Users in accordance with SBC-13STATE DA methods and practices that are in effect at the time the DA call is made, unless otherwise agreed in writing by both parties.

8. PRICING

- 8.1 Pricing for DA Services shall be based on the rates specified in Appendix Pricing. Beyond the specified term of this Appendix, SBC-13STATE may change the prices for the provision of DA Services upon one hundred-twenty (120) calendar days' notice to CLEC.

9. MONTHLY BILLING

- 9.1 For information regarding billing, non-payment, disconnection, and dispute resolution, see the General Terms and Conditions of this Agreement.

- 9.2 SBC-13STATE will accumulate and provide CLEC such data as necessary for CLEC to bill its End Users.

10. LIABILITY

- 10.1 The provisions set forth in the General Terms and Conditions of this Agreement, including but not limited to those relating to limitation of liability and indemnification, shall govern performance under this Appendix.
- 10.2 CLEC also agrees to release, defend, indemnify, and hold harmless SBC-13STATE from any claim, demand or suit that asserts any infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly, or indirectly, by SBC-13STATE employees and equipment associated with provision of DA Services, including but not limited to suits arising from disclosure of the telephone number, address, or name associated with the telephone called or the telephone used to call DA Services.

11. TERMS OF APPENDIX

- 11.1 This Appendix will continue in force for the length of the Interconnection Agreement, but no less than twelve (12) months. At the expiration of the term of the Interconnection Agreement to which this Appendix is attached, or twelve months, whichever ever occurs later, either Party may terminate this Appendix upon one hundred-twenty (120) calendar days written notice to the other Party.
- 11.2 If CLEC terminates this Appendix prior to the expiration of the term of this Appendix, CLEC shall pay SWBT, within thirty (30) days of the issuance of any bills by SBC-13STATE, all amounts due for actual services provided under this Appendix, plus estimated monthly charges for the unexpired portion of the term. Estimated charges will be based on an average of the actual monthly service provided by SBC-13STATE pursuant to this Appendix prior to its termination.

12. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

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

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

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**APPENDIX DAL
(LOCAL DIRECTORY ASSISTANCE LISTINGS)**

1. INTRODUCTION

- 1.1 This Appendix sets forth terms and conditions for which Parties agrees to license its subscriber listing information applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, SBC-13STATE means the applicable above listed ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 As used herein, SBC-SWBT means the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.5 As used herein, SBC-AMERITECH means the applicable above listed ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.6 The prices at which SBC-13STATE agrees to provide CLEC with Directory Assistance Listing (DAL) are contained in the applicable Appendix Pricing and/or the applicable Commissioned ordered tariff where stated.

2. GENERAL TERMS AND CONDITIONS

- 2.1 Where technically feasible and/or available, SBC-13STATE will provide Directory Assistance (listing information referred to as Directory Assistance Listing (DAL) in SBC-SWBT, Directory Assistance Listing Information Service (DALIS) in Pacific and Dialing Parity Directory Listings in SBC-AMERITECH (herein after collectively referred to as DAL):
 - 2.1.1 SBC-13STATE owns and maintains the database containing directory assistance listing information (name, address and published telephone number, or an indication of "non-published status") of telephone subscribers.

- 2.1.2 SBC-13STATE uses the directory assistance listing information in its database to provide directory assistance (DA) service to End User who call SBC-13STATE's DA to obtain such information.
- 2.1.3 Inasmuch as SBC-13STATE provides DA service under contract for Independent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers, (CLECs), SBC-13STATE's database also contains directory assistance listing information for other ILEC and CLEC End Users.
- 2.1.4 CLEC wishes to provide DA service to its End Users located in the CLEC's service area, and therefore, wishes to load its database with directory assistance listing information pertaining to SBC-13STATE's subscribers residing in CLEC's service area(s).
- 2.1.5 SBC-13STATE agrees to license requested directory assistance listing information contained in its database, under the following terms and conditions:
- 2.1.5.1 SBC-13STATE shall license its directory assistance listing information as defined in Exhibit A.
- 2.1.5.2 SBC-13STATE shall provide directory assistance listing information in a mutually acceptable format.
- 2.1.5.3 SBC-13STATE shall provide directory assistance listing information to CLEC via a mutually acceptable mode of transmission. Once the mode of transmission has been determined, SBC13-STATE will provide to CLEC the initial load of directory assistance listing information in a mutually agreed upon timeframe.

2.2 USE OF DIRECTORY ASSISTANCE LISTING INFORMATION

- 2.2.1 CLEC may use the directory assistance listing information licensed and provided pursuant to this Appendix for the sole purpose of providing local DA services to Licensee's End Users residing in Licensor's service area.
- 2.2.2 Upon termination of the Agreement, CLEC shall cease using, for any purpose whatsoever, the directory assistance listing information provided hereunder by SBC-13STATE, and shall extract and expunge all copies or any portions thereof from files and records and provide a certification from an officer of the company that all actions have been performed.