



2351 W. Northwest Hwy, Suite 1204, Dallas, TX 75220

May 12, 2011

**VIA EMAIL & FEDERAL EXPRESS**

W.R. England II  
Brydon, Swearingen & England  
312 East Capitol Ave  
P.O. Box 456  
Jefferson City, Missouri 65102-0456

RE: BPS Telephone Company; Citizens Telephone Company; Craw-Kan Telephone Cooperative, Inc.; Ellington Telephone Co.; Farber Telephone Company; Fidelity Telephone Company; Goodman Telephone Company; Granby Telephone Company; Grand River Mutual Telephone Corporation; Green Hills Telephone Corporation; Holway Telephone Company; Iamo Telephone Corporation; Kingdom Telephone Company; KLM Telephone Company; Lathrop Telephone Company; Le-Ru Telephone Company; Mark Twain Rural Telephone Company; McDonald County Telephone Company; Miller Telephone Company; New Florence Telephone Company; New London Telephone Company; Orchard Farm Telephone Company; Oregon Farmers Mutual Telephone Company; Ozark Telephone Company; Peace Valley Telephone Company, Inc.; Rock Port Telephone Company; Seneca Telephone Company; Steelville Telephone Exchange, Inc.; Stoutland Telephone Company

Dear Mr. England:

Halo Wireless, Inc. has repeatedly informed you of our position that you and your ILEC clients have not properly invoked 47 C.F.R. § 20.11(e). Therefore, the formal "negotiation and arbitration procedures contained in section 252 of the act" cannot begin. In addition, we have advised you that, prior to any state commission filing, your ILEC clients must request that Halo "submit to arbitration by the state commission." Any failure to make this request to Halo means the state commission will lack both subject matter and *in personam* jurisdiction. We do not waive any rights or assertions in our previous correspondence, and we are prepared to assert and defend our positions in any appropriate or contested forum.

Although we maintain that Halo and the parties you represent are not operating in the § 252 context, we acknowledge that you and your clients disagree with us on this point. Despite our legal position, we have consistently expressed a willingness to negotiate over substance. Therefore, without waiver of our primary position, and to continue our good faith efforts to resolve our differences, we are providing a set of terms that implement your ILEC clients' § 251(b) and (c) duties. These terms are presented as a template at this point. When the process completes, an entity-specific execution document specific to each ILEC you represent will be prepared.

The attached Interconnection Agreement (ICA) document does not supply a complete set of terms. Halo requires carrier-specific cost and network information to devise and propose TELRIC-compliant prices along with technically feasible interconnection terms and requirements for each individual ILEC you represent. Assuming *arguendo* that we are within the § 252 process, your ILEC clients have the obligation to produce,<sup>1</sup> this data. Halo, again without waiver of our legal positions specifically requests the following information:

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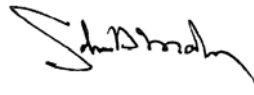
<sup>1</sup> See 47 C.F.R. § 51.301(c)(8)(i) and (ii).

1. Cost studies using TELRIC principles that support each of your ILEC clients' proposed prices for interconnection, traffic exchange, and collocation.
2. For resale, cost studies that reflect your ILEC clients' avoided cost, including the basis for the claims.
3. Cost Studies to support proposed prices and other miscellaneous data necessary to explain specific terms for access to poles, conduits and rights of way in the manner required by 47 C.F.R. § 51.031.
4. The extent to which your ILEC clients' various switches are able to support SIP and gateway capabilities or have IP-based capabilities through some other means.<sup>2</sup>
5. Information about each of your ILEC clients' networks to determine the best means by which Halo can establish a single point of interconnection within each network via direct IP connection.
6. Information related to Internet and IP capabilities and capacity, in and to, your ILEC clients' service areas.

Please advise when we should expect to receive comments to the attached template agreement, and provision of cost and network information. Should there be a need to discuss any of the foregoing, we will be glad to conduct a conference call with the appropriate legal and business representatives at a time and date convenient for both parties.

Thank you.

Sincerely,



John Marks  
General Counsel  
jmarks@halowireless.com

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<sup>2</sup> Your clients have indicated a desire to change the *status quo* indirect interconnection/no compensation arrangements. To the extent there are negotiations over any change, then Halo has changes it will propose as well. One of those changes is to move to direct interconnection using IP. Halo's network is 4G, and uses Internet Protocol. Thus, Halo desires "IP"-based interconnection, and your clients must implement IP-based interconnection unless they can prove it is not technically feasible. The information requests are reasonably calculated to obtain necessary facts regarding capabilities, technical feasibility and, of course, costs.

**Halo will require terms for § 251(c)(4) resale and § 251(c)(6) collocation as well as terms for structure access under §§ 224 and 251(b)(4). These terms cannot be drafted until \_\_\_\_\_ TELEPHONE COMPANY provides the previously requested cost and network information.**

**Halo will seek IP based interconnection terms rather than (or at least in addition to) legacy circuit-switched methods. The markups below do not completely reflect all required edits that will be necessary to implement this interconnection method. IP-based interconnection terms cannot be drafted until \_\_\_\_\_ TELEPHONE COMPANY provides necessary cost and network information and the parties discuss the matter.**

**INTERCONNECTION AGREEMENT**

**By and Between**

**HALO WIRELESS, INC.**

**and**

\_\_\_\_\_ **TELEPHONE COMPANY TELEPHONE COMPANY**

**In the State of**

\_\_\_\_\_

### INTERCONNECTION AGREEMENT

This Interconnection Agreement (“Agreement”) is by and between \_\_\_\_\_ Telephone Company Telephone Company (“\_\_\_\_\_ TELEPHONE COMPANY”) and Halo Wireless, Inc. (“HALO”). \_\_\_\_\_ TELEPHONE COMPANY and HALO are referred to individually as “Party” and together as “Parties” to this Agreement.

WHEREAS, \_\_\_\_\_ TELEPHONE COMPANY is an Incumbent Exchange Carrier (“ILEC”) in the State of \_\_\_\_\_ that provides telephone exchange service and exchange access;

WHEREAS, HALO is licensed by the Federal Communications Commission (“FCC”) as a Commercial Mobile Radio Service Provider that provides telephone exchange service and exchange access;

WHEREAS, the Parties wish to put in place an arrangement for the transmission and routing of telephone exchange service and exchange access and for transport and termination of Telecommunications Traffic and Jointly Provided Access in accordance with the Act and FCC Rules;

WHEREAS, the Parties agree that there are only two traffic types: Telecommunications Traffic and Jointly Provided Exchange Access traffic.

WHEREAS, the parties have agreed to other terms relating to resale of telecommunications service that \_\_\_\_\_ TELEPHONE COMPANY provides at retail to subscribers who are not telecommunications carriers; collocation of equipment at \_\_\_\_\_ TELEPHONE COMPANY’s premises that is necessary for Halo to interconnect; and access by Halo to poles, ducts, conduits, and rights-of-way of \_\_\_\_\_ TELEPHONE COMPANY on rates, terms, and conditions that are consistent with section 224.

WHEREAS, the Parties agree that their entry into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters related to the same types of arrangements covered in this Agreement;

WHEREAS, \_\_\_\_\_ TELEPHONE COMPANY in accordance with § 251(b) and (c) and § 252(d) of the Act and HALO have specific requirements, and the Parties intend that this Agreement meets these requirements;

WHEREAS, the parties mutually intend to implement terms and conditions that fully and without exception implement the standards in the Act and FCC rules, and are not in any way intending to “enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251” as allowed by § 252(a)(1) of the Act. Nor has either party agreed to negotiate terms without regard to such standards.

NOW, THEREFORE, in consideration of the foregoing and the undertakings contained herein, \_\_\_\_\_ TELEPHONE COMPANY and HALO agree as follows:

This Agreement sets forth the terms, conditions and prices under which the Parties agree to implement \_\_\_\_\_ TELEPHONE COMPANY’s duties under § 251 and 252 of the Act.

Except as otherwise expressly provided for herein, this Agreement has no effect on the services either Party chooses to offer to its respective Customers, the rate levels or rate structures that either Party charges its Customers for services, or the manner in which either Party provisions or routes the services either Party provides to its respective Customers.

## 1.0 Definitions

Definitions of the terms used in this Agreement are listed below. The Parties agree that certain terms may be defined elsewhere in this Agreement, as well. Terms not defined herein but used herein will have the same meaning as in the Communications Act and/or FCC rules. Terms used in the singular will include the plural and vice-a-versa.

- 1.1 “Act” means the Communications Act of 1934 (47 U.S.C. Section 151 *et. seq.*), as amended.
- 1.2 “Base Station Site” is the location of radio transmitting and receiving facilities associated with CMRS service to a Customer. The Base Station will constitute the Halo origination and termination point, and may also be used as a point of interconnection to the landline network.
- 1.3 “Carrier” refers to a “telecommunications carrier” as defined in 47 U.S.C. § 153(44).
- 1.4 “Commercial Mobile Radio Service” or “CMRS” is defined in 47 U.S.C 332(d)(1).
- 1.5 “Commission” means the Public Utility Commission of \_\_\_\_\_.
- 1.6 “Conversation Time” means the time consumed by a completed call, beginning when the terminating recording switch receives answer supervision, or its IP equivalent, and ending when a Party’s switch, or its IP equivalent, receives sends a release message or, whichever occurs first. Conversation minutes will be summed for a billing period, and then rounded up to the next full minute.
- 1.7 “Customer” means an entity that subscribes to a Party’s service as a customer. A “Customer” may be a “Carrier” or an “End User.” Generally speaking, a Carrier Customer will be a user of Jointly Provided Access. As used herein, “Customer” does not include any of the Parties to this Agreement with respect to the fulfillment of duties under this Agreement.
- 1.8 “Direct Interconnection” means a direct physical Interconnection between \_\_\_\_\_ TELEPHONE COMPANY’s network and HALO’s network. Direct Interconnection will occur at a point within a \_\_\_\_\_ TELEPHONE COMPANY certificated service area.
- 1.9 “End Office Switch” is a \_\_\_\_\_ TELEPHONE COMPANY Class 5 switch that provides connections to lines or trunks.
- 1.10 “Exchange Access” is as defined at 47 U.S.C. § 153(16).
- 1.11 “FCC” means the Federal Communications Commission.
- 1.12 “Incumbent Exchange Carrier” or “Incumbent LEC” has the meaning given the term in the Act.
- 1.13 “Indirect Interconnection” refers to a network arrangement in which the networks of the Parties are connected through a third party carrier’s switching and transport facilities.
- 1.14 “Indirect Traffic” is traffic, which is originated by one Party and terminated by the other Party using a third party carrier’s switching and transport facilities.
- 1.15 “Interconnection” shall be as defined in 47 C.F.R. § 51.5.
- 1.16 “InterMTA Traffic” means all calls that originate in one MTA and terminate in another MTA.

- 1.17 “IntraMTA Traffic” means all calls that originate and terminate in the same MTA, regardless of whether a call is routed or handled by an intermediary third party Telecommunications Carrier, and without regard to the dialing pattern used by the Customer (*e.g.*, 7-digits, 10-digits, or “1+”).
- 1.18 “Internet Protocol or “IP” is a packet-switched architecture, in which data containing a source address and destination address is handed over to a data link layer protocol, such as Ethernet, for the actual, physical transmission to the next node in a network path. IP is the primary network protocol used on the Internet.
- 1.19 “ISDN User Part” or “ISUP” is the functional part of the Signaling System No. 7 (SS7) protocol, i.e., the part that specifies the interexchange signaling procedures for the set up and tear down of trunk calls between networks for calls over Public Switched Telephone Networks.
- 1.20 “Jointly Provided Exchange Access” means the situation where both Parties are collaborating to provide Exchange Access to a third party IXC or access customer. One Party will be directly connected to the third party IXC or access customer and a Customer of the other Party is attempting to make a Telephone Toll Service call using the third party IXC, or the third party IXC is attempting to complete a Telephone Toll Service call to the Customer of the other Party.
- 1.21 “Local Exchange Carrier” or “LEC” has the meaning given the term in the Act.
- 1.22 “Major Trading Area” (“MTA”) means Major Trading Area as defined by the FCC in 47 C.F.R § 24.202(a).
- 1.23 “Mobile Application Part” or “MAP” is an application layer set of call processing messages via SS7 protocol which provides for setup and control of wireless calls via the public switched telephone network. The Mobile Application Part is the application-layer protocol used to access the Home Location Register, Visitor Location Register, Mobile Switching Center, Equipment Identity Register, Authentication Centre, Short message service center and Serving Global Positioning Support Node.“
- 1.24 “Mobile Switching Center” or “MSC” is a switching facility that performs the switching for calls among and between CMRS subscribers and subscribers in other networks, including those that are a part of the Public Switched Network.
- 1.25 “Originating Point” and “Terminating Point.” The originating or terminating point for \_\_\_\_\_ TELEPHONE COMPANY shall be the end office serving the calling or called party. The originating or terminating point for HALO shall be the base station site which services the Halo customer at the beginning of the call.
- 1.26 “Originating Line Information Parameter “ or “OLIP” conveys information about the originator of a call through the signaling network.
- 1.27 “Party” means either HALO or \_\_\_\_\_ TELEPHONE COMPANY, and “Parties” means HALO and \_\_\_\_\_ TELEPHONE COMPANY.
- 1.28 “Point of Interconnection” or “POI” for Direct Interconnection means a physical location within \_\_\_\_\_ TELEPHONE COMPANY’s network which establishes the technical interface and point(s) for operational division of responsibility and the location where each Party’s financial responsibility for facilities begins and ends. For Indirect Interconnection, the POI will be the location where a terminating Party receives a call from the Tandem Provider.

- 1.29 “Private IP-Based Interconnection or Network” shall mean dedicated private IP access and transit service(s) establishing connectivity between the parties’ respective IP networks.
- 1.30 “Public IP-Based Interconnection or Network” shall mean IP access and transit services establishing connectivity between the parties’ respective IP networks where the parties rely on the public Internet for connectivity.
- 1.31 “Public Switched Network” is as defined in 47 C.F.R. § 20.3
- 1.32 “Reciprocal Compensation” refers to charges related to traffic subject to § 251(b)(5) and established consistent with § 252(d)(2) of the Act.
- 1.33 “Session Initiation Protocol” or “SIP” is an open network peer-to-peer communications IP protocol commonly employed for Voice over IP (VoIP) signaling, that is designed to support the traditional calling features of telecommunications services.
- 1.34 “Short Message Peer-to-Peer Protocol” or “SMPP” is an open, industry standard protocol designed to provide a flexible data communications interface for transfer of short message service across servers and gateways in the SMS network.
- 1.35 “Short Message Service” or “SMS” is a communication service component of the wireless communication network using standardized communications protocols that allow the exchange of short text messages.
- 1.36 “Tandem” means a switching system that provides a concentration and distribution function for originating or terminating traffic between end offices, MSCs, and other tandems.
- 1.37 “Telecommunications” is as defined in Section 153(43) of the Act.
- 1.38 “Telecommunications Carrier” is as defined in Section 153(44) of the Act.
- 1.39 “Telecommunications Traffic” has the meaning set out in 47 C.F.R. § 51.701(b)(2).
- 1.40 “Telephone Exchange Service” is as defined in Section 153(47) of the Act.
- 1.41 “Telephone Toll Service” is as defined in Section 153(48) of the Act.
- 1.42 “Termination” is as defined at 47 C.F.R. § 51.701(d).
- 1.43 “Third Party Provider” shall mean any other telecommunications carrier, including, without limitation, interexchange carriers, independent telephone companies, or competitive LECs.
- 1.44 “Transiting Traffic” in this Agreement refers to Telecommunications Traffic that originates on one Party’s network, transits a Tandem provider’s network, and terminates on the other Party’s network.
- 1.45 “Transport” is as defined in 47 C.F.R. § 51.701(c).
- 1.46 “Trunk Side” is the connection of a transmission path between two switching system.
- 1.47 “Voice over Internet Protocol” or “VoIP” is a general term for a family of transmission technologies for delivery of voice communications over IP networks such as the Internet or other packet-switched networks.

## 2.0 Scope

This Agreement sets forth the terms, conditions, and rates under which the \_\_\_\_\_ TELEPHONE COMPANY will fulfill its duties under §§ 251 and 252 of the Act.

- 2.1 HALO represents that it is a CMRS provider in MTA Number. \_\_\_\_\_ HALO'S NPA/NXXs are listed in Telcordia's Local Exchange Routing Guide ("LERG") for Operating Company Number(s) ("OCN") 429F in the State of \_\_\_\_\_.
- 2.2 TELEPHONE COMPANY represents that it is an Incumbent LEC and provides services to Customers in MTA Number \_\_\_\_\_. \_\_\_\_\_ TELEPHONE COMPANY'S NPA/NXXs are listed in the LERG under OCN \_\_\_\_\_.
- 2.3 Each Party is responsible for testing, loading, programming and updating its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose fees or charges on the other Party for such activities.
- 2.4 \_\_\_\_\_ TELEPHONE COMPANY shall provide dialing parity as required by § 251(b)(3) so as to permit its Customers within the MTA to dial the same number of digits to make a Telecommunications Traffic call as are dialed to make a Telephone Exchange Service call.

### 3.0 Interconnection of the Parties' Facilities

This Section describes the network architecture with which the Parties to this Agreement may Interconnect their respective networks for the transmission and routing of Telephone Exchange Service and Exchange Access.

- 3.1 Indirect Interconnection. Where Direct Interconnection has not been established the Parties may deliver Telecommunications Traffic originated on their networks through a Tandem provider. The originating Party is responsible for payment of any Tandem provider transit charges.
- 3.2 Direct Interconnection
  - 3.2.1 Point of Interconnection. HALO will establish a single POI at a technically feasible point on \_\_\_\_\_ TELEPHONE COMPANY'S network, including but not limited to the required minimal list of points stated at 47 C.F.R. § 51.305(a)(2).
  - 3.2.2 Each Party shall be responsible for the facilities on its side of the POI. Either Party may, at their sole discretion, lease facilities from the other Party, as needed, to reach the POI. Prices applied for such leased facilities between the parties shall be TELRIC-based. Either Party may also lease facilities from third party providers in order to reach the POI.
  - 3.2.3 HALO may elect to use IP-based technologies to establish Direct Interconnection with \_\_\_\_\_ TELEPHONE COMPANY. In that event, the terms related to POI above will still apply, with the addition of the option for Halo to elect either Public or Private IP-Based Direct Interconnection.
    - 3.2.3.1 Public IP-Based Interconnection. If Halo elects to utilize Public IP-Based Direct Interconnection, each Party will provide the other Party with two (2) globally-unique public IP addresses; one (1) for



the delivery of Telecommunications Traffic and one (1) for the delivery of Jointly Provided Exchange Access. Each Party remains responsible for the facilities between the POI and each globally-unique public IP address it provides under this section.

3.2.3.2 Private IP-Based Interconnection. If Halo elects to utilize Private IP-Based Direct Interconnection, each Party will provide the other Party with two (2) locally-unique IP addresses; one (1) for the delivery of Telecommunications Traffic and one (1) for the delivery of Jointly Provided Exchange Access. These addresses may be either globally-unique public IP addresses or locally-significant private IP addresses, provided they are locally-unique at the POI. Each Party remains responsible for the facilities between the POI and each locally-unique IP address it provides under this section.

3.2.4 If HALO elects to use legacy SS7-based technologies to establish Direct Interconnection, the parties will establish 2-way trunks that connect the Parties' switching systems. Separate trunk groups will be established for (i) Telecommunications Traffic and (ii) meet-point trunks for Jointly Provided Exchange Access traffic. All SS7-based trunk groups shall be provisioned as two-way.

3.2.5 Regardless of the interconnection form that is employed, the same facilities may be used for both Telecommunications Traffic and Jointly Provided Exchange Access, with the traffic segregated by type as set forth above.

3.3 [RESERVED FOR MORE PHYSICAL INTERCONNECTION TERMS FOR BOTH SS7 AND IP; PENDING RECEIPT OF COST/NETWORK INFORMATION]

3.4 Technical Requirements and Standards

3.4.1 \_\_\_\_\_ TELEPHONE COMPANY will fulfill its duties under this Agreement at standards at least equal in quality and performance to those which \_\_\_\_\_ TELEPHONE COMPANY provides itself and others. HALO may request that \_\_\_\_\_ TELEPHONE COMPANY provide or fulfill a duty at a lesser quality.

3.4.2 Nothing in this Agreement will limit either Party's ability to modify its network, including, without limitation, the incorporation of new equipment, new software or otherwise provided, neither Party shall modify its network to the extent such modification will disrupt or degrade the other Party's use of the network. Each Party will provide the other Party reasonable written notice, of any such modifications to its network, which will materially impact the other Party's service. Each Party will be solely responsible, at its own expense, for the overall design of its telecommunications services and for any redesigning or rearrangement of its telecommunications services which may be required as a consequence of this Agreement, including, without limitation, changes in facilities, operations or procedures, minimum network protection criteria, or operating or maintenance characteristics of facilities.

3.4.3 If the parties agree to employ IP-based interconnection, the parties agree to adopt and use common industry technical requirements and standards,

including those relating to call flows, media management, signaling methods and protocols, routing algorithms, privacy types, codecs supported, among others.

#### 4.0 Traffic Routing

4.1 The Parties agree that Telecommunications Traffic and Jointly Provided Exchange Access traffic will be routed consistent with industry guidelines (including those related to IP-based Interconnection), unless required by this Agreement or the Parties mutually agree to a different routing.

#### 4.2 Signaling

4.2.1 Each Party will provide call control signaling in accordance with industry standards and applicable regulatory rules, including but not limited to 47 C.F.R. § 64.1601. Pending promulgation of final rules, the Parties will apply and use the proposed signaling rules set out in NPRM and FNPRM, *Connect America Fund et al.*, WC Docket Nos. 10-90 *et al.*, FCC 11-13, \_ FCC Rcd. \_ (Feb. 9, 2011) and published at 76 Fed. Reg. 11632 (March 2, 2011).

4.2.2 If the Parties connect using SS7-based technologies they will follow applicable industry standards including: ISDN User Part (“ISUP”) for trunk signaling; Transaction Capabilities Application Part (“TCAP”) for Common Channel Signaling (CCS)-based features; and, the Parties will mutually interwork the Mobile Application Part (“MAP”) for, among other things, user authentication, roaming, and SMS functionality.

4.2.3 If the Parties connect using IP-based technologies they will follow applicable industry standards including Session Initiation Protocol (“SIP”) for call control, signaling, and support of features. In addition, the Parties will mutually interwork the Short Message Peer-to-Peer Protocol (“SMPP”) to support SMS functionality.

4.2.4 IP-based and/or SS7 call control related information shall be shared between the Parties at no charge to either Party.

#### 5.0 Reciprocal Compensation

5.1 Rates - HALO and \_\_\_\_\_ TELEPHONE COMPANY shall reciprocally compensate one another for the transport and termination of Telecommunications Traffic at the prices specified in Appendix A.

5.2 Billing Increments – Billed minutes will be based upon Conversation Time (a) from actual usage recordings by the Parties, or (b) records provided by a Tandem provider.

#### 6.0 Jointly Provided Exchange Access

6.1 The Parties will establish Meet Point Billing (MPB) arrangements for Jointly Provided Exchange Access in accordance with the MPB guidelines contained in the Ordering and Billing Forum’s MECOD and MECAB documents as amended from time to time. Except as modified herein, MPB will be determined during joint network planning.

6.2 As detailed in the MECAB document, the Parties will exchange all information necessary to accurately, reliably and promptly bill third parties for Jointly Provided Exchange Access traffic handled by the Parties via the MPB arrangement. The

exchange of Access Usage Records (AURs) to accommodate meet point billing will be on a reciprocal, no charge basis. Each Party agrees to provide the other Party with AURs based upon mutually agreed upon intervals.

- 6.3 Billing via the MPB arrangement will be according to the multiple bill single tariff method. As described in the MECAB document each Party will render a bill for its portion of the service, using its own Exchange Access rates, to the Exchange Access Customer.
- 6.4 MPB will also apply to all jointly provided traffic bearing the 900 or toll free NPAs, (e.g., 800, 877, 866, and 888 NPAs or any other non-geographic NPAs) which may likewise be designated for such traffic. The Party that performs the SSP function (launches the query to the 800 database) will bill the 800 Service Provider for this function.
- 7.0 911/E911.
- The Parties agree that this Agreement does not provide for the exchange of 911/E911 traffic.
- 8.0 **HALO WILL PROPOSE RESALE TERMS AFTER RECEIPT OF THE PREVIOUSLY REQUESTED INFORMATION**
- 9.0 **HALO WILL PROPOSE STRUCTURE TERMS AFTER RECEIPT OF THE PREVIOUSLY REQUESTED INFORMATION**
- 10.0 **HALO WILL PROPOSE COLLOCATION TERMS AFTER RECEIPT OF THE PREVIOUSLY REQUESTED INFORMATION**
- 11.0 Audits
- 11.1 The Parties will be responsible for the accuracy and quality of the data as submitted to the other Party. Either Party or its authorized representative may conduct an audit of the other Party's books and records pertaining to the services provided under this Agreement not more than once per twelve (12) month period to evaluate the other Party's accuracy of billing, data and invoicing in accordance with this Agreement.
- 11.2 Any audit will be performed as follows: (a) following at least sixty (60) business days prior written notice to the audited Party, (b) subject to the reasonable scheduling requirements and limitations of the audited Party, (c) at the auditing Party's sole expense, (d) of a reasonable scope and duration, (3) in a manner so as not to interfere with the audited Party's business operations, and (f) in compliance with the audited Party's security rules.
- 11.3 Adjustments, credits or payments shall be made and corrective action taken shall commence within thirty (30) Days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such audit and are agreed to by the Parties.
- 11.4 The review will consist of an examination and verification of data involving records, systems, procedures and other information related to the services performed by the Party as related to settlement charges or payments made in connection with this Agreement. Each Party, whether or not in connection with an on-site verification review, shall maintain reasonable records for a minimum of twenty-four (24) months and provide the other Party with reasonable access to such

information as is necessary to determine amounts receivable or payable under this Agreement.

- 11.5 Either Party’s right to access information for verification review purposes is limited to data not in excess of twenty-four (24) months in age. Once specific data has been reviewed and verified, it is unavailable for future reviews. Any items not reconciled at the end of a review will, however, be subject to a follow-up review effort. Any retroactive adjustments required subsequent to previously reviewed and verified data will also be subject to follow-up review. Information of the Party involved with a verification review shall be subject to the confidentiality provisions of this Agreement.
- 11.6 The Party requesting a verification review shall fully bear its costs associated with conducting a review. The Party being reviewed will provide access to required information, as outlined in this Section, at no charge to the reviewing Party.

12.0 Billing

- 12.1 Billing shall be based on terminating usage recordings where technically possible. For arrangements involving a Tandem provider, billing shall be based on the information provided by the Tandem provider, subject to each Party’s right to challenge, correct, audit and amend billings within 12 months if and to the extent that the Tandem provider’s records prove to be unreliable. If either Party asserts that the Tandem provider’s records are not reliable, the challenging Party shall provide notice to the other Party and each Party shall cooperate using any available means to verify the Tandem provider’s records.

For Billing invoices or questions:

HALO  <u>OCN 429F</u>  Halo Wireless, Inc. Attn: Jason Menard 2351 West Northwest Hwy Site 1204 Dallas, TX 75220 214-447-7310 (phone) 817-338-3777 (facsimile)	_____ TELEPHONE COMPANY <u>OCN xxxx</u>  _____, Authorized Representative <u>Address</u> <u>City</u> , State ZIP xxx-xxx-xxxx (phone) xxx-xxx-xxxx (facsimile)
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- 12.2 When Indirect Interconnection is used and if the terminating Party is unable to use its terminating records or the Tandem provider’s records as the basis for billing Reciprocal Compensation, the terminating Party may request that the originating Party provide sufficient call detail to generate a bill.
- 12.3 The Parties shall pay each other within forty-five (45) days from the date of the billing statement, unless a Party timely submits a billing dispute. The Parties shall pay a late charge on any undisputed charges, which are not paid within the forty-five (45)-day period. The rate of the late charge shall be the lesser of one and one half percent (1.5%) per month, compounded monthly, on the unpaid balance or the maximum amount allowed by law.

- 12.4 If either Party disputes a billing statement issued by the other Party, the disputing Party shall notify the billing Party in writing regarding the nature and the basis of the dispute within sixty (60) days of the statement date, or the dispute shall be waived. The Parties shall diligently work toward resolution of all billing issues.
- 12.5 A Party must submit billing disputes to the other Party as to any previously paid undisputed amounts within twenty-four (24) months from the due date of the original amount paid.
- 12.6 All charges for services provided pursuant to this Agreement shall be billed within one (1) year from the time the service was provided. Charges for services provided pursuant to this Agreement which are not billed within one year from the time the service was provided shall be deemed to be waived by the billing party.
- 12.7 If Telecommunications Traffic does not exceed one thousand (1,000) minutes of use in a billing month, the Parties agree that the volume of traffic will be deemed *de minimis* for that month and neither Party will bill the other for any such *de minimis* traffic.
- 13.0 Network Maintenance and Management for Direct Interconnection
- 13.1 Each Party is individually responsible to provide the facilities that are necessary for routing, transporting, measuring and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the prescribed format, and to terminate the traffic it receives in the prescribed format to the proper address on its network.
- 13.2 SS7-Based Interconnection. All interconnection facilities supporting SS7-based interconnection will be at a DS1 level, multiple DS1 level, or DS3 level and will conform to industry standards. SS7-based two-way trunks will be engineered to a P.01 grade of service. (The technical reference for SS7 based DS1 facilities is Telcordia TR-NWT-000499. The technical reference for SS7 based trunks is Telcordia TR-NPL-000145.)
- 13.2.1 IP-Based Interconnection. All interconnection facilities supporting IP-based interconnection will be at a bandwidth equal to or great than a DS1 level and will conform to industry standards. IP-based trunks will be engineered to a P.01 grade of service.
- 13.2.2 The Parties will work cooperatively to install and maintain a reliable network. The Parties will exchange appropriate information (*e.g.*, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, etc.) to achieve this desired reliability, subject to the confidentiality provisions herein.
- 13.2.3 The Parties shall each provide a 24-hour contact number for network traffic management issues to the other's surveillance management center. A FAX number must also be provided to facilitate notifications for planned mass calling events.
- 13.2.4 Neither Party will use any service provided under this Agreement in a manner that impairs the quality of service to Customers, causes electrical hazards to either Party's personnel; or, damage to either Party's equipment or malfunction of either Party's equipment (individually and collectively, "Network Harm"). If a Network Harm will occur, or if a Party reasonably

determines that a Network Harm is imminent, such Party will, where practicable, notify the other Party that temporary discontinuance or refusal of continued operation may be required; provided, however, wherever prior notice is not practicable, such Party may temporarily discontinue or refuse operation forthwith, if such action is reasonable under the circumstances. In case of such temporary discontinuance or refusal, such Party will:

13.2.4.1 Promptly notify the other Party of such temporary discontinuance or refusal;

13.2.4.2 Afford the other Party the opportunity to correct the situation which gave rise to such temporary discontinuance or refusal; and,

13.2.4.3 Inform the other Party of its right to bring a complaint to the Commission, FCC, or a court of competent jurisdiction.

13.3 Maintenance of Service - When one Party reports trouble to the other Party for clearance and no trouble is found in the second Party's network, the reporting Party shall be responsible for payment of a Maintenance of Service Charge for the period of time when the second Party's personnel are dispatched. In the event of an intermittent service problem that is eventually found to be in the second Party's network, the reporting Party shall receive a credit for any Maintenance of Service Charges applied in conjunction with this service problem.

13.3.1 If a Party reports trouble to the other Party for clearance and the other Party's personnel are not allowed access to the reporting Party's premises, the Maintenance of Service Charge will apply for the time that the non-reporting Party's personnel are dispatched; provided that the Party's have arranged a specific time for the service visit.

#### 14.0 Number Portability

14.1 The Parties will follow and implement the FCC's Local Number Portability (LNP) rules, and mutually support LNP. LNP orders will be exchanged using industry standard forms. Neither Party shall require any information in addition to that prescribed by current FCC rules and decisions.

14.2 When a Party ports a Customer's telephone number to its switch, that Party shall become responsible for the Customer's E911 record and other Telecommunications-related items.

14.3 Neither Party will charge the requesting Party for LSRs or the associated Customer Service Records (CSRs).

14.4 Some of the Telecommunications Traffic to be exchanged under this Agreement may be destined for telephone numbers that have been ported out by one or the other Party to a third party network. In such cases, the N-1 carrier has the responsibility to determine if a query is required, to launch the query, and to route the call to the appropriate switch or network.

14.5 The Parties shall perform LNP database query, routing, and transport in accordance with rules and regulations as prescribed by the FCC and the FCC approved guidelines of the North American Number Council ("NANC").

14.6 For purposes of this Agreement, the Parties agree to fulfill their N-1 carrier responsibilities and perform queries on calls to telephone numbers within NXXs

that have been designated as portable. Neither Party shall default route unqueried traffic that should be routed to a third party telecommunications carrier to the other Party, with the result that the other Party must then reroute to the proper network for termination. If and to the extent a Party fails to perform a query and a call is default routed to the other Party, the other Party may assess, and the default routing Party shall pay, the default routing charge stated in Appendix A.

## 15.0 Liability and Indemnification

- 15.1 Except as otherwise expressly provided neither Party shall bear any responsibility for the Interconnection, functions, products and services provided by the other Party, its agents, subcontractors, or others retained by such parties.
- 15.2 Each Party shall be indemnified and held harmless by the other Party against claims, losses, suits, demands, damages, costs, expenses, including reasonable attorney's fees ("Claims"), asserted, suffered, or made by third parties arising from (i) any act or omission of the indemnifying Party in connection with its performance or non-performance under this Agreement; (ii) actual or alleged infringement by the indemnifying Party of any patent, trademark, copyright, service mark, trade name, trade secret or intellectual property right (now known or later developed), and (iii) provision of the indemnifying Party's services or equipment, including but not limited to claims arising from the provision of the indemnifying Party's services to its Customers (e.g., claims for interruption of service, quality of service or billing disputes). Each Party shall also be indemnified and held harmless by the other Party against Claims of persons for services furnished by the indemnifying Party or by any of its subcontractors, under worker's compensation laws or similar statutes.
- 15.3 A Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any claim or loss arising from the Indemnifying Party's use of Interconnection, functions, products and duties provided under this Agreement involving:
- 15.3.1 any Claim for libel, slander, invasion of privacy, or infringement of intellectual property rights arising from the Indemnifying Party's or its Customer's use.
- 15.3.2 any claims, demands or suits that asserts any claim for libel, slander, infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly or indirectly, by the other Party's employees and equipment associated with the provision of any service herein. The foregoing includes any Claims or losses arising from disclosure of any Customer-specific information associated with either the originating or terminating numbers used to provision Interconnection, functions, products or duties provided hereunder and all other Claims arising out of any act or omission of the Customer in the course of using any Interconnection, functions, products or services provided pursuant to this Agreement.
- 15.3.3 Any and all penalties imposed on either Party because of the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (CALEA); provided that the Indemnifying Party shall also, at its sole cost and expense, pay any amounts necessary to modify or replace any equipment, or services provided to the Indemnified

Party under this Agreement to ensure that such equipment, and services fully comply with CALEA.

- 15.4 Except as provided in this Agreement, neither Party makes any warranty, express or implied, concerning either Party's (or any third party's) rights with respect to intellectual property (including without limitation, patent, copyright and trade secret rights) or contract rights associated this Agreement.
- 15.5 Each Party ("Indemnifying Party") shall reimburse the other Party ("Indemnified Party") for damages to the Indemnified Party's equipment, Interconnection trunks and other property used pursuant to this Agreement caused by the negligence or willful act of the Indemnifying Party, its agents, subcontractors or Customer or resulting from the Indemnifying Party's improper use, or due to malfunction of any functions, products, duties or equipment provided by any person or entity other than the Indemnified Party. Upon reimbursement for damages, the Indemnified Party will cooperate with the Indemnifying Party in prosecuting a claim against the person causing such damage. The Indemnifying Party shall be subrogated to the right of recovery by the Indemnified Party for the damages to the extent of such payment.
- 15.6 Indemnification Procedures
- 15.6.1 Whenever a claim shall arise for indemnification, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.
- 15.6.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party. If and to the extent the Indemnifying Party must seek intervention or other participation in a judicial or regulatory proceeding, the Indemnified Party shall support the Indemnifying Party's intervention.
- 15.6.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.
- 15.6.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such Claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.



- 15.6.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.
- 15.6.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.
- 15.6.7 If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.
- 15.6.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.
- 15.6.9 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 9.
- 15.7 Apportionment of Fault. Except for losses alleged or claimed by a Customer of either Party and except as otherwise provided in this Agreement, in the case of any loss alleged or claimed by a third party arising out of the negligence or willful misconduct of both Parties, each Party shall bear, and its obligation under this Section shall be limited to, that portion of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.
- 15.7.1 The Parties are not liable for any act or omission of Third Party Providers.
- 15.7.2 Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.
- 15.8 No Consequential Damages

Neither \_\_\_\_\_ TELEPHONE COMPANY nor HALO shall be liable to the other Party for any indirect, incidental, consequential, reliance, or special damages suffered by such other Party (including, without limitation, damages for harm to business, lost revenues, lost savings, or lost profits suffered by such other party), regardless of the form of action, whether in contract, warranty, strict liability, or tort, including, without limitation, negligence whether active or passive, and regardless of whether the parties knew of the possibility that such damages could result. Each Party hereby releases the other Party (and such other Party's subsidiaries and affiliates and their respective officers, directors, employees and agents) from any such claim. Nothing contained in this section will limit either Party's liability to the other for (i) willful or intentional misconduct (including gross negligence) or (ii) bodily injury, death, or damage to tangible real or tangible personal property to the extent proximately caused by \_\_\_\_\_ TELEPHONE COMPANY's or HALO'S negligent act or omission or that of their respective agents, subcontractors or employees, nor will anything contained in this section limit the Parties' indemnification obligations, as specified herein.

#### 16.0 Confidentiality and Proprietary Information

- 16.1 For the purposes of this Agreement, Confidential Information ("Confidential Information") means confidential or proprietary technical or business information given by one Party (the "Discloser") to the other (the "Recipient"). All information which is disclosed by one Party to the other in connection with this Agreement, during negotiations and the term of this Agreement will not be deemed Confidential Information to the Discloser and subject to this Section 10, unless the confidentiality of the information is confirmed in writing by the Discloser prior to disclosure. The Recipient agrees (i) to use Confidential Information only for the purpose of performing under this Agreement, (ii) to hold it in confidence and disclose it to no one other than its employees having a need to know for the purpose of performing under this Agreement, and (iii) to safeguard it from unauthorized use or discloser using at least the same degree of care with which the Recipient safeguards its own Confidential Information. If the Recipient wishes to disclose the Discloser's Confidential Information to a third-party agent or consultant, such disclosure must be agreed to in writing by the Discloser, and the agent or consultant must have executed a written agreement of nondisclosures and nonuse comparable in scope to the terms of this section.
- 16.2 The Recipient may make copies of Confidential Information only as reasonably necessary to perform its obligations under this Agreement. All such copies will be subject to the same restrictions and protections as the original and will bear the same copyright and proprietary rights notices as are contained on the original.
- 16.3 The Recipient agrees to return all Confidential Information in tangible form received from the Discloser, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, or to destroy all such Confidential Information if directed to do so by Discloser except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement; the Recipient shall certify destruction by written letter to the Discloser. If either Party loses or makes an unauthorized disclosure of the Party's Confidential Information, it will notify such other Party immediately and use its best efforts to retrieve the lost or wrongfully disclosed information.

- 16.4 The Recipient shall have no obligation to safeguard Confidential Information: (i) which was in the possession of the Recipient free of restriction prior to its receipt from the Discloser; (ii) after it becomes publicly known or available through no breach of this Agreement by the Recipient; (iii) after it is rightfully acquired by the Recipient free of restrictions on its discloser; (iv) after it is independently developed by personnel of the Recipient to whom the Discloser's Confidential Information had not been previously disclosed. In addition, either Party will have the right to disclose Confidential Information to any mediator, arbitrator, state or federal regulatory body, or a court in the conduct of any mediation, arbitration or approval of this Agreement, as long as, in the absence of an applicable protective order, the Discloser has been previously notified by the Recipient in time sufficient for the Recipient to undertake all lawful measures to avoid disclosing such confidential information and for Discloser to have reasonable time to seek or negotiate a protective order before or with any applicable mediator, arbitrator, state or regulatory body or a court.
- 16.5 The Parties recognize that an individual Customer may simultaneously seek to become or be a Customer of both Parties. Nothing in this Agreement is intended to limit the ability of either Party to use customer-specific information lawfully obtained from Customers or sources other than the Discloser.
- 16.6 Each Party's obligations to safeguard Confidential Information disclosed prior to expiration or termination of this Agreement will survive such expiration or termination.
- 16.7 No license is hereby granted under any patent, trademark, or copyright, nor is any such license implied solely by virtue or the disclosure of any Confidential Information.
- 16.8 Each Party agrees that the Discloser may be irreparably injured by a disclosure in breach of this Agreement by the Recipient or its representatives and the Discloser will be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach or threatened breach of the confidentiality provisions of this Agreement. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement, but will be in addition to all other remedies available at law or in equity.
- 17.0 Publicity
- 17.1 The Parties agree not to use in any advertising or sales promotion, press release or other publicity matter any endorsement, direct or indirect quote, or picture implying endorsement by the other Party or any of its employees without such Party's prior written approval. The Parties will submit to each other for written approval, and obtain such approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied.
- 17.2 Neither Party will offer any services using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of the other Party or its affiliates without the other Party's written authorization.
- 18.0 Dispute Resolution
- 18.1 Finality of Disputes – Except as provided in 8.2, no claims shall be brought for disputes arising from this Agreement more than twenty-four (24) months from the

date of occurrence which gives rise to the dispute, or beyond the applicable statute of limitations, whichever is shorter.

18.2 Alternative to Litigation - The Parties desire to resolve disputes, including billing disputes, arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedure as a remedy with respect to any controversy arising out of or relating to this Agreement or its breach.

18.2.1 A Party shall initially seek direct negotiation with the other Party to resolve any disputes. If the Parties fail to resolve the dispute within ninety (90) days after a request for direct negotiation, the Parties may then seek relief through a court or administrative agency of competent jurisdiction.

18.2.2 Costs - Each Party shall bear its own costs of these procedures.

18.2.3 Neither Party shall terminate or suspend the provision of any service or other performance under this Agreement during the pendency of any dispute resolution or arbitration undertaken pursuant to this Section, unless authorized by court order or the appropriate regulatory agency.

#### 19.0 Intervening Law

19.1 The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations, orders or guidelines that subsequently may be prescribed by any federal or state government authority with jurisdiction. To the extent required or permitted by any such subsequently prescribed law, rule, regulation, order or guideline, the Parties agree to negotiate in good faith toward an agreement to modify, in writing, any affected term or condition of this Agreement to bring them into compliance with such law, rule, regulation, order or guideline. Upon failure to reach agreement to implement a change in laws, rules, regulations, orders or guidelines, either Party may seek dispute resolution before any regulatory authority with jurisdiction.

19.2 Each Party shall comply with all federal and state laws, rules and regulations applicable to its performance under this Agreement.

#### 20.0 Miscellaneous Provisions

20.1 This Agreement shall be effective upon approval by the Commission. The Parties shall work cooperatively and take all steps necessary and proper to expeditiously prosecute a joint application before the Commission seeking approval of this Agreement pursuant to the provisions of 47 U.S.C. 252. Each Party shall be responsible for its own costs and expenses, if any are incurred, in obtaining approval of this Agreement from the Commission.

#### 20.2 Term and Termination

20.2.1 This Agreement shall remain in effect for two (2) years after the Effective Date of this Agreement. The Agreement shall automatically renew on a month-to-month basis, unless either Party gives the other Party written notice of intent to terminate at least sixty (60) days prior to the expiration date of the initial or renewed term.

- 20.2.2 Upon termination or expiration of this agreement in accordance with this Section:
- 20.2.2.1 Each Party shall continue to comply with its obligations set forth in Section 13.0 Confidentiality and Proprietary Information.
- 20.2.2.2 Each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement; and upon termination or expiration of this Agreement, each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement or place disputed amounts into an escrow account.
- 20.2.2.3 Each Party's indemnification obligations shall survive.
- 20.2.3 If upon expiration or termination of this Agreement either Party requests the negotiation of a successor agreement, during the period of negotiation of the successor agreement each Party shall continue to perform its obligations and provide the services described herein until such time as the successor agreement becomes effective. If the Parties are unable to negotiate a successor agreement within the statutory time frame set for negotiations under the Act, then either Party has the right to submit this matter to the Commission for resolution pursuant to the statutory rules for arbitration under the Act.
- 20.3 Binding Effect - This Agreement will be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.
- 20.4 Assignment - Neither Party may assign, subcontract, or otherwise transfer its rights or obligations under this Agreement except under such terms and conditions as are mutually acceptable to the other Party and with such Party's prior written consent, which consent shall not be unreasonably withheld, delayed, or conditioned; provided, that either Party may assign its rights and its benefits, and delegate its duties and obligations under this Agreement without the consent of the other Party to a parent, one-hundred percent (100%) owned affiliate or subsidiary of that Party, or other entity under the common control of the Party's parent(s) for the continued provisioning under this Agreement.
- 20.5 Third Party Beneficiaries - This Agreement shall not provide any non-Party with any remedy, claim, cause of action or other right.
- 20.6 *Force Majeure* - Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation: fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation strikes, slowdowns, picketing or boycotts; or delays caused by the other Party or by other service or equipment vendors; or any other circumstances beyond the Party's reasonable control. In such event, the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent

such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable commercial efforts to avoid or remove the cause of non-performance and both Parties shall proceed to perform with dispatch once the causes are removed or cease.

- 20.7 Disclaimer of Warranties – The Parties make no representations or warranties, express or implied, including but not limited to any warranty as to merchantability or fitness for intended or particular purpose with respect to services or facilities provided hereunder. Additionally, neither Party assumes any responsibility with regard to the correctness of data or information supplied by the other Party when this data or information is accessed and used by a third party.
- 20.8 Survival of Obligations - Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a Party under the provisions regarding indemnification, Confidential Information, limitations on liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, will survive cancellation or termination thereof.
- 20.9 Waiver - The failure of either Party to enforce or insist that the other Party comply with the terms or conditions of this Agreement, or the waiver by either Party in a particular instance of any of the terms or conditions of this Agreement, shall not be construed as a general waiver or relinquishment of the terms and conditions, but this Agreement shall be and remain at all times in full force and effect.
- 20.10 Patents, Trademarks and Trade Names
- 20.10.1 With respect to claims of patent infringement made by third persons, the Parties shall defend, indemnify, protect, and save harmless the other from and against all claims arising out of the improper combining with or use by the indemnifying Party of any circuit, apparatus, system or method provided by that Party or its Customers in connection with the Interconnection arrangements furnished under this Agreement.
- 20.10.2 No license under patents is granted by either Party to the other, or shall be implied or arise by estoppel with respect to any circuit, apparatus, system, or method used by either Party in connection with any Interconnection Arrangements or services furnished under this Agreement.
- 20.10.3 Nothing in this Agreement will grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever, absent prior written consent of the other Party.
- 20.11 Relationship of the Parties
- 20.11.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder.
- 20.11.2 Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party.

- 20.11.3 Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.
- 20.11.4 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal and state income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire, and otherwise control its employees.
- 20.11.5 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party.
- 20.12 Notices - Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally; on the date receipt is acknowledged in writing by the recipient if delivered by regular mail; or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Notice may also be provided by facsimile, which shall be effective on the next Business Day following the date of transmission as reflected in the facsimile confirmation sheet. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this section.

For HALO :                      Halo Wireless, Inc.  
  Attn: Jason Menard  
  2351 West Northwest Hwy  
  Site 1204  
  Dallas, TX 75220  
  (214) 447-7310 (phone)  
  (817-338-3777 (facsimile)  
  [jmenard@halowireless.com](mailto:jmenard@halowireless.com) (email)

For \_\_\_\_\_ Telephone Company  
 TELEPHONE Telephone Company  
 COMPANY: Attn: \_\_\_\_\_ Authorized Representative  
 \_\_\_\_\_ Address  
 \_\_\_\_\_ City, ST ZIP  
 \_\_\_\_\_ (phone)  
 \_\_\_\_\_ (facsimile)  
 \_\_\_\_\_ (email)

- 20.13 Expenses - Except as specifically set out in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.
- 20.14 Headings - The headings in this Agreement are inserted for convenience and identification only and will not be considered in the interpretation of this Agreement.
- 20.15 Governing Law - The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the Parties will be governed by the laws of the State of Texas, without reference to conflict of laws provision, except insofar as federal law may control any aspect of this Agreement, in which case federal law will govern.
- 20.16 Multiple Counterparts - This Agreement may be executed in multiple counterparts, each of which will be deemed an original but all of which will together constitute but one and the same document.
- 20.17 Complete Terms - This Agreement together with its appendices constitutes the entire agreement between the Parties and supersedes all prior discussions, representations or oral understandings reached between the Parties. Appendices referred to herein are deemed attached hereto and incorporated by reference and therefore constitute part of this Agreement. Neither Party shall be bound by any amendment, modification or additional terms unless it is reduced to writing signed by an authorized representative of the Party sought to be bound.
- 20.18 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.
- 20.19 No provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties.
- 20.20 Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.



IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized representatives.

\_\_\_\_\_ Telephone Company  
**Telephone Company**

**Halo Wireless, Inc.**

**BY:**  
\_\_\_\_\_  
(Signature)

**BY:**  
\_\_\_\_\_  
(Signature)

**NAME:**  
\_\_\_\_\_  
(Printed)

**NAME:**  
\_\_\_\_\_  
(Printed)

**TITLE:**  
\_\_\_\_\_

**TITLE:**  
\_\_\_\_\_

**DATE:**  
\_\_\_\_\_

**DATE:**  
\_\_\_\_\_

APPENDIX A

- 1.0 Reciprocal compensation for transport and termination:  
(per Conversation MOU): \$0.0007
  
- 2.0 Transiting Rate, as applicable: [to be set after presentation of cost information]
  
- 3.0 Default Query Charge: [to be set after presentation of cost information]
  
- 4.0 Maintenance of Service Charge [to be set after presentation of cost information]