

RESALE AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996

**ILLINOIS BELL TELEPHONE COMPANY,
INDIANA BELL TELEPHONE COMPANY INCORPORATED,
MICHIGAN BELL TELEPHONE COMPANY D/B/A AMERITECH
MICHIGAN, NEVADA BELL TELEPHONE COMPANY D/B/A SBC
NEVADA BELL TELEPHONE COMPANY, THE OHIO BELL
TELEPHONE COMPANY, PACIFIC BELL TELEPHONE COMPANY
D/B/A SBC PACIFIC BELL TELEPHONE COMPANY, THE SOUTHERN
NEW ENGLAND TELEPHONE COMPANY, SOUTHWESTERN BELL
TELEPHONE, L.P. D/B/A SOUTHWESTERN BELL TELEPHONE
COMPANY AND/OR WISCONSIN BELL, INC. D/B/A AMERITECH
WISCONSIN**

SUBJECT INDEX

<u>SUBJECT</u>	<u>APPENDIX</u>
Resale General Terms & Conditions	GT&C- 13STATE RESALE
FCC Merger Conditions.....	FCC MERGER CONDITIONS-13STATE RESALE
Operation Support Systems.....	OSS-13STATE RESALE
Pricing.....	PRICING-13STATE RESALE
Illinois Pricing.....	PRICING-IL
Illinois Performance Measurements.....	PERFORMANCE MEASUREMENTS-IL
Illinois Recourse Credits.....	CREDITS-IL

RESALE AGREEMENT

by and among

**Illinois Bell Telephone Company,
Indiana Bell Telephone Company Incorporated,
Michigan Bell Telephone Company d/b/a
Ameritech Michigan,
Nevada Bell Telephone Company d/b/a
SBC Nevada Bell Telephone Company,
The Ohio Bell Telephone Company,
Pacific Bell Telephone Company d/b/a
SBC Pacific Bell Telephone Company,
The Southern New England Telephone Company
Southwestern Bell Telephone, L.P. d/b/a
Southwestern Bell Telephone Company,
Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin**

and

Verizon Select Services, Inc.

TABLE OF CONTENTS

1. INTRODUCTION	4
2. DEFINITIONS	5
3. INTERPRETATION, CONSTRUCTION AND SEVERABILITY	12
4. DESCRIPTION AND CHARGES FOR SERVICES	14
5. GENERAL RESPONSIBILITIES OF THE PARTIES	15
6. EFFECTIVE DATE, TERM, AND TERMINATION	16
7. FRAUD BY END USER(S)	17
8. DEPOSITS (<u>SBC-12STATE</u>)	19
9. BILLING AND PAYMENT OF CHARGES	21
10. NONPAYMENT AND PROCEDURES FOR DISCONNECTION	24
11. TERMS AND CONDITIONS FOR RESALE OF SERVICES	26
12. ADDITIONAL TERMS APPLICABLE TO RESALE OF SERVICES	31
13. ANCILLARY SERVICES	32
14. NETWORK AND SERVICE ORDER CONDITIONS	35
15. DISPUTE RESOLUTION	35
16. AUDITS – APPLICABLE IN <u>SBC-12STATE</u> ONLY	38
17. RESPONSIBILITIES OF SWBT	39
18. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES	41
19. LIMITATION OF LIABILITY	41
20. RESPONSIBILITIES OF CLEC	42
21. INDEMNITY	43
22. PERFORMANCE MEASURES	46
23. INTELLECTUAL PROPERTY	46
24. NOTICES	46
25. PUBLICITY AND USE OF TRADEMARKS OR SERVICE MARKS	48
26. NO LICENSE	48

27. CONFIDENTIALITY.....	48
28. INTERVENING LAW	49
29. GOVERNING LAW.....	49
30. REGULATORY APPROVAL.....	49
31. CHANGES IN END USER LOCAL EXCHANGE SERVICE PROVIDER SELECTION	50
32. COMPLIANCE AND CERTIFICATION	51
33. LAW ENFORCEMENT	52
34. RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR	52
35. NO THIRD PARTY BENEFICIARIES; DISCLAIMER OF AGENCY	53
36. ASSIGNMENT	53
37. INTENTIONALLY LEFT BLANK.....	53
38. SUBCONTRACTING.....	53
39. FORCE MAJEURE.....	54
40. TAXES.....	54
41. NON-WAIVER	55
42. CUSTOMER INQUIRIES	56
43. EXPENSES.....	56
44. CONFLICT OF INTEREST	56
45. AMENDMENTS AND MODIFICATIONS.....	56
46. SURVIVAL.....	56
47. APPENDICES INCORPORATED BY REFERENCE	57
48. AUTHORITY	57
49. COUNTERPARTS	57
50. ENTIRE AGREEMENT	57

RESALE AGREEMENT STAND-ALONE

This Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Agreement"), is dated as of _____, 2003 and between one or more of the SBC Communications Inc.-owned ILECs **Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company (a California corporation), The Southern New England Telephone Company (a Connecticut corporation) and Southwestern Bell Telephone Company**¹ and **Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin**, (only to the extent that such SBC ILEC(s) executes this Agreement and provides service in a state listed below) and Verizon Select Services, Inc. (CLEC), (a Delaware corporation), shall apply to the state of Illinois.

WHEREAS, pursuant to the Telecommunications Act of 1996 (the "Act"), the Parties wish to establish terms for the purchase by CLEC of certain **Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company (a California corporation), The Southern New England Telephone Company (a Connecticut corporation) and Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company (a Texas limited partnership), and Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin**, retail Telecommunications Services and certain other services for resale by CLEC to its local exchange End User(s) within the state(s) listed on page 1 in the preamble to this Agreement;

NOW, THEREFORE, the Parties hereby agree as follows:

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

1. INTRODUCTION

- 1.1 This Agreement sets forth the rates, terms and conditions for those services available for sale at retail to End Users that are made available by **Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company (a California corporation), The Southern New England Telephone Company (a Connecticut corporation) Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company (a Texas limited partnership) and Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin** to CLECs for resale.

¹ On December 30, 2001, Southwestern Bell Telephone Company (a Missouri corporation) was merged with and into Southwestern Bell Texas, Inc. (a Texas corporation) and, pursuant to Texas law, was converted to Southwestern Bell Telephone, L.P., a Texas limited partnership, doing business as Southwestern Bell Telephone Company ("SWBT").

2. DEFINITIONS

2.1 Capitalized Terms used in this Agreement shall have the respective meanings specified herein, in the definition section of each Appendix, Attachment, Exhibit or Schedule attached hereto, and/or as defined elsewhere in this Agreement.

2.2 **GENERAL DEFINITIONS**

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

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

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

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

2.2.5 **AM-IL** - As used herein, **AM-IL** means the applicable SBC owned ILEC doing business in Illinois.

2.2.6 **AM-IN** - As used herein, **AM-IN** means the applicable SBC owned ILEC doing business in Indiana.

2.2.7 **AM-MI** - As used herein, **AM-MI** means the applicable SBC owned doing business in Michigan.

2.2.8 **AM-OH** - As used herein, **AM-OH** means the applicable SBC owned ILEC doing business in Ohio.

2.2.9 **AM-WI** - As used herein, **AM-WI** means the applicable SBC owned ILEC doing business in Wisconsin.

2.2.10 “**Applicable Law**” means all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, tariffs and approvals, including those relating to the environment or health and safety, of any Governmental Authority that apply to the Parties or the subject matter of this Agreement.

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

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

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

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

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

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

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

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

2.2.19 “**Calling Name Delivery Service (CNDS)**” means a service that enables a terminating End User to identify the calling party by a displayed name before a call is answered. The calling party's name is

retrieved from a Calling Name Database and delivered to the End User's premise between the first and second ring for display on compatible End User premises equipment.

- 2.2.20 **“Calling Name Information”** means a Telecommunications Carrier's records of its End Users names associated with one or more assigned ten-digit telephone numbers.
- 2.2.21 **“Calling Number Delivery”** means a feature that enables an End User to view the directory number of the calling party on a display unit.
- 2.2.22 **“Calling Party Number” (CPN)** means a Signaling System 7 “SS7” parameter whereby the ten (10) digit number of the calling Party is forwarded from the End Office.
- 2.2.23 **“Centralized Message Distribution System” (CMDS)** means the transport system that LECs use to exchange outcollect and Carrier Access Billing System “CABS” access messages among each other and other Parties connected to CMDS.
- 2.2.24 **“CNAM Query”** means a LIDB Service Application that allows CLEC to query a Calling Name Database for Calling Name Information in order to deliver that information to CLEC's local CNDS subscribers.
- 2.2.25 **“CNAM Query Rate”** means a rate that applies to each CNAM Query received at the SCP where the Calling Name Database resides.
- 2.2.26 **“Commission”** means the applicable State agency with regulatory authority over Telecommunications. Unless the context otherwise requires, use of the term **“Commissions”** means all of the thirteen agencies listed in this Section. The following is a list of the appropriate State agencies:
 - 2.2.26.1 **the Arkansas Public Service Commission (AR-PSC);**
 - 2.2.26.2 **the Public Utilities Commission of the State of California (CA-PUC);**
 - 2.2.26.3 **the Connecticut Department of Public Utility Control (DPUC);**
 - 2.2.26.4 **the Illinois Commerce Commission (IL-CC);**
 - 2.2.26.5 **the Indiana Utilities Regulatory Commission (IN-URC);**
 - 2.2.26.6 **the Kansas Corporation Commission (KS-CC);**
 - 2.2.26.7 **the Michigan Public Service Commission (MI-PSC);**
 - 2.2.26.8 **the Missouri Public Service Commission (MO-PSC);**
 - 2.2.26.9 **the Public Utilities Commission of Nevada (NV-PUC);**
 - 2.2.26.10 **the Public Utilities Commission of Ohio (PUC-OH);**
 - 2.2.26.11 **the Oklahoma Corporation Commission (OK-CC);**
 - 2.2.26.12 **the Public Utility Commission of Texas (PUC-TX); and**
 - 2.2.26.13 **the Public Service Commission of Wisconsin**
- 2.2.27 **“Consequential Damages”** means Losses claimed to have resulted from any indirect, incidental, reliance, special, consequential, punitive, exemplary, multiple or any other Loss, including damages claimed to have resulted from harm to business, loss of anticipated revenues, savings, or profits, or other economic Loss claimed to have been suffered not measured by the prevailing Party's actual damages, and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions.
- 2.2.28 **“Customer Usage Data”** means the Telecommunications Services usage data of a CLEC End User measured in minutes, sub-minute increments, message units, or otherwise, that is recorded by **SBC-13STATE** and forwarded to CLEC.

2.2.29 **“Custom Local Area Signaling Service Features” (CLASS Features)** means certain Common Channel Signaling based features available to End Users, including: Automatic Call Back; Call Trace; Distinctive Ringing/Call Waiting; Selective Call Forward; and Selective Call Rejection.

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

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

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

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

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

2.2.32.3 any Force Majeure Event.

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

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

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

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

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

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

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

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

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

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

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

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

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

2.2.42 **“Foreign Exchange” (FX)** means a service whereby calls either originated by or delivered to a customer who has purchased FX service from the state or interstate tariffs of either Party. FX also includes, but is not limited to, FX-like services provided by either Party where calls are originated from and/or delivered to numbers which are assigned to a Rate Center within one local calling area but where the Party receiving the call is physically located outside of that local calling area. FX service can be either interLATA or intraLATA. InterLATA FX, where the originating and receiving parties are physically located in different LATAs, is considered equivalent to FGA and the intercarrier compensation mechanism is the same as FGA. IntraLATA FX, when provided by two or more local exchange carriers “LECs”, is considered a jointly provided service and meet-point billed by those providing it utilizing a mutually agreed to meet-point billing, or meet-point billing like procedure.

2.2.43 **“Governmental Authority”** means any federal, state, local, foreign, or international court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative, or judicial authority with jurisdiction over the subject matter at issue.

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

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

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

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

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

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

2.2.50 **“Internet Service Provider” (ISP)** is an Enhanced Service Provider that provides Internet Services, and is defined in paragraph 341 of the FCC’s First Report and Order in CC Docket No.97-158.

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

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

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

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

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

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

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

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

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

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

2.2.61 **NEVADA** – As used herein, **NEVADA** means the applicable above listed ILEC doing business in Nevada.

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

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

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

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

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

2.2.67 **PACIFIC** – As used here in, **PACIFIC** means the applicable above listed ILEC doing business in California.

2.2.68 **“Party”** means either CLEC or **SBC** use of the term “Party” includes each of the ILECs that is a party to this Agreement. **“Parties”** means both CLEC and **SBC**; use of the term “Parties” includes each of the ILECs that is a party to this Agreement.

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

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

2.2.71 **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 d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. Southwestern Bell Telephone Company, and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.

2.2.72 **SBC-AMERITECH** - As used herein, **SBC-AMERITECH** means the applicable SBC owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

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

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

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

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

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

2.2.78 **SBC-SWBT** - As used herein, **SBC-SWBT** means the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.

2.2.79 “**Sleuth**” means an off-line administration system that monitors suspected occurrences of ABS-related fraud.

2.2.80 **SNET** – As used herein, **SNET** means the applicable above listed ILEC doing business in Connecticut.

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

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

- 2.2.82.1 “**AR**” means Arkansas
- 2.2.82.2 “**CA**” means California
- 2.2.82.3 “**CT**” means Connecticut
- 2.2.82.4 “**IL**” means Illinois
- 2.2.82.5 “**IN**” means Indiana
- 2.2.82.6 “**KS**” means Kansas
- 2.2.82.7 “**MI**” means Michigan
- 2.2.82.8 “**MO**” means Missouri
- 2.2.82.9 “**NV**” means Nevada
- 2.2.82.10 “**OH**” means Ohio
- 2.2.82.11 “**OK**” means Oklahoma
- 2.2.82.12 “**TX**” means Texas
- 2.2.82.13 “**WI**” means Wisconsin

2.2.83 **SWBT-AR** - As used herein, **SWBT-AR** means the applicable SBC owned ILEC doing business in Arkansas.

2.2.84 **SWBT-KS** - As used herein, **SWBT-KS** means the applicable SBC owned ILEC doing business in Kansas.

2.2.85 **SWBT-MO** - As used herein, **SWBT-MO** means the applicable SBC owned ILEC doing business in Missouri.

2.2.86 **SWBT-OK** - As used herein, **SWBT-OK** means the applicable SBC owned ILEC doing business in Oklahoma.

2.2.87 **SWBT-TX** - As used herein, **SWBT-TX** means the applicable SBC owned ILEC doing business in Texas.

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

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

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

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

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

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

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

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

2.2.96 **“Translation Type”** means a code in the Signaling Connection Control Part (SCCP) of the SS7 signaling message. Signal Transfer Points (STPs) use Translation Types to identify the routing table used to route a LIDB query. All LIDB queries that use the same Translation Type are routed to the same LIDB for a particular Line Record or, prior to number portability, for a particular NPA-NXX.

2.3 DEFINITIONS APPLICABLE **SBC-12STATE** ONLY

2.3.1 **“Permanent Number Portability” (PNP)** is a database method of providing LNP that is consistent with the Act and complies with the long-term LNP performance criteria set forth in 47 C.F.R. Section 52.3(a).

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

2.4 DEFINITIONS APPLICABLE TO **SBC-8STATE** ONLY

2.4.1 **“Accessible Letters”** are correspondence used to communicate pertinent information regarding **SBC-8STATE** to the client/End User community.

2.5 DEFINITIONS APPLICABLE TO **SBC-SWBT** ONLY

2.5.1 **“Line Validation Administration System” (LVAS)** means the LIDB administrative system for **SBC-SWBT**.

2.6 DEFINITIONS APPLICABLE TO **SNET ONLY**

2.6.1 **“800 Series”** is a Telecommunications Service for business or residence that allows calls to be made to a specific location at no charge to the calling party. Use of the “800” Service Access Code (e.g., 800, 888) denotes calls that are to be billed to the receiving party. A computer database in the provider’s network translates the 800 series number into a conventional 7 or 10 digit phone number for network switching and routing.

2.6.2 **“Database Administrative Service LIDB Operating Guidelines” (Operating Guidelines)** means the document developed by **SNET** that provides detailed instructions as to the working parameters of **SNET**’s provision of the LIDB Administrative System to CLEC, as may be updated by **SNET** from

time to time. **SNET** shall provide such Operating Guidelines to CLEC upon execution of this Agreement.

2.6.3 “**LIDB/AS**” means the LIDB administrative system for **SNET**.

2.7 **DEFINITIONS APPLICABLE TO SBC-AMERITECH ONLY**

2.7.1 “**Automatic Route Selection**” or “**ARS**” means a service feature associated with a specific grouping of lines that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.

2.7.2 “**Enhanced LECLink**” is a customer access service to the national distribution of billing records via Telcordia’s Centralized Message Distribution System (CMDS).

2.8 **DEFINITIONS APPLICABLE TO SNET and SBC-AMERITECH ONLY**

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

3. INTERPRETATION, CONSTRUCTION AND SEVERABILITY

3.1 **Definitions**

3.1.1 For purposes of this Agreement, certain terms have been defined in this Agreement to encompass meanings that may differ from, or be in addition to, the normal connotation of the defined word. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation” and/or “but not limited to”. The words “will” and “shall” are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other will not mean a different degree of right or obligation for either Party. A defined word intended to convey its special meaning is capitalized when used. Other terms that are capitalized and not defined in this Agreement will have the meaning in the Act, or in the absence of their inclusion in the Act, their customary usage in the Telecommunications industry as of the Effective Date.

3.2 **Headings Not Controlling**

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

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

3.3 **Referenced Documents**

3.3.1 Unless the context shall otherwise specifically require, and subject to Section 34, whenever any provision of this Agreement refers to a technical reference, technical publication, CLEC Practice, **SBC-13STATE** Practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement (collectively, a “Referenced Instrument”), it will be deemed to be a reference to the then-current version or edition (including any amendments, supplements, addenda, or successors) of each Referenced Instrument

that is in effect, and will include the then-current version or edition (including any amendments, supplements, addenda, or successors) of any other Referenced Instrument incorporated by reference therein.

3.4 References

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

3.5 Tariff References

3.5.1 Wherever any Commission approved tariff provision or rate is cited or quoted herein, it is understood that said cite encompasses any revisions or modifications to said tariff.

3.5.2 Wherever any Commission approved tariff provision or rate is incorporated, cited or quoted herein, it is understood that said incorporation or reference applies only to the entity within the state whose Commission approved that tariff.

3.6 Conflict in Provisions

3.6.1 In the event of a conflict between the provisions of this Agreement and the Act, the provisions of the Act shall govern.

3.6.2 If any definitions, terms or conditions in any given Appendix, Attachment, Exhibit, Schedule or Addenda differ from those contained in this Agreement, the definitions, terms or conditions contained in the Appendix, Attachment, Exhibit, Schedule or Addenda will supersede those contained in this Agreement, but only in regard to the services or activities listed in that particular Appendix, Attachment, Exhibit, Schedule or Addenda. In particular, if an Appendix contains a Term length that differs from the Term length in this Agreement, the Term length of that Appendix will control the length of time that services or activities are to occur under that Appendix, but will not affect the Term length of the remainder of this Agreement.

3.6.3 In the event of a conflict between any provision in this Agreement and any provision in the DPUC-ordered tariffs covering the services that are the subject of this Agreement with **SNET**, such DPUC-ordered tariffs will prevail.

3.7 Joint Work Product

3.7.1 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

3.8 Severability

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

3.9 Non-Voluntary Provisions

3.9.1 This Agreement incorporates certain rates, terms and conditions that were not voluntarily negotiated by **SBC-13STATE**, but instead resulted from determinations made in arbitration under Section 252 of the Act or from other requirements of regulatory agencies or state law (individually and

collectively, a “Non-Voluntary Arrangement”). **SBC-13STATE** has identified some, but not all, of the Non-Voluntary Arrangements contained in this Agreement, by designating such provisions with asterisks. If any Non-Voluntary Arrangement is modified as a result of any order or finding by the FCC, the appropriate Commission or a court of competent jurisdiction, any Party may, by providing written notice to the other Party, require that any affected Non-Voluntary Arrangement (and any related rates, terms and conditions) be deleted or renegotiated, as applicable, in good faith and this Agreement amended accordingly. If such modifications to this Agreement are not executed within sixty (60) days after the date of such notice, a Party may pursue its rights under Section 19. Within thirty (30) days following receipt of a written request from CLEC, **SBC-13STATE** will identify any Non-Voluntary Arrangements that may not otherwise be designated such in this Agreement.

- 3.9.2 The Parties acknowledge that the Non-Voluntary Arrangements contained in this Agreement shall not be available in any state other than the state that originally imposed/required such Non-Voluntary Arrangement. By way of example only, the Parties acknowledge that the PUC-OH’s imposition in Ohio of the Minimum Telephone Service Standards (and all terms and conditions relating thereto) shall not apply in or be “portable to” any state other than Ohio.
- 3.10 State-Specific Rates, Terms and Conditions
 - 3.10.1 For ease of administration, this multi-state Agreement contains certain specified rates, terms and conditions that apply only in a designated state. To the extent that this Agreement contains specified rates, terms and conditions which apply only in a given state, such rates, terms and conditions shall not apply and shall have no effect in any other state(s) to which this Agreement is submitted for approval under Section 252(e) of the Act.
 - 3.10.2 **Successor Rates.** Certain of the rates, prices and charges set forth in the applicable Appendix Pricing have been established by the appropriate Commissions in cost proceedings or dockets initiated under or pursuant to the Act. If during the Term that Commission or the FCC changes a rate, price or charge in an order or docket that applies to any of the services available hereunder, the Parties agree to amend this Agreement to incorporate such new rates, prices and charges, with such rates, prices and charges to be effective as of the date specified in such order or docket (including giving effect to any retroactive application, if so ordered). If either Party refuses to execute an amendment to this Agreement within sixty (60) days after the date of such order or docket, the other Party may pursue its rights under Section 15.
- 3.11 Scope of Obligations
 - 3.11.1 Notwithstanding anything to the contrary contained herein, **SBC-13STATE’s** obligations under this Agreement shall apply only to:
 - 3.11.1.1 the specific operating area(s) or portion thereof in which **SBC-13 STATE** is then deemed to be the ILEC under the Act (the “ILEC Territory”), and
 - 3.11.1.2 assets that **SBC-13STATE** owns or leases and which are used in connection with **SBC-13STATE’s** provision to CLEC of any services for resale provided or contemplated under this Agreement, the Act or any tariff or ancillary agreement referenced herein (individually and collectively, the “ILEC Assets”).

4. DESCRIPTION AND CHARGES FOR SERVICES

- 4.1 A list of Telecommunications Services currently available for resale at the wholesale discount rate set by the appropriate Commission is set forth in Appendix Pricing. Except as otherwise expressed herein, consistent with **SBC-13STATE’s** obligation under § 251(c)(4)(A) of the Act and any other applicable limitations or restrictions, CLEC may resell other Telecommunications Services offered at retail by **SBC-13STATE** at the discount set forth in the Appendix Pricing.
 - 4.1.1 This section applies only to **SWBT-KS**:

- 4.1.1.1 CLEC shall select either (1) a uniform rate structure or (2) a three-tier discount structure based on lines, vertical features and toll. The three-tier discount structure will be made available upon written request from CLEC negotiating an interconnection agreement with SWBT.
- 4.2 **SBC-13STATE** will offer products and services to CLEC for resale pursuant to relevant decisions of the appropriate Commission.
- 4.3 Telecommunications Services will be offered by **SBC-13STATE** to CLEC for resale on terms and conditions that are reasonable and nondiscriminatory.

5. GENERAL RESPONSIBILITIES OF THE PARTIES

- 5.1 At all times during the Term, each Party shall keep and maintain in force at its own expense the following minimum insurance coverages and limits and any additional insurance and/or bonds required by Applicable Law:
 - 5.1.1 Commercial General Liability insurance with minimum limits of: \$1,000,000 General Aggregate Limit; \$500,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; and \$500,000 each occurrence sub-limit for Personal Injury and Advertising. The other Party must be named as an Additional Insured on the Commercial General Liability policy.
 - 5.1.2 Each Party shall require each of its subcontractors that performs any of that Party's obligations under this Agreement to maintain in force the insurance coverage and limits required in Section 5.1.
 - 5.1.3 The Parties agree that companies affording the insurance coverage required under Section 5.1 shall have a rating of B+ or better and a Financial Size Category rating of VII or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance coverage.
 - 5.1.4 Each Party agrees to provide the other Party with at least thirty (30) days advance written notice of cancellation, material reduction or non-renewal of any of the insurance coverage required herein.
 - 5.1.5 Each Party agrees to accept the other Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are agreed as follows:
 - 5.1.5.1 The Party desiring to satisfy its general liability obligations through self-insurance must provide reasonably acceptable evidence to the other Party that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps or that such self-insurance obligations are fully supported, in a manner reasonably acceptable to the other Party, by a bond, letter of credit, guaranty or other security payable by an entity (which may include a corporate affiliate) domiciled in the United States that maintains such debt or credit rating.
 - 5.1.6 This Section 5.1 is a general statement of insurance requirements and shall be in addition to any specific requirement of insurance referenced elsewhere in this Agreement or a Referenced Instrument.
- 5.2 The Parties acknowledge that calls will be placed to local service accounts of Third Parties. To ensure that these calls are properly accounted for and billed to the appropriate local service account of such Third Parties, the Parties have established clearinghouse procedures to accomplish these objectives by various appendices to this Agreement.
- 5.3 In the event that CLEC makes any corporate name change (including addition or deletion of a d/b/a), change in OCN/AECN, or makes or accepts a transfer or assignment of interconnection trunks or facilities (including leased facilities), or a change in any other CLEC identifier (collectively, a "**CLEC Change**"), CLEC shall submit written notice to **SBC-13STATE** within thirty (30) calendar days of the first action taken

to implement such CLEC Change. A CLEC may make one (1) CLEC Change in any twelve (12) month period without charge by **SBC-13STATE** for updating its databases, systems, and records solely to reflect such CLEC Change. In the event of any other CLEC Change, **SBC-13STATE** reserves the right to seek recovery of the costs associated with updating the applicable **SBC-13STATE** databases, systems, and records to reflect the CLEC Change. Notwithstanding the above, for each CLEC Change the CLEC shall pay any applicable charges associated with recording and otherwise updating any CLEC branding or announcement(s), and any applicable charges associated with any service orders or requests submitted to **SBC-13STATE** to make the CLEC Change.

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

6. EFFECTIVE DATE, TERM, AND TERMINATION

- 6.1 In **SBC-13STATE**, with the exception of AM-OH, the Effective Date of this Agreement shall be ten (10) calendar days after the Commission approves this Agreement under Section 252(e) of the Act or, absent such Commission approval, the date this Agreement is deemed approved under Section 252(e)(4) of the Act. In **AM-OH**, based on the PUC-OH, the Agreement is Effective upon filing and is deemed approved by operation of law on the 91st day after filing.
- 6.2 The term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on **May 25, 2004** (the “Term”). Absent the receipt by one Party of written notice from the other Party at least within 180 days prior to the expiration of the Term to the effect that such Party does not intend to extend the Term, this Agreement shall remain in full force and effect on and after the expiration of the Term until terminated by either Party pursuant to Section 6.3 or 6.4.
- 6.3 Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement and the provision of any Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided pursuant to this Agreement, at the sole discretion of the terminating Party, in the event that the other Party fails to perform a material obligation or breaches a material term of this Agreement and the other Party fails to cure such nonperformance or breach within forty-five (45) calendar days after written notice thereof. Any termination of this Agreement pursuant to this Section 6.3 shall take effect immediately upon delivery of written notice to the other Party that it failed to cure such nonperformance or breach within forty-five (45) calendar days after written notice thereof.
- 6.4 If pursuant to Section 6.2, this Agreement continues in full force and effect after the expiration of the Term, either Party may terminate this Agreement after delivering written notice to the other Party of its intention to terminate this Agreement, subject to Sections 6.5 and 6.6. Neither Party shall have any liability to the other Party for termination of this Agreement pursuant to this Section 6.4 other than its obligations under Sections 6.5 and 6.6.
- 6.5 Upon termination or expiration of this Agreement in accordance with Sections 6.2, 6.3 or 6.4:
 - 6.5.1 Each Party shall continue to comply with its obligations set forth in Section 46; and
 - 6.5.2 Each Party shall promptly pay all amounts owed under this Agreement or place any Disputed Amounts into an escrow account that complies with Section 9.3 hereof;
 - 6.5.3 Each Party's confidentiality obligations shall survive; and

6.5.4 Each Party's indemnification obligations shall survive.

6.6 If either Party serves notice of expiration pursuant to Section 6.2 or Section 6.4, CLEC shall have ten (10) days to provide **SBC-13STATE** written confirmation if CLEC wishes to pursue a successor agreement with **SBC-13STATE** or terminate its agreement. CLEC shall identify the action to be taken on each applicable (13) state(s). If CLEC wishes to pursue a successor agreement with **SBC-13STATE**, CLEC shall attach to its written confirmation or notice of expiration/termination, as applicable, a written request to commence negotiations with **SBC-13STATE** under Sections 251/252 of the Act and identify each of the state(s) the successor agreement will cover. Upon receipt of CLEC's Section 252(a)(1) request, the Parties shall commence good faith negotiations on a successor agreement.

6.7 The rates, terms and conditions of this Agreement shall continue in full force and effect until the earlier of (i) the effective date of its successor agreement, whether such successor agreement is established via negotiation, arbitration or pursuant to Section 252(i) of the Act; or (ii) the date that is ten (10) months after the date on which **SBC-13STATE** received CLEC's Section 252(a)(1) request; provided, however, when a successor agreement becomes effective, the terms, rates and charges of such successor Agreement shall apply retroactively back to the date this Agreement is terminated or expires, whichever is later, and that the retro-active true-up shall be completed within 90 days following the effective date of such successor Agreement.

6.8 If at any time during the Section 252(a)(1) negotiation process (prior to or after the expiration date or termination date of this Agreement), CLEC withdraws its Section 252(a)(1) request, CLEC must include in its notice of withdrawal a request to adopt a successor agreement under Section 252(i) of the Act or affirmatively state that CLEC does not wish to pursue a successor agreement with **SBC-13STATE** for a given state. The rates, terms and conditions of this Agreement shall continue in full force and effect for a period of ninety (90) days after the date CLEC provides notice of withdrawal of its Section 252(a)(1) request. On the ninety-first (91) day following **SBC-13STATE**'s receipt of CLEC's notice of withdrawal of its Section 252(a)(1) request, unless CLEC provided **SBC-13STATE** notice of a Section 252(i) adoption in the interim, the Parties shall, subject to Section 6.5, have no further obligations under this Agreement.

6.9 If CLEC does not affirmatively state that it wishes to pursue a successor agreement with **SBC-13STATE** in its, as applicable, notice of expiration or termination or the written confirmation required after receipt of **SBC-13STATE**'s notice of expiration or termination, then the rates, terms and conditions of this Agreement shall continue in full force and effect for a period of ninety (90) days after the date CLEC provided or received notice of expiration or termination. On the ninety-first (91) day following CLEC provided or received notice of expiration or termination, the Parties shall, subject to Section 6.5, have no further obligations under this Agreement.

6.10 In the event of termination of this Agreement pursuant to Section 6.9, **SBC-13STATE** and CLEC shall cooperate in good faith to effect an orderly transition of service under this Agreement; provided that CLEC shall be solely responsible (from a financial, operational and administrative standpoint) to ensure that its End Users have been transitioned to a new LEC by the expiration date, termination date of this Agreement.

7. FRAUD BY END USER(S)

7.1 **SBC-13STATE** shall not be liable to CLEC for any fraud associated with CLEC's End Users' accounts, including 1+ IntraLATA toll, ported numbers, and Alternate Billing Service (ABS). ABS is a service that allows a customer to bill calls to account(s) that might not be associated with the originating line. There are three types of ABS calls: calling card, collect, and third number billed calls.

7.2 The Parties agree to cooperate with one another to investigate, minimize, and take corrective action in cases of fraud involving 1+ IntraLATA toll calls, ABS, and ported numbers. The Parties' fraud minimization procedures are to be cost-effective and implemented so as not to unduly burden or harm one Party as compared with the other.

7.3 In cases of suspected fraudulent activity by an End User, at a minimum, the cooperation referenced in Section 20.2 will include providing to the other Party, upon request, information concerning End Users who terminate services furnished by that Party without paying all outstanding charges. The Party seeking such information is responsible for securing the End User's permission to obtain such information.

7.4 **SBC-AMERITECH, SBC-SWBT, PACIFIC and SNET** will provide notification messages to CLEC on suspected occurrences of ABS-related fraud on CLEC accounts stored in the applicable LIDB. **PACIFIC** will provide such alert messages by e-mail. **SBC-AMERITECH, SBC-SWBT and SNET** will provide via fax.

7.4.1 **SWBT (on behalf of itself and SNET) and PACIFIC** will use a Sleuth system to determine suspected occurrences of ABS-related fraud for CLEC using the same criteria **SWBT and PACIFIC** use to monitor fraud on their respective accounts.

7.4.2 CLEC understands that Sleuth alerts only identify potential occurrences of fraud. CLEC understands and agrees that it will need to perform its own investigations to determine whether a fraud situation actually exists. CLEC understands and agrees that it will also need to determine what, if any, action CLEC should take as a result of a Sleuth alert.

7.4.3 The Parties will provide contact names and numbers to each other for the exchange of Sleuth alert notification information twenty-four (24) hours per day seven (7) days per week.

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

7.5 In **SBC-SWBT and PACIFIC**, ABS-related alerts are provided to CLEC at no additional charge, except as set forth in Section 7.6.

7.6 In **PACIFIC**, 1+ IntraLATA toll fraud alerts are offered for Resale only under the product name Traffic Alert Referral Service (TARS). For TARS, CLEC agrees to pay a recurring usage rate as outlined in Appendix Pricing.

7.6.1 Traffic Alert Referral Service

7.6.1.1 Traffic Alert Referral Service ("TARS") is a service that monitors traffic patterns associated with a CLEC's resold lines. On no less than thirty (30) calendar days written notice, CLEC may order **PACIFIC**'s TARS. In providing TARS to CLEC, **PACIFIC** notifies CLEC of traffic abnormalities that indicate the possible occurrence of intraLATA fraud and furnishes to CLEC information on all 1+ alerts. CLEC understands and agrees that **PACIFIC** will use electronic mail to provide such information and that such information will only be available via electronic mail at the present time. It is the responsibility of CLEC to provide **PACIFIC** with the correct email address. Information will be provided on a per-alert basis and will be priced on a per-alert basis. **PACIFIC** grants to CLEC a non-exclusive right to use the TARS information provided by **PACIFIC**. CLEC will not permit anyone but its duly authorized employees or agents to inspect or use this information. CLEC agrees to pay **PACIFIC** a recurring usage rate as set forth in Appendix Pricing in the "Other (RESALE)" category listed as "Traffic Alert Referral Service."

7.6.1.2 CLEC shall be liable for all fraud associated with any resale service to which it subscribes. **PACIFIC** takes no responsibility, will not investigate, and will make no adjustments to CLEC's account(s) in cases of fraud or any other related End User dispute.

7.6.1.3 In addition to any other indemnity obligations in this Agreement or any Appendix attached hereto, **PACIFIC** shall not be liable for any damages to CLEC or to any other person or entity for **PACIFIC**'s actions or the conduct of its employees in providing TARS to CLEC. CLEC shall indemnify, defend, and hold **PACIFIC** harmless from any and all claims, lawsuits, costs, damages, liabilities, losses, and expenses, including reasonable

attorney fees, resulting from or in connection with CLEC's use of **PACIFIC**'s TARS, except when such claims, lawsuits, costs, damages, liabilities, losses, or expenses are proximately caused by the willful misconduct or gross negligence of **PACIFIC** or its employees.

8. **DEPOSITS (SBC-12STATE)**

- 8.1 The deposit requirements set forth in this Section 8 apply to the services furnished by **SBC-12STATE** under this Agreement.
- 8.2 If CLEC has not established a minimum of twelve (12) consecutive months good credit history with all telephone company affiliates of **SBC** (that is, **AMERITECH**, **NEVADA**, **PACIFIC**, **SNET** and **SWBT**) where CLEC is doing or has done business as a local service provider, CLEC shall remit an initial cash deposit to **SBC-12STATE** prior to the furnishing of services in each state covered by this Agreement. The deposit required by the previous sentence shall be determined as follows:
 - 8.2.1 for **NEVADA**, **PACIFIC** and **SWBT**, if immediately prior to the Effective Date, CLEC was not operating as a Local Service Provider in a state covered by this Agreement, the initial deposit for that state shall be in the amount of \$17,000; or
 - 8.2.2 for **NEVADA**, **PACIFIC** and **SWBT**, if immediately prior to the Effective Date, CLEC was operating as a Local Service Provider in a state covered by this Agreement, the deposit for that state shall be in the amount calculated using the method set forth in Section 8.7 of this Agreement; or
 - 8.2.3 for **SBC-AMERITECH**, subject to external credit check verification and/or financial statement review, **SBC-AMERITECH** may require two (2) to four (4) months of projected average monthly billings as a deposit.
 - 8.2.4 If CLEC has established a minimum of twelve (12) consecutive months good credit history with all ILEC Affiliates of **SBC** (that is, **AMERITECH**, **NEVADA**, **PACIFIC**, **SNET** and **SWBT**) with which CLEC is doing or has done business as a Local Service Provider, **SBC-12STATE** shall waive the initial deposit requirement; provided, however, that the terms and conditions set forth in Section 8.1 through Section 8.10 of this Agreement shall continue to apply in each state for the Term. In determining whether CLEC has established a minimum of twelve (12) consecutive months good credit history with each ILEC Affiliate of **SBC** with which CLEC is doing or has done business, CLEC's payment record with each ILEC Affiliate of **SBC** for the most recent twelve (12) months occurring within the twenty-four (24) month period immediately prior to the Effective Date shall be considered.
- 8.3 Any cash deposit for one state shall be held by **SBC-12STATE** as a guarantee of payment of charges billed to CLEC, provided, however, **SBC-12STATE** may exercise its right to credit any cash deposit to CLEC's account upon the occurrence of any one of the following events:
 - 8.3.1 when **SBC-12STATE** sends CLEC the second delinquency notification for that state during the most recent twelve (12) months; or
 - 8.3.2 when **SBC-12STATE** suspends CLEC's ability to process orders in accordance with Section 10.5.1.1 or 10.6.1.1, as applicable; or
 - 8.3.3 when CLEC files for protection under the bankruptcy laws; or
 - 8.3.4 when an involuntary petition in bankruptcy is filed against CLEC and is not dismissed within sixty (60) days; or
 - 8.3.5 when this Agreement expires or terminates; or
 - 8.3.6 during the month following the expiration of twelve (12) months after that cash deposit was remitted, **SBC-12STATE** shall credit any cash deposit to CLEC's account so long as CLEC has not been sent

more than one delinquency notification letter for that state during the most recent twelve (12) months.

8.3.7 For the purposes of this Section 8.3, interest will be calculated as specified Section 9.1.4.1 through 9.1.4.3 and shall be credited to CLEC's account at the time that the cash deposit is credited to CLEC's account.

8.4 So long as CLEC maintains timely compliance with its payment obligations, SBC-12STATE will not increase the deposit amount required. If CLEC fails to maintain timely compliance with its payment obligations, SBC-12STATE reserves the right to require additional deposit(s) in accordance with Section 8.5 through Section 8.10, inclusive.

8.5 If during the first six (6) months of operations in a state under this Agreement, CLEC has been sent one delinquency notification letter by SBC-12STATE, the deposit amount for that state shall be re-evaluated based upon CLEC's actual billing totals and shall be increased if CLEC's actual billing average:

8.5.1 for NEVADA, PACIFIC or SWBT for a two (2) month period exceeds the deposit amount held; or

8.5.2 for AMERITECH for a two (2) to four (4) month period exceeds the deposit amount held.

8.6 Throughout the Term, any time CLEC has been sent two (2) delinquency notification letters for any one state by SBC-12STATE, the deposit amount for that state shall be re-evaluated based upon CLEC's actual billing totals and shall be increased if CLEC's actual billing average:

8.6.1 or NEVADA, PACIFIC or SWBT for a two (2) month period exceeds the deposit amount held; or

8.6.2 for AMERITECH for a two (2) to four (4) month period exceeds the deposit amount held.

8.7 Whenever a deposit is re-evaluated as specified in Section 8.5 or Section 8.6, such deposit shall be calculated in an amount equal to the average billing to CLEC for that state for a two (2) to four (4) month period. The most recent three (3) months billing on all of CLEC's CBAs/ESBAs/ASBS ("CBA" is utilized in SWBT only; "ESBA" is utilized in PACIFIC and NEVADA only; "ASBS" is utilized in AMERITECH only) and BANs for services furnished within that state shall be used to calculate CLEC's monthly average.

8.7.1 In SBC-7STATE only, after calculating the amount equal to the average billing to CLEC for that state for a two (2) month period, add the amount of any charges that would be applicable to transfer all of CLEC's then-existing End-Users of resale services to SBC-7STATE in the event of CLEC's disconnection for non-payment of charges. The resulting sum is the amount of the deposit.

8.8 Whenever a deposit is re-evaluated as specified in Section 8.5 and Section 8.6, CLEC shall remit the additional deposit amount to SBC-12STATE within thirty (30) calendar days of receipt of written notification from SBC-12STATE requiring such deposit. If CLEC fails to furnish the required deposit within thirty (30) calendar days of receipt of written notice requesting such deposit, SBC-12STATE shall begin the process set forth in Section 10.2. If CLEC continues to fail to furnish the required deposit at the expiration of the fourteen (14) calendar days specified in Section 10.2, then SBC-12STATE shall begin the procedure(s) set forth in Sections 10.5.1 and 10.6.1, as appropriate for the state.

8.9 This cash deposit requirement may be satisfied in whole or in part with an irrevocable bank letter of credit acceptable to SBC-12STATE. No interest shall be paid by SBC-12STATE for any portion of the deposit requirement satisfied by an irrevocable bank letter of credit. SBC-12STATE may demand payment from the issuing bank of any irrevocable bank letter of credit upon the occurrence of any of the events listed in Section 8.3.1 through 8.3.5 hereof.

8.10 The fact that SBC-12STATE holds either a cash deposit or irrevocable bank letter of credit does not relieve CLEC from timely compliance with its payment obligations under this Agreement.

8.11 For Deposit requirements for SNET, see the applicable DPUC ordered tariff.

9. BILLING AND PAYMENT OF CHARGES

9.1 Unless otherwise stated, **SBC-13STATE** will render monthly bill(s) to CLEC for services provided hereunder at the rates set forth in the applicable Appendix Pricing, as set forth in applicable tariffs or other documents specifically referenced herein and, as applicable, as agreed upon by the Parties or authorized by a Party.

9.1.1 Remittance in full of all bills rendered by **SBC-AMERITECH**, **SBC-SWBT** and **PACIFIC** is due within thirty (30) days of each bill date (the “**Bill Due Date**”) and shall be paid in accordance with the terms of Section 9.2 of this Agreement.

9.1.2 Remittance in full of all bills rendered by **NEVADA** is due in accordance with the terms set forth in the Commission C2-A Tariff, with the date on which amounts are due referred to herein as the “**Bill Due Date**”.

9.1.3 Remittance in full of all bills rendered by **SNET** is due in accordance with the terms set forth in the Connecticut Access Service Tariff approved by the DPUC, with the date on which amounts are due referred to herein as the “**Bill Due Date**”.

9.1.4 If CLEC fails to remit payment for any charges for services by the Bill Due Date, or if a payment or any portion of a payment is received from CLEC after the Bill Due Date, or if a payment or any portion of a payment is received in funds which are not immediately available to **SBC-13STATE** as of the Bill Due Date (individually and collectively, “**Past Due**”), then a late payment charge shall be assessed as provided in Sections 9.1.4.1 through 9.1.4.3, as applicable.

9.1.4.1 If any charge incurred under this Agreement that is billed out of any **SBC-8STATE** billing system other than the **SBC-SWBT** Customer Records Information System (CRIS) is Past Due, the unpaid amounts shall bear interest from the Bill Due Date until paid at the lesser of (i) the rate used to compute the Late Payment Charge in the applicable **SBC-8STATE** intrastate access services tariff in that state and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.

9.1.4.2 If any charge incurred under this Agreement that is billed out of **SBC-SWBT**'s CRIS is Past Due, the unpaid amounts shall bear interest from the Bill Due Date until paid. The interest rate applied to **SBC-SWBT** CRIS-billed Past Due unpaid amounts shall be the lesser of (i) the rate used to compute the Late Payment Charge contained in the applicable **SBC-SWBT** intrastate retail Commission-approved tariff governing Late Payment Charges to **SBC-SWBT**'s retail End Users that are business End Users in that state and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.

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

9.2 CLEC shall make all payments to **SBC-12STATE** via electronic funds credit transfers through the Automated Clearing House Association (ACH) network to the financial institution designated by **SBC-12STATE**. Remittance information will be communicated together with the funds transfer via the ACH network. CLEC shall use the CCD+ or the CTX transaction set. CLEC and **SBC-12STATE** shall abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each ACH credit transfer shall be received by **SBC-12STATE** no later than the Bill Due Date of each bill or Late Payment Charges will apply. **SBC-12STATE** shall not be liable for any delays in receipt of funds or errors in entries caused by CLEC or Third Parties, including CLEC's financial institution. CLEC is responsible for its own banking fees.

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

9.3 If any portion of an amount due to **SBC-13STATE** for services furnished under this Agreement is subject to a bona fide dispute, CLEC shall, prior to the Bill Due Date, give written notice to **SBC-13STATE** of the amounts it disputes (“Disputed Amounts”) and include in such written notice the specific details and reasons for disputing each item, as listed in Section 18.4.1. CLEC shall pay when due (i) all undisputed amounts, and (ii) all Disputed Amounts into an interest bearing escrow account with a Third Party escrow agent mutually agreed upon by the Parties. To be acceptable, the Third Party escrow agent must meet all of the following criteria:

- 9.3.1 The financial institution proposed as the Third Party escrow agent must be located within the continental United States;
- 9.3.2 The financial institution proposed as the Third Party escrow agent may not be an Affiliate of either Party; and
- 9.3.3 The financial institution proposed as the Third Party escrow agent must be authorized to handle Automatic Clearing House (ACH) (credit transactions) (electronic funds) transfers.
- 9.3.4 In addition to the foregoing requirements for the Third Party escrow agent, CLEC and the financial institution proposed as the Third Party escrow agent must agree that the escrow account will meet all of the following criteria:
 - 9.3.4.1 The escrow account must be an interest bearing account;
 - 9.3.4.2 All charges associated with opening and maintaining the escrow account will be borne by CLEC;
 - 9.3.4.3 That none of the funds deposited into the escrow account or the interest earned thereon may be subjected to the financial institution's charges for serving as the Third Party escrow agent;
 - 9.3.4.4 All interest earned on deposits to the escrow account shall be disbursed to the Parties in the same proportion as the principal; and
 - 9.3.4.5 Disbursements from the escrow account shall be limited to those:
 - 9.3.4.5.1 authorized in writing by both CLEC and **SBC-13STATE** (that is, signature(s) from representative(s) of CLEC only are not sufficient to properly authorize any disbursement); or
 - 9.3.4.5.2 made in accordance with the final, non-appealable order of the arbitrator appointed pursuant to the provisions of Section 15.7; or
 - 9.3.4.5.3 made in accordance with the final, non-appealable order of the court that had jurisdiction to enter the arbitrator's award pursuant to Section 15.7.

9.4 Disputed Amounts in escrow shall be subject to Late Payment Charges as set forth in Section 9.1.

- 9.5 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provisions set forth in Section 15.
- 9.6 If CLEC disputes any charges for services furnished under this Agreement and any portion of the dispute is resolved in favor of CLEC, the Parties shall cooperate to ensure that all of the following actions are taken:
 - 9.6.1 **SBC-13STATE** shall credit the invoice of CLEC for that portion of the Disputed Amounts resolved in favor of CLEC, together with any Late Payment Charges assessed with respect thereto no later than the second Bill Due Date after the resolution of the Dispute;
 - 9.6.2 within fifteen (15) calendar days after resolution of the Dispute, the portion of the escrowed Disputed Amounts resolved in favor of CLEC shall be released to CLEC, together with any accrued interest thereon;
 - 9.6.3 within fifteen (15) calendar days after resolution of the Dispute, the portion of the Disputed Amounts resolved in favor of **SBC-13STATE** shall be released to **SBC-13STATE**, together with any accrued interest thereon; and
 - 9.6.4 no later than the third Bill Due Date after the resolution of the dispute regarding the Disputed Amounts, CLEC shall pay **SBC-13STATE** the difference between the amount of accrued interest **SBC-13STATE** received from the escrow disbursement and the amount of Late Payment Charges **SBC-13STATE** is entitled to receive pursuant to Section 9.1.
- 9.7 Failure by CLEC to pay any charges determined to be owed to **SBC-13STATE** within the time specified in Section 9.6 shall be grounds for termination of this Agreement.
- 9.8 Exchange of Billing Message Information
 - 9.8.1 **SBC-13 STATE** will provide CLEC a specific Daily Usage File (“DUF” or “Usage Extract”) for usage sensitive services furnished hereunder (“Customer Usage Data”). Such Customer Usage Data shall be provided by **SBC-13STATE** in accordance with Exchange Message Interface (EMI) guidelines supported by OBF. Any exceptions to the supported formats will be noted in the DUF implementation requirements documentation for each ILEC. The DUF shall include (i) specific daily usage, including both Local Traffic (if and where applicable) and LEC-carried IntraLATA Toll Traffic, in EMI format for usage sensitive services furnished in connection with each service to the extent that similar usage sensitive information is provided to retail End Users of **SBC-13STATE** within that state, (ii) with sufficient detail to enable CLEC to bill its End Users for usage sensitive services furnished by **SBC-13STATE** in connection with services furnished by **SBC-13STATE** under this Agreement. Procedures and processes for implementing the interfaces with **SBC-AMERITECH**, **PACIFIC**, **NEVADA**, **SNET**, and **SBC-SWBT** will be included in implementation requirements documentation.
 - 9.8.2 To establish file transmission for the DUF, CLEC must provide a separate written request for each state to **SBC-AMERITECH**, **PACIFIC**, **NEVADA**, **SNET** and **SBC-SWBT** no less than sixty (60) calendar days prior to the desired first transmission date for each file.
 - 9.8.3 Call detail for LEC-carried calls that are alternately billed to CLEC End Users will be forwarded to CLEC as rated call detail on the DUF.
 - 9.8.4 **SBC-SWBT** shall bill CLEC for DUF furnished by **SBC-SWBT** in accordance with the price(s) provided in the applicable Appendix Pricing under "Electronic Billing Information."
 - 9.8.5 Interexchange call detail on services furnished to CLEC under this Agreement for resale that is forwarded to **SBC-13STATE** for billing, which would otherwise be processed by **SBC-13STATE** for its retail End Users, will be returned to the IXC and will not be passed through to CLEC. This call detail will be returned to the IXC with a transaction code indicating that the returned call originated from a resold account. Billing for Information Services and other ancillary services traffic on resold accounts will be passed through when **SBC-13STATE** records the message.

- 9.8.6 **SBC-AMERITECH, NEVADA** and **PACIFIC** Ancillary Services messages originated on or billed to a resold account in those seven (7) states shall be subject to the rates, terms and conditions of Appendix Message Exchange.
- 9.8.7 CLEC shall be responsible for providing all billing information to each of its End Users, regardless of the method used to provision the End User's service.

10. NONPAYMENT AND PROCEDURES FOR DISCONNECTION

- 10.1 If CLEC is furnished services under the terms of this Agreement in more than one (1) state, Sections 10.1 through 10.7, inclusive, shall be applied separately for each such state.
- 10.2 Failure to pay charges may be grounds for termination of this Agreement. If CLEC fails to pay by the Bill Due Date, any and all charges billed to it under this Agreement, including any Late Payment Charges or miscellaneous charges ("Unpaid Charges"), and any portion of such Unpaid Charges remain unpaid fifteen (15) calendar days after the Bill Due Date, **SBC-13STATE** shall notify CLEC in writing that in order to avoid disruption or disconnection of the services furnished under this Agreement, CLEC must remit all Unpaid Charges to **SBC-13STATE** within fourteen (14) calendar days following receipt of **SBC-13STATE's** notice.
 - 10.2.1 **AM-IN** shall also provide any such written notification to the Indiana Utility Regulatory Commission as required by its rule 170 IAC 7-6.
- 10.3 If CLEC desires to dispute any portion of the Unpaid Charges, CLEC shall take all of the following actions not later than fourteen (14) calendar days following receipt of **SBC-13STATE's** notice of Unpaid Charges:
 - 10.3.1 notify **SBC-13STATE** in writing which portion(s) of the Unpaid Charges it disputes, including the total amount disputed ("Disputed Amounts") including all of the specific details listed in Section 10.4.1, together with the reasons for its dispute; and
 - 10.3.2 immediately pay to **SBC-13STATE** all undisputed Unpaid Charges; and
 - 10.3.3 pay all Disputed Amounts into an interest bearing escrow account that complies with all of the requirements set forth in Section 9.3.
 - 10.3.4 Evidence that CLEC has established an interest bearing escrow account that complies with all of the terms set forth in Section 9.3 of this Agreement and deposited a sum equal to the Disputed Amounts into that escrow account must be furnished to **SBC-13STATE** before the Unpaid Charges will be deemed to be "disputed" under Section 15.4.1.
- 10.4 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provision set forth in Section 15.
- 10.5 **SBC-AMERITECH** only
 - 10.5.1 Notwithstanding anything to the contrary herein, if CLEC fails to (i) pay any undisputed amounts by the Bill Due Date, (ii) pay the disputed portion of a past due bill into an interest-bearing escrow account with a Third Party escrow agent, (iii) pay any revised deposit or (iv) make a payment in accordance with the terms of any mutually agreed upon payment arrangement, **SBC-AMERITECH** may, in addition to exercising any other rights or remedies it may have under Applicable Law, provide written demand to CLEC for failing to comply with the foregoing. If CLEC does not satisfy the written demand within five (5) Business Days of receipt, **SBC-AMERITECH** may exercise any, or all, of the following options:
 - 10.5.1.1 assess a late payment charge and where appropriate, a dishonored check charge;
 - 10.5.1.2 require provision of a deposit or increase an existing deposit pursuant to a revised deposit request;

10.5.1.3 refuse to accept new, or complete pending, orders; and/or

10.5.1.4 discontinue service.

Notwithstanding any inconsistent provisions in the Agreement, discontinuing service by **AM-IN** shall be done as required by Indiana Utility Regulatory Commission rule 170 IAC 7-6.

10.5.2 Notwithstanding anything to the contrary in this Agreement, **SBC-AMERITECH**'s exercise of any of the above options:

10.5.2.1 shall not delay or relieve CLEC's obligation to pay all charges on each and every invoice on or before the applicable Bill Due Date, and

10.5.2.2 Sections 10.5.1.3 and 10.5.1.4 shall exclude any affected order or service from any applicable performance interval or Performance Benchmark.

10.5.3 Once disconnection has occurred, additional charges may apply.

10.6 **SBC-7STATE** only

10.6.1 If any Unpaid Charges remain unpaid and undisputed twenty-nine (29) calendar days past the Bill Due Date of such Unpaid Charges, **SBC-7STATE** shall notify CLEC and the Commission in writing that unless all Unpaid Charges are paid within sixteen (16) calendar days following CLEC's receipt of such notice, all services furnished to CLEC under this Agreement shall be disconnected. This notice shall further specify that **SBC-7STATE** shall cause any of CLEC's End Users provisioned with such services to be defaulted to **SBC-7STATE** local service.

10.6.1.1 On the same day that it sends the letter required by Section 13.6.1, **SBC-7STATE** will suspend acceptance of any new order and completion of any pending order (other than a disconnect order) from CLEC for any service that could be furnished under this Agreement.

10.6.1.2 Section 10.6.1.1 shall exclude any affected order for service(s) from any applicable performance interval and computation of any Performance Measurement.

10.6.2 If any Unpaid Charges remain unpaid and undisputed forty (40) calendar days past the Bill Due Date of the Unpaid Charges, CLEC shall, at its sole expense, notify its End Users and the Commission that the End Users' service may be disconnected due to CLEC's failure to pay Unpaid Charges, and that its End Users must affirmatively select a new local service provider within five (5) calendar days. This notice shall also advise each of CLEC's End Users that **SBC-7STATE** will transfer provisioning of the End User's account to **SBC-7STATE** at the end of the five (5) calendar day period should the End User fail to select a new local service provider in the interim.

10.6.3 If any Unpaid Charges for services furnished to CLEC under this Agreement remain unpaid and undisputed forty-five (45) calendar days past the Bill Due Date of such Unpaid Charges, **SBC-7STATE** shall disconnect all services furnished to CLEC under this Agreement.

10.6.3.1 On the same date that services are disconnected, **SBC-7STATE** shall cause CLEC's End Users to be transferred directly to **SBC-7STATE**'s local service. To the extent available at retail from **SBC-7STATE**, the End Users transferred to **SBC-7STATE**'s local service shall receive the same services provided through CLEC immediately prior to the time of transfer; provided, however, **SBC-7STATE** reserves the right to toll restrict (both interLATA and intraLATA) such transferred End Users.

10.6.3.2 Applicable conversion charges and service establishment charges for transferring End Users from CLEC to **SBC-7STATE** as specified in this Section 10.6 shall be billed to CLEC.

10.6.3.3 **SBC-7STATE** shall inform the Commission of the names of all End Users transferred through this process.

10.6.4 Within five (5) calendar days of the transfer, SBC-7STATE shall notify all transferred End Users that because of CLEC's failure to pay SBC-7STATE, their local service is now being provided by SBC-7STATE. SBC-7STATE shall also notify each transferred End User that the End User has thirty (30) calendar days to select a new local service provider.

10.6.5 Within twenty (20) days of transfer, SWBT-KS shall again notify all transferred Resale End Users who have not exercised their option to select a new Local Service Provider that because of CLEC's failure to pay SWBT-KS, their local service is now being provided by SWBT-KS. SWBT-KS shall also notify the End Users that they have fifteen (15) days to select a local service provider.

10.6.6 If any End User transferred to SBC-7STATE's local service pursuant to Section 10.6.3 of this Agreement fails to select a new local service provider within thirty (30) calendar days of the transfer to SBC-7STATE's local service, SBC-7STATE shall terminate the End User's service.

10.6.6.1 The transferred End User shall be responsible for any and all charges incurred during the selection period.

10.6.6.2 SBC-7STATE shall notify the Commission of the names of all End Users whose service has been terminated pursuant to this Section 10.6.5.

10.6.7 SBC-7STATE may discontinue service to CLEC as provided in Section 10.6.3 and shall have no liability to CLEC or CLEC's End Users in the event of such disconnection or any transfer of End Users to SBC-7STATE's service in connection with such disconnection.

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

10.6.8.1 in PACIFIC only, following expiration of the selection period and disconnection of such End Users, where facilities permit, PACIFIC will furnish transferred and subsequently disconnected residential End Users with "quick dial tone."

10.6.9 Once the letter required by Section 10.6.1 has been sent to CLEC, SBC-7STATE shall not accept any order (other than a disconnect order) from CLEC until

10.6.9.1 all Unpaid Charges are paid, and

10.6.9.1.1 CLEC has furnished SBC-7STATE a cash deposit calculated pursuant to the terms and conditions of Section 8.

10.7 Disconnection for SNET, see the applicable DPUC ordered tariff.

11. TERMS AND CONDITIONS FOR RESALE OF SERVICES

11.1 Except as otherwise expressly provided herein, for Telecommunications Services included within this Agreement that are offered by SBC-13STATE to SBC-13STATE's End Users through tariff(s), the rules and regulations associated with SBC-13STATE's retail tariff(s) shall apply when the services are resold by CLEC, with the exception of any tariff resale restrictions; provided, however, any tariff restrictions on further resale by the End User shall continue to apply. Use limitations on any service resold by CLEC to its End Users shall be in parity with the use limitations applicable to the same service offered by SBC-13STATE to its End Users.

11.2 CLEC shall only sell Plexar®, Centrex and Centrex-like services to a single End User or multiple End Users in accordance with the terms and conditions set forth in the corresponding SBC-13STATE retail tariff(s) applicable within that state.

11.3 Except where otherwise explicitly permitted in **SBC-13STATE**'s corresponding retail tariff(s), CLEC shall not permit the sharing of a service by multiple End User(s) or the aggregation of traffic from multiple End User(s) onto a single service.

11.3.1 This section applies only to **SWBT-TX**:

11.3.1.1 Within the State of Texas, based upon the Texas Commission's arbitration order, **SWBT-TX** will permit aggregation for purposes of the resale of volume discount offers. Volume discount offers include such items as intraLATA toll, but do not include such items as packages of vertical features.

11.4 Grandfathered services are available per appropriate state specific tariff to CLEC for resale at the applicable discount only to the same End User, at the existing End User's location, to which **SBC-13STATE** provides the service, either at retail or through resale.

11.5 CLEC shall only resell services furnished under this Agreement to the same category of End Users to whom **SBC-13STATE** offers such services (for example, residence service shall not be resold to business End Users).

11.6 SPECIAL NEEDS SERVICES

11.6.1 CLEC may only resell special needs services" as identified in associated state specific tariffs to persons who are eligible for each such service. As used herein, the term "special needs services" means services for the physically disabled where the disability is related to vision, speech, hearing or motion. Further, to the extent CLEC resells services that require certification on the part of the End User, CLEC shall ensure that the End User has obtained proper certification and complies with all rules and regulations as established by the appropriate Commission and the state specific **SBC-13STATE** tariffs.

11.6.2 This section applies only to **SBC-SWBT, AM-WI, AM-OH and AM-IN**:

11.6.2.1 CLEC may only resell **SBC-SWBT, AM-WI, AM-OH and AM-IN** low income assistance services, e.g. LifeLine and Link-Up services, where available for resale, according to associated retail state specific tariffs to persons who are eligible for each such service. Further, to the extent CLEC resells services that require certification on the part of the End User, CLEC shall ensure that the End User meets all associated tariff eligibility requirements, has obtained proper certification, continues to be eligible for the program(s), and complies with all rules and regulations as established by the appropriate Commission and the state specific **SBC-SWBT, AM-WI, AM-OH and AM-IN** tariffs.

11.7 This section applies only to, **PACIFIC, SNET AND SBC-AMIL**:

11.7.1 **PACIFIC, SNET AND SBC-AM-IL** LifeLine and Link-Up services are not available for resale.

11.7.1.1 CLEC is exclusively responsible for all aspects of any similar CLEC-offered program, including ensuring that any similar CLEC-offered program(s) complies with all applicable federal and state requirements, obtaining all necessary End User certifications and re-certifications, submitting written designation that any of CLEC's End User or applicants are eligible to participate in such programs, submitting CLEC's claims for reimbursement to any applicable governmental authority and any other activities required by any applicable governmental authority.

11.7.2 This section applies only to **NEVADA**:

11.7.2.1 **NEVADA** low income assistance services, e.g., LifeLine and Link-Up services are available for resale for a maximum period of 90 days from contract approval date. The CLEC has 90 days from the contract approval date to coordinate with the appropriate federal and state government agencies to establish the CLEC's own low income assistance service(s). At the end of the 90 day period, CLEC is responsible for initiating Local Service

Requests (LSR) to the ILEC for converting any existing ILEC Customer Service Records (CSR) from low income designated services to normal residential service. CLEC will be responsible for designating its own billing records and establishing and administering its low income assistance services internally.

11.7.2.2 CLEC is exclusively responsible for all aspects of any similar CLEC-offered program, including ensuring that any similar CLEC-offered program(s) complies with all applicable federal and state requirements, obtaining all necessary End User certifications and re-certifications, submitting written designation that any of CLEC's End User or applicants are eligible to participate in such programs, submitting CLEC's claims for reimbursement to any applicable governmental authority and any other activities required by any applicable governmental authority.

11.8 Customer Specific Pricing

11.8.1 This section applies only to **SWBT-KS, SWBT-TX and SWBT-MO**:

11.8.1.1 CLEC may convert current **SWBT-KS, SWBT-TX and SWBT-MO** End User(s) that have existing term, volume, termination liability or any customer specific pricing contracts (collectively referred to hereinafter as "CSP Contracts") for services offered within the State of Kansas or Texas, and Missouri.

11.8.1.2 **SWBT-KS, SWBT-TX and SWBT-MO** and any other reseller of **SWBT-KS, SWBT-TX or SWBT-MO** local service may convert current CLEC End User(s) that have existing CSP Contracts for services offered within the State of Kansas, Texas or Missouri.

11.8.1.3 In the event of a conversion under either Section 11.8.1.1 or 11.8.1.2, CLEC and **SWBT-KS, SWBT-TX or SWBT-MO** shall comply with all of the terms and conditions set forth in Sections 11.8.2 and 11.8.3 hereof.

11.8.1.4 Responsibilities of CLEC in connection with Assumption of CSP Contract Conversions

11.8.1.4.1 CLEC shall sign an "Assumption of Existing Agreement: assuming the balance of the terms, including volume, term and termination liability remaining on any current retail **SWBT-KS, SWBT-TX or SWBT-MO** or resold End User CSP Contract at the time of conversion. CLEC may assume the CSP Contract at the wholesale discount of 5.0% in Kansas and 5.62% in Texas for customer specific pricing plan contracts and at the wholesale discount of 8.0% in Kansas and 8.04% in Texas for tariffed volume and term contracts.

SWBT-MO tariffed and Individual Case Basis (ICB) contracts may be assumed but receives no wholesale discount.

11.8.1.4.2 CLEC shall not charge CLEC's End User termination liability when an existing CSP contract between CLEC and its End User is converted to **SWBT-KS, SWBT-TX or SWBT-MO** or any other local service provider reselling **SWBT-KS, SWBT-TX or SWBT-MO** local service.

11.8.1.4.3 If another reseller of **SWBT-KS, SWBT-TX or SWBT-MO** local service converts a current CLEC End User(s) that has an existing CSP Contract, it is CLEC's responsibility to address assumption of the CSP contact and termination liability with the other reseller. CLEC agrees that **SWBT-KS, SWBT-TX or SWBT-MO** has no responsibilities in such a situation, and CLEC further agrees that it will not make any Claim against **SWBT-KS, SWBT-TX or SWBT-MO** in connection with any conversion by another reseller of **SWBT-KS, SWBT-TX or SWBT-MO** local service of any CLEC End User(s) that has an existing CSP contract.

11.8.1.5 Responsibilities of **SWBT-KS, SWBT-TX and SWBT-MO** in connection with CSP Contract Conversions

11.8.1.5.1 **SWBT-KS, SWBT-TX and SWBT-MO** will not charge its retail End User termination liability when an existing CSP contract is converted to CLEC for resale.

11.8.1.5.2 **SWBT-KS, SWBT-TX and SWBT-MO** will assume in writing the balance of the terms, including volume, term and termination liability remaining on a current CSP contract between CLEC and its End User at the time that CLEC's End User is converted to **SWBT-KS, SWBT-TX or SWBT-MO**.

11.8.2 This section applies only to **SBC-AMERITECH**:

11.8.2.1 **SBC-AMERITECH** retail contracts may be assumed unless expressly prohibited by the contract. Contracts for grandfathered and/or sunsetted services may not be assumed.

11.8.2.2 Subject to the provisions of Section 11.8.2.1, the following shall apply:

11.8.2.2.1 **AM-IL** tariffed and Individual Case Basis (ICB) contracts that are assumed receive a wholesale discount of 3.16%.

11.8.2.2.2 **AM-MI** tariffed and Individual Case Basis (ICB) contracts that are assumed receive a wholesale discount of 3.42%.

11.8.2.2.3 **AM-OH**, and **AM-WI** tariffed and Individual Case Basis (ICB) contracts may be assumed, but receive no wholesale discount.

11.8.2.2.4 **AM-IN** tariffed and Individual Case Basis (ICB) contracts that are assumed will receive an interim wholesale discount of 3.39%. Final wholesale discount will be applied on a going forward basis awaiting the outcome of the pending cost docket.

11.8.2.2.5 **SBC-AMERITECH** Non-Standard Service contracts may be assumed, but receive no wholesale discount.

11.8.2.3 If CLEC elects to terminate a **SBC-AMERITECH** retail contract which CLEC had previously assumed, CLEC will be assessed the applicable termination charges remaining unless CLEC elects to simultaneously replace the existing contract with a contract of greater term and/or volume at the same discount CLEC receives for the previously assumed but now terminated contract.

11.9 Payphone Services

11.9.1 CLEC may provide certain local Telecommunications Services to payphone service providers ("PSPs") for PSPs' use in providing payphone service. Local Telecommunications Services which PSPs use in providing payphone service that are provided to PSPs by CLEC by means of reselling **SBC-13STATE's** services offered pursuant to the appropriate payphone section(s) of **SBC-13STATE's** state specific tariff(s) applicable in each state covered by this Agreement are referred to in this Agreement as "Payphone Lines." In its Common Carrier Docket No. 96-128, the FCC ordered **SBC-13STATE** to compensate PSP customers of CLECs that resell **SBC-13STATE's** services for certain calls originated from pay telephones and received by the resale-based carriers. (Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, FCC Docket No. 96-128, Report and Order, para. 86 (1996)). This compensation is referred to in this Agreement as "Payphone Compensation."

11.9.2 The Parties desire that **SBC-13STATE** satisfy the obligation to pay Payphone Compensation to PSPs that are customers of CLEC by paying the Payphone Compensation to CLEC, who will then forward the Payphone Compensation directly to the PSPs.

11.9.2.1 SBC-13STATE will pay Payphone Compensation due with respect to Payphone Lines in compliance with the current or any future order of the FCC. SBC-13STATE will pay Payphone Compensation to CLEC only for:

11.9.2.1.1 IntraLATA subscriber 800 calls for which SBC-13STATE provides the 800 service to the subscriber and carries the call; and

11.9.2.1.2 IntraLATA calls placed using SBC-13STATE's prepaid calling card platform and carried by SBC-13STATE.

11.9.2.2 SBC-13STATE will not be required to pay any Payphone Compensation for non-sent paid calls.

11.9.2.3 SBC-13STATE will pay CLEC the Payphone Compensation due to CLEC's PSP customer(s) within sixty (60) calendar days after the close of the calendar quarter during which the call(s) for which Payphone Compensation is due were made. However, payment may be made later than sixty (60) calendar days if SBC-13STATE deems it necessary to investigate a call or calls for possible fraud.

11.9.2.3.1 SBC-13STATE will make payment of any Payphone Compensation due to CLEC under this Agreement by crediting CLEC's bill for the Payphone Line over which the call that gives rise to the Payphone Compensation was placed. SBC-13STATE will not automatically issue a check to CLEC if the credit for Payphone Compensation exceeds the balance due to SBC-13STATE on the bill.

11.9.2.4 Nothing in this Agreement entitles CLEC to receive or obligates SBC-13STATE to provide any call detail or other call record for any call that gives rise to Payphone Compensation.

11.9.2.5 CLEC represents and warrants that the only SBC-13STATE services that CLEC will make available to PSPs as Payphone Lines are the payphone services that SBC-13STATE offers pursuant to the appropriate payphone section(s) of SBC-13STATE's state specific tariff(s) applicable in each state covered by this Agreement.

11.9.2.6 Except as provided otherwise in Section 11.9 of this Agreement, CLEC shall pay the entire amount of the Payphone Compensation due with respect to each Payphone Line to the PSP that is CLEC's customer for that Payphone Line. CLEC shall make such payment on or before the last business day of the calendar quarter following the calendar quarter during which the call(s) for which Payphone Compensation is due to the PSP were made. If SBC-13STATE pays any Payphone Compensation to CLEC later than sixty (60) calendar days after the close of the calendar quarter during which the call(s) for which Payphone Compensation is due were made, then CLEC shall pay the entire amount of such Payphone Compensation to the PSP that is CLEC's customer for that Payphone Line within ten (10) calendar days after receiving such Payphone Compensation from SBC-13STATE.

In addition to any other indemnity obligations in this Agreement, CLEC shall indemnify, protect, save harmless and defend SBC-13STATE and SBC-13STATE's officers, employees, agents, representatives and assigns from and against any and all losses, costs, liability, damages and expense (including reasonable attorney's fees) arising out of any demand, claim, suit or judgment by any Third Party, including a PSP, in any way relating to or arising from any of the following:

11.9.2.6.1 CLEC's failure to comply with all the terms and conditions of this Agreement; or

11.9.2.6.2 Use by a PSP customer of CLEC of any service other than a Payphone Line to provide pay telephone service; or

11.9.2.6.3 False representation by CLEC.

11.10 Suspension of Service

- 11.10.1 CLEC may offer to resell Customer Initiated Suspension and Restoral Service to its End Users at the associated state specific retail tariff rates, terms and conditions for suspension of service at the request of the End User.
- 11.10.2 **SBC-13STATE** will offer CLEC local service provider initiated suspension service for CLEC's purposes at the associated **SBC-13STATE** state specific retail tariff rate for company initiated suspension of service. Service specifics may be obtained in state specific CLEC Handbooks.
 - 11.10.2.1 CLEC shall be exclusively responsible for placing valid orders for the suspension and the subsequent disconnection or restoral of service to each of its End Users.
 - 11.10.2.2 Should CLEC suspend service for one of its End Users and fail to submit a subsequent disconnection order within the maximum number of calendar days permitted for a company initiated suspension pursuant to the state specific retail tariff, CLEC shall be charged and shall be responsible for all appropriate monthly service charges for the End User's service from the suspension date through the disconnection date.
 - 11.10.2.3 Should CLEC suspend service for one of its End Users and subsequently issue a restoral order, CLEC shall be charged the state specific tariff rate for the restoral plus all appropriate monthly service charges for the End User's service from the suspension date through the restoral date.

11.11 Promotions

- 11.11.1 Promotions are available for the Telecommunications Services outlined in Appendix Pricing in the "Resale" category and in accordance with state specific Commission requirements.
- 11.11.2 This section applies only to **NEVADA** and **SWBT-MO**:
 - 11.11.2.1 **NEVADA** and **SWBT-MO** promotions of eighty-nine (89) days or less are not available to CLEC for resale.
Promotions of ninety (90) days or more are available to CLEC for resale at the applicable wholesale discount, state specific.
- 11.11.3 This section applies only to **PACIFIC**, **SBC-AMERITECH**, **SNET**, and **SWBT-AR**:
 - 11.11.3.1 **PACIFIC**, **SBC-AMERITECH**, **SNET**, and **SWBT-AR** promotions of ninety (90) days or less are not available to CLEC for resale.
Promotions of ninety-one (91) days or more are available to CLEC for resale and at the applicable wholesale discount, state specific.
- 11.11.4 This section applies only to **SWBT-TX**, **SWBT-KS** and **SWBT-OK**:
 - 11.11.4.1 Promotions on Telecommunications Services are available to CLEC for resale. A wholesale discount will be applied to those promotions of ninety-one (91) days or more.

12. ADDITIONAL TERMS APPLICABLE TO RESALE OF SERVICES

- 12.1 CLEC shall not use a resold service to avoid the rates, terms and conditions of **SBC-13STATE**'s corresponding retail tariff(s).
- 12.2 CLEC shall not use resold local Telecommunications Services to provide access or interconnection services to itself, interexchange carriers (IXCs), wireless carriers, competitive access providers (CAPs), or other telecommunications providers; provided however, that CLEC may permit its End Users to use resold

local Telecommunications Services to access IXCs, wireless carriers, CAPs, or other retail telecommunications providers.

- 12.3 A federal End User Common Line charge and any other appropriate Commission-approved charges, as set forth in the appropriate **SBC-13STATE** federal and applicable state tariff(s) will apply to each local exchange line furnished to CLEC under this Agreement.
- 12.4 To the extent allowable by law, CLEC shall be responsible for Primary Interexchange Carrier (both PIC and LPIC) charge charges associated with each local exchange line furnished to CLEC for resale. CLEC shall pay all charges for PIC and LPIC changes at the tariffed rate(s).
- 12.5 **SBC-13STATE's** services are not available at wholesale rates to CLEC for its own use or for the use of any CLEC's affiliates and/or subsidiaries or the use of CLEC's parent or any affiliate and/or subsidiary of CLEC's parent company, if any.
- 12.6 If CLEC is in violation of any provision of this Agreement, **SBC-13STATE** will notify CLEC of the violation in writing. Such notice shall refer to the specific provision being violated. CLEC will have thirty (30) calendar days to correct the violation and notify **SBC-13STATE** in writing that the violation has been corrected. If the violation affects billing, **SBC-13STATE** will bill CLEC a sum equal (i) the charges that would have been billed by **SBC-13STATE** to CLEC or any Third Party but for the stated violation and (ii) the actual revenues CLEC billed its End User(s) in connection with the stated violation, whichever is greater. Should CLEC dispute the stated violation, CLEC must notify **SBC-13STATE** in writing of the specific details and reasons for its dispute within fourteen (14) calendar days of receipt of the notice from **SBC-13STATE** and comply with Sections 12.3 and 12.4. Resolution of any dispute by CLEC of the stated violation shall be conducted in compliance with the Dispute Resolution provisions of this Agreement.

13. ANCILLARY SERVICES

- 13.1 Where available, **SBC-13STATE** will afford CLEC's End Users the ability to make 911 calls. In the areas served by **SBC-SWBT**, **PACIFIC**, **NEVADA**, and **SNET**, CLEC shall be responsible for collecting and remitting all applicable 911 fees and surcharges on a per line basis to the appropriate Public Safety Answering Point (PSAP) or other Governmental Authority responsible for collection of such fees and surcharges. When requested by **SBC-13STATE**, CLEC shall provide **SBC-13STATE** with accurate and complete information regarding CLEC's End User(s) in a format and time frame prescribed by **SBC-13STATE** for purposes of E911 administration. In areas served by **SBC-AMERITECH**, any 911 fees or surcharges associated with Resale accounts shall be included by **SBC-AMERITECH** on CLEC's invoice and CLEC agrees to pay Ameritech all such fees and surcharges. **SBC-AMERITECH** shall then be responsible for submitting or retaining such fees and surcharges in accordance with the appropriate 911 cost recovery plan applicable to the local jurisdiction.
- 13.2 Subject to **SBC-13STATE's** practices, as well as the rules and regulations applicable to the provision of White Pages directories, **SBC-13STATE** will include in appropriate White Pages directories the primary alphabetical listings of all CLEC End Users located within the local directory scope. The rules, regulations and **SBC-13STATE** practices are subject to change from time to time.
- 13.3 Additional Listing services, as set forth in Appendix Pricing, may be purchased by CLEC for its End Users on a per listing basis.

13.3.1 Liability relating to End User Listings

- 13.3.1.1 CLEC hereby releases **SBC-13STATE** from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided to **SBC-13STATE** under this Appendix, and/or CLEC's End User listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, consequential, punitive or incidental damages.

In addition to any other indemnity obligations in this Agreement, CLEC shall indemnify, protect, save harmless and defend **SBC-13STATE** and **SBC-13STATE's** officers, employees, agents, representatives and assigns from and against any and all losses, liability, damages and expense arising out of any demand, claim, suit or judgment by a Third Party in any way related to any error or omission in CLEC's End User listing information, including any error or omission related to non-published or non-listed End User listing information. CLEC shall so indemnify regardless of whether the demand, claim or suit by the third party is brought jointly against CLEC and **SBC-13STATE**, and/or against **SBC-13STATE** alone. However, if such demand, claim or suit specifically alleges that an error or omission appears in CLEC's End User listing information in the White Pages directory, **SBC-13STATE** may, at its option, assume and undertake its own defense, or assist in the defense of the CLEC, in which event the CLEC shall reimburse **SBC-13STATE** for reasonable attorney's fees and other expenses incurred by **SBC-13STATE** in handling and defending such demand, claim and/or suit.

- 13.4 Each CLEC subscriber will receive one copy per primary End User listing of **SBC-13STATE's** White Pages directory in the same manner and at the same time that they are delivered to **SBC-13STATE's** subscribers.
 - 13.4.1 If CLEC's End User already has a current **SBC-13STATE** local White Pages directory, **SBC-13STATE** shall not be required to deliver a directory to that End User until new White Pages directories are published for that End User's location.
- 13.5 **SBC-8STATE** will provide CLEC with 1/8th page in each directory (where the CLEC has or plans to have local telephone exchange customers) for the CLEC to include CLEC specific-information (i.e., business office, residence office, repair bureau, etc.) in the White Pages directory on an "index-type" informational page. No advertising will be permitted on such informational page. This page will also include specific information pertaining to other CLECs. At its option, CLEC shall provide **SBC-8STATE** with its logo and information in the form of a camera-ready copy, sized at 1/8th of a page. The content of CLEC's camera-ready copy shall be subject to **SBC-8STATE** approval. In those directories in which **SBC-13STATE** includes Spanish Customer Guide Pages, this informational page will also be provided in Spanish at CLEC's request, subject to the guidelines set forth above.
- 13.6 At its request, CLEC may purchase one (1) one-sided "Informational Page" in the informational section of the White Pages directory covering a geographic area where CLEC provides local telecommunications exchange service. Such page shall be no different in style, size, color and format than **SBC-8STATE** "Informational Page". Sixty (60) calendar days prior to the directory close date, the CLEC shall provide to **SBC-8STATE** the "Informational Page" in the form of camera-ready copy.
- 13.7 Subject to any blocking that may be ordered by CLEC for its End Users', to the extent Directory Assistance (DA) services are provided to **SBC-13STATE** End Users, **SBC-13STATE** shall provide CLEC's End Users access to **SBC-13STATE** Directory Assistance services. CLEC shall pay **SBC-13STATE** the charges attributable to Directory Assistance services utilized by CLEC's End Users.
- 13.8 Subject to any blocking that may be ordered by CLEC for its End Users', **SBC-13STATE** will provide access to Operator Services ("OS") to CLEC's End Users to the same extent it provides OS to its own End Users. CLEC shall pay the charges associated with the utilization of OS by CLEC's End Users.
- 13.9 **SBC-13STATE** offers CLEC the opportunity to customize route its End Users' OS/DA calls where technically feasible.

13.9.1 OS/DA Branding

- 13.9.1.1 Where technically feasible and/or available, **SBC-13STATE** will brand Operator Services (OS) and/or Directory Assistance (DA) in CLEC's name as outlined below:

13.9.2 Call Branding

- 13.9.2.1 **SBC-13STATE** will brand OS/DA in CLEC's name based upon the information provided by CLEC and as outlined below:

13.9.2.2 **SBC-13STATE** – CLEC will provide written specifications of its company name to be used by **SBC-13STATE** to create CLEC specific branding announcements for its OS/DA calls in accordance with the process outlined in the Operator Services OS/DA Questionnaire (OSQ).

13.9.2.3 CLEC name used in branding calls may be subject to Commission regulations and should match the name in which CLEC is doing business.

13.9.3 **Branding Load Charges:**

13.9.3.1 **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 OS/DA call handled by **SBC-SWBT** on behalf of CLEC when multiple brands are required on a single Operator Services trunk. This charge is set forth in Appendix Pricing under the “OTHER (Resale)” category.

13.9.3.1.1 **SBC-AMERITECH** – An initial non-recurring charge applies per brand, per Operator Assistance Switch, per trunk group for the establishment of CLEC specific branding. In addition, a per call charge applies for every OS call handled by **SBC-AMERITECH** on behalf of CLEC when such services are provided. An additional non-recurring charge applies per brand, per Operator assistance switch, per trunk group for each subsequent change to the branding announcement.

13.9.3.1.2 **SBC-2STATE** – 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.

13.9.3.1.3 **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.

13.10 **OS/DA/Rate/Reference Information**

13.10.1 When an **SBC-12STATE** Operator receives a rate request from a CLEC End User, where technically feasible and available, **SBC-12STATE** will quote the applicable OS/DA rates as provided by the CLEC.

13.10.2 **SNET** – until technically feasible and/or available, when a **SNET** Operator receives a rate request from a CLEC end user, **SNET** will quote the surcharge rate only.

13.10.3 CLEC will furnish OS/DA Rate and Reference Information in accordance with the process outlined in the Operator Services Questionnaire (OSQ). 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.

13.10.4 CLEC will inform **SBC-12STATE**, via the Operator Services Questionnaire (OSQ) of any changes to be made to such Rate/Reference Information fourteen calendar days prior to the effective Rate/Reference change date. CLEC acknowledges that it is responsible to provide **SBC-12STATE** updated Rate/Reference Information in advance of when the Rate/Reference Information is to become effective.

13.10.5 An initial non-recurring charge will apply per state, per Operator assistance switch for loading of CLEC's OS Reference/Rater information. An additional non-recurring charge will apply per state,

per Operator assistance switch for each subsequent change to either the CLEC's OS Reference or Rater information.

14. NETWORK AND SERVICE ORDER CONDITIONS

- 14.1 **SBC-13STATE** shall provide the services covered by this Agreement subject to availability of existing facilities and on a nondiscriminatory basis with its other customers. CLEC shall resell the services provided herein only in those service areas in which such services or any feature or capability thereof are offered to End Users at retail by **SBC-13STATE** as the incumbent local exchange carrier.
- 14.2 When an End User converts existing service to CLEC resold service of the same type without any additions or changes, charges for such conversion will apply as set forth in Appendix Pricing in the "Other (Resale)" category, listed as "conversion charges," and are applied per billable telephone number.
 - 14.2.1 When an End User(s) subscribes to CLEC resold service, recurring charges for the service shall apply at the wholesale discount set forth in Appendix Pricing. The tariff rates for such resold service shall continue to be subject to orders of the appropriate Commission.
- 14.3 When CLEC converts an End Users existing service and additions or changes are made to the service at the time of conversion, the normal service order charges and/or non-recurring charges associated with said additions and/or changes will be applied in addition to the conversion charge. CLEC will receive a wholesale discount on all non-recurring service order charges for the services listed in Appendix Pricing under the heading "Resale;" no wholesale discount is available for the non-recurring service order charges for those services listed in Appendix Pricing under the heading "Other (Resale)."
- 14.4 For the purposes of ordering service furnished under this Agreement, each request for new service (that is, service not currently being provided to the End User on **SBC-13STATE's** network, without regard to the identity of that End User's non-facilities based local service provider of record) shall be handled as a separate initial request for service and shall be charged per billable telephone number.
- 14.5 Where available, the tariff retail additional line rate for Service Order Charges, shall apply only to those requests for additional residential service at the End User premises to which a residential line is currently provided on **SBC-13STATE's** network, without regard to the identity of that End User's non-facilities based local service provider of record.

15. DISPUTE RESOLUTION

- 15.1 Finality of Disputes
 - 15.1.1 Except as otherwise specifically provided for in this Agreement, no claim may be brought for any dispute arising from this Agreement more than twenty-four (24) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.
 - 15.1.2 Notwithstanding anything contained in this Agreement to the contrary, a Party shall be entitled to dispute only those charges for which the Bill Due Date occurred within the twelve (12) months immediately preceding the date on which the other Party received notice of such Disputed Amounts.
- 15.2 Alternative to Litigation
 - 15.2.1 The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, the Parties agree to use the following Dispute Resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.
- 15.3 Commencing Dispute Resolution
 - 15.3.1 Dispute Resolution shall commence upon one Party's receipt of written notice of a controversy or claim arising out of or relating to this Agreement or its breach. No Party may pursue any claim

unless such written notice has first been given to the other Party. There are three (3) separate Dispute Resolution methods:

15.3.1.1 Service Center / LSC Dispute Resolution,

15.3.1.2 Informal Dispute Resolution; and

15.3.1.3 Formal Dispute Resolution,

each of which is described below.

15.4 LSC/Service Center Dispute Resolution - The following Dispute Resolution procedures will apply with respect to any billing dispute arising out of or relating to the Agreement.

15.4.1 If the written notice given pursuant to Section 15.3 discloses that a CLEC dispute relates to billing, then the procedures set forth in this Section 15.4 shall be used and the dispute shall first be referred to the appropriate **SBC-7STATE** Center [**SBC-AMERITECH Service Center; SBC-7STATE Local Service Center (LSC)**] for resolution. In order to resolve a billing dispute, CLEC shall furnish **SBC-7STATE** and **SBC-AMERITECH** written notice of (i) the date of the bill in question, (ii) CBA/ESBA/ASBS or BAN number of the bill in question, (iii) telephone number, circuit ID number or trunk number in question, (iv) any USOC information questioned, (v) amount billed (vi) amount in question and (vii) the reason that CLEC disputes the billed amount. To be deemed a "dispute" under this Section 15.4, CLEC must provide evidence that it has established an interest bearing escrow account that complies with the requirements set forth in Section 9.3 of this Agreement and deposited all Unpaid Charges into that escrow account. Failure to provide the information and evidence required by this Section 15.4.1 not later than twenty-nine (29) days following the Bill Due Date shall constitute CLEC's irrevocable and full waiver of its right to dispute the subject charges.

15.4.2 The Parties shall attempt to resolve Disputed Amounts appearing on **SBC-7STATE**'s and **SBC-AMERITECH**'s current billing statements thirty (30) to sixty (60) calendar days from the Bill Due Date (provided the CLEC furnishes all requisite information and evidence under Section 15.4.1 by the Bill Due Date). If not resolved within thirty (30) calendar days, upon request, **SBC-7STATE** and **SBC-AMERITECH** will notify CLEC of the status of the dispute and the expected resolution date.

15.4.3 The Parties shall attempt to resolve Disputed Amounts appearing on statements prior to the current billing statement within thirty (30) to ninety (90) calendar days, but resolution may take longer depending on the complexity of the dispute. If not resolved within thirty (30) calendar days from the date notice of the Disputed Amounts was received (provided that CLEC furnishes all requisite information and evidence under Section 15.4.1), **SBC-7STATE** and **SBC-AMERITECH** will notify CLEC of the status of the dispute and the expected resolution date.

15.4.4 If CLEC is not satisfied by the resolution of the billing dispute under this Section 18.4, CLEC may notify **SBC-7STATE** and **SBC-AMERITECH** writing that it wishes to invoke the Informal Resolution of Disputes afforded pursuant to Section 18.5.

15.5 Informal Resolution of Disputes

15.5.1 Upon receipt by one Party of notice of a dispute by the other Party pursuant to Section 14.3 or Section 14.4.5, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative Dispute Resolution procedures such as mediation to assist in the negotiations. Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit without the concurrence of both Parties. Documents identified in or provided with such communications that were not prepared for purposes of the negotiations are not so exempted, and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

15.6 Formal Dispute Resolution

15.6.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 15.5, then either Party may invoke the formal Dispute Resolution procedures described in this Section 15.6. Unless agreed among all Parties, formal Dispute Resolution procedures, including arbitration or other procedures as appropriate, may be invoked not earlier than sixty (60) calendar days after receipt of the letter initiating Dispute Resolution under Section 15.3.

15.6.2 **Claims Subject to Mandatory Arbitration.** The following claims, if not settled through informal Dispute Resolution, will be subject to mandatory arbitration pursuant to Section 15.7 below:

15.6.2.1 Each unresolved billing dispute involving one percent (1%) or less of the amounts charged to CLEC under this Agreement in the state in which the dispute arises during the twelve (12) months immediately preceding receipt of the letter initiating Dispute Resolution under Section 15.3. If CLEC has not been billed for a minimum of twelve (12) months immediately preceding receipt of the letter initiating Dispute Resolution under Section 15.3, the Parties will annualize the actual number of months billed.

15.6.3 **Claims Subject to Elective Arbitration.** Claims will be subject to elective arbitration pursuant to Section 15.7 if, and only if, the claim is not settled through informal Dispute Resolution and both Parties agree to arbitration. If both Parties do not agree to arbitration, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanism.

15.6.4 **Claims Not Subject to Arbitration.** If the following claims are not resolved through informal Dispute Resolution, they will not be subject to arbitration and must be resolved through any remedy available to a Party pursuant to law, equity or agency mechanism.

15.6.4.1 Actions seeking a temporary restraining order or an injunction related to the purposes of this Agreement.

15.6.4.2 Actions to compel compliance with the Dispute Resolution process.

15.6.4.3 All claims arising under federal or state statute(s), including antitrust claims.

15.7 Arbitration

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

16. AUDITS – Applicable in **SBC-12STATE** only

16.1 Subject to the restrictions set forth in Section 27 and except as may be otherwise expressly provided in this Agreement, a Party (the “**Auditing Party**”) may audit the other Party’s (the “**Audited Party**”) books, records, data and other documents, as provided herein, once annually, with the audit period commencing not earlier than the date on which services were first supplied under this Agreement (“**service start date**”) for the purpose of evaluating (i) the accuracy of Audited Party’s billing and invoicing of the services provided hereunder and (ii) verification of compliance with any provision of this Agreement that affects the accuracy of Auditing Party’s billing and invoicing of the services provided to Audited Party hereunder. Notwithstanding the foregoing, an Auditing Party may audit the Audited Party’s books, records and documents more than once annually if the previous audit found (i) previously uncorrected net variances or errors in invoices in Audited Party’s favor with an aggregate value of at least five percent (5%) of the amounts payable by Auditing Party for audited services provided during the period covered by the audit or (ii) non-compliance by Audited Party with any provision of this Agreement affecting Auditing Party’s billing and invoicing of the services provided to Audited Party with an aggregate value of at least five percent (5%) of the amounts payable by Audited Party for audited services provided during the period covered by the audit.

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

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

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

16.1.4 Each Party shall maintain reports, records and data relevant to the billing of any services that are the subject matter of this Agreement for a period of not less than twenty-four (24) months after creation thereof, unless a longer period is required by Applicable Law.

16.1.5 If any audit confirms any undercharge or overcharge, then Audited Party shall (i) promptly correct any billing error, including making refund of any overpayment by Auditing Party in the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results and (ii) for any undercharge caused by the actions of the Audited Party, immediately compensate Auditing Party for such undercharge, and (iii) in each case, calculate and pay interest as provided in Section 9.1.4 (depending on the **SBC** Parties and billing systems involved), for the

number of days from the date on which such undercharge or overcharge originated until the date on which such credit is issued or payment is made and available.

- 16.1.6 Except as may be otherwise provided in this Agreement, audits shall be performed at Auditing Party's expense, subject to reimbursement by Audited Party of one-quarter (1/4) of any independent auditor's fees and expenses in the event that an audit finds, and the Parties subsequently verify, a net adjustment in the charges paid or payable by Auditing Party hereunder by an amount that is, on an annualized basis, greater than five percent (5%) of the aggregate charges for the audited services during the period covered by the audit.
- 16.1.7 Any disputes concerning audit results shall be referred to the Parties' respective personnel responsible for informal resolution. If these individuals cannot resolve the dispute within thirty (30) days of the referral, either Party may request in writing that an additional audit shall be conducted by an independent auditor acceptable to both Parties, subject to the requirements set out in Section 16.1. Notwithstanding anything contained in this Agreement to the contrary, any additional audit shall be at the requesting Party's expense.

16.2 Audits - **SNET** only

- 16.2.1 **SNET** shall arrange for one (1) annual independent audit to be conducted by a "Big Six" independent public accounting firm or an accounting firm mutually agreed to by **SNET**, CLEC and all other local service providers doing business with **SNET** under the terms of an agreement adopted pursuant to Sections 251 and 252 of the Act for the purpose of evaluating the accuracy of **SNET**'s billing and invoicing.
- 16.2.2 **SNET** will cooperate fully with the independent auditor in such audit and provide reasonable access to any and all appropriate **SNET** employees, books, records and other documents reasonably necessary to perform the audit.
- 16.2.3 **SNET** shall promptly correct any billing error that is revealed in the audit, including making refund of any overpayment to CLEC in the form of a credit on the invoice for the first full billing cycle after the audit report is issued; such refund shall include interest on the overpayment at the rate of eight percent (8%) per year. In the event that the audit reveals any underbilling and resulting underpayment to **SNET** by CLEC, the underpayment shall be reflected in CLEC's invoice for the first full billing cycle after the audit report is issued. **SNET** will not be entitled to recover interest on any underbilling to CLEC revealed by the audit for the time preceding the amount appearing on CLEC's bill from **SNET**, however, **SNET** shall be entitled to recover interest at the interest rate referenced in Section 9.1.4.1 on such underbilling and CLEC shall pay interest for the number of days from the Bill Due Date of the bill on which such underbilling was rectified until the date on which payment is made and available to **SNET**.

17. RESPONSIBILITIES OF SWBT

- 17.1 **SBC-13STATE** shall allow CLEC to place service orders and receive phone number assignments (for new lines). These activities shall be accomplished by facsimile or electronic interface. **SBC-13STATE** shall provide interface specifications for electronic access for these functions to CLEC. However, CLEC shall be responsible for modifying and connecting any of its systems with **SBC-13STATE**-provided interfaces, as outlined in Appendix OSS.
- 17.2 **SBC-13STATE** shall implement CLEC service orders within the same time intervals **SBC-13STATE** uses to implement service orders for similar services for its own End Users.
 - 17.2.1 Methods and procedures for ordering are outlined in the Customer Handbook, available on-line, as amended by **SBC-13STATE** in its sole discretion from time to time. All Parties agree to abide by the procedures contained therein.

17.3 CLEC will have the ability to report trouble for its End Users to appropriate **SBC-13STATE** trouble reporting center(s) twenty-four (24) hours a day, 7 days a week. CLEC will be assigned customer contact center(s) when initial service agreements are made. CLEC End Users calling **SBC-13STATE** for service will be referred to CLEC at the number provided by CLEC. Nothing herein shall be interpreted to authorize CLEC to repair, maintain, or in any way touch **SBC-13STATE**s network facilities, including those on End User premises.

17.3.1 Methods and procedures for trouble reporting are outlined in the CLEC Handbook, available on-line, as amended by **SBC-13STATE** in its sole discretion from time to time. All Parties agree to abide by the procedures contained therein.

17.4 **SBC-13STATE** will provide CLEC with detailed billing information necessary for CLEC to issue bill(s) to its End User(s). CLEC has the option of receiving a daily usage file (“DUF”) in accordance with the terms and conditions set forth in Section 9.8. Should CLEC elect to subscribe to the DUF, CLEC agrees to pay **SBC-13STATE** the charges specified in Appendix Pricing under the “Other (Resale)” category listed as “Electronic Billing Information Data (daily usage) (per message).”

17.5 **SBC-13STATE** shall make Telecommunications Services that **SBC-13STATE** provides at retail to subscribers who are not Telecommunications Carriers available for resale consistent with the obligation under Section 251(c)(4)(A) of the Act and other applicable limitations. **SBC-13STATE** will notify CLEC of any changes in the terms and conditions under which **SBC-13STATE** offers Telecommunications Services at retail to subscribers who are not Telecommunications Carriers, including but not limited to, the introduction of any new features, functions, services, promotions, grandfathering or the discontinuance of current features or services at the time a tariff filing is transmitted to the appropriate State Commission, or, in situations where a tariff filing is not so transmitted, within sixty (60) calendar days of the expected effective date of such change.

17.5.1 **SBC-13STATE** currently makes such notification as described in Section 24. Notification of any new service available to CLEC for resale shall advise CLEC of the category in which such new service shall be placed, and the same discount already applicable to CLEC in that category shall apply to the new service.

17.6 CLEC's End User's activation of Call Trace shall be handled by the **SBC-13STATE** operations center(s) responsible for handling such requests. **SBC-13STATE** shall notify CLEC of requests by its End Users to provide call records to the proper authorities. Subsequent communication and resolution of each case involving one of CLEC's End Users (whether that End User is the victim or the suspect) will be coordinated through CLEC.

17.6.1 CLEC acknowledges that for services where reports are provided to law enforcement agencies (for example, Call Trace) only billing number and address information shall be provided. It shall be CLEC's responsibility to provide additional information necessary for any police investigation.

17.6.1.1 In addition to any other indemnity obligations in this Agreement or any Appendix attached hereto, CLEC shall indemnify **SBC-13STATE** against any Claim that insufficient information led to inadequate prosecution.

17.6.2 **SBC-13STATE** shall handle law enforcement requests consistent with the Law Enforcement Section of this Agreement.

17.7 This section applies only to **PACIFIC**:

17.7.1 **PACIFIC** will make available to CLEC an optional service, Repair Transfer Service (“RTS”). In the event a CLEC's End User dials 611 (811-8081 for Priority Business customers) for repair, **PACIFIC** will provide a recorded announcement of the CLEC name and number and **PACIFIC** will automatically transfer the caller to the CLEC designated 800/888 number for repair service. CLEC must provide written notification to **PACIFIC** at least thirty (30) calendar days prior to the implementation of RTS. Written notification must include the CLEC name and 800/888 numbers for

RTS to the CLEC repair bureau and business office. There will be no charges associated with the initial set-up for RTS, however, charges will apply to any subsequent changes to the recorded name announcement and telephone number. Rates for subsequent changes are set forth in the Appendix PRICING in the “Other (Resale)” category listed as “Repair Transfer Service.” Subsequent charges include: Recorded Name Announcement, 800/888 Telephone Number and Name Announcement & Telephone Number.

18. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

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

19. LIMITATION OF LIABILITY

19.1 Except for indemnity obligations expressly set forth herein or as otherwise expressly provided in specific appendices, each Party's liability to the other Party for any Loss relating to or arising out of such Party's performance under this Agreement, including any negligent act or omission (whether willful or inadvertent), whether in contract, tort or otherwise, including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement also constitute a violation of a statute, including the Act, shall not exceed in total the amount **SBC-13STATE** or CLEC has charged or would have charged to the other Party for the services, functions, facilities and products that were not performed or were improperly performed.

19.2 Except as otherwise expressly provided in specific appendices, in the case of any Loss alleged or claimed by a Third Party to have arisen out of the negligence or willful misconduct of any Party, each Party shall bear, and its obligation shall be limited to, that portion (as mutually agreed to by the Parties or as otherwise established) of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.

19.3 A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users or Third Parties that relate to any services, functions, facilities and products provided or contemplated under this Agreement that, to the maximum extent permitted by Applicable Law, such Party shall not be liable to such End User or Third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged the End User or Third Party for the services, functions, facilities and products that gave rise to such Loss and (ii) any Consequential Damages. If a Party elects not to place in its tariffs or contracts such limitation(s) of liability, and the other Party incurs a Loss as a result thereof, the first Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitation(s) of liability described in this Section 19.3.

19.4 Neither CLEC nor **SBC-13STATE** shall be liable to the other Party for any Consequential Damages suffered by the other Party, regardless of the form of action, whether in contract, warranty, strict liability, tort or otherwise, including negligence of any kind, whether active or passive (and including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement constitutes a violation of the Act or other statute), and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions; provided that the foregoing shall not limit a Party's obligation under Section 21 to indemnify, defend, and hold the other Party harmless

against any amounts payable to a Third Party, including any Losses, and Consequential Damages of such Third Party; provided, however, that nothing in this Section 19.4 shall impose indemnity obligations on a Party for any Loss or Consequential Damages suffered by a Party's End User in connection with any affected services, functions, facilities and products. Except as provided in the prior sentence, each Party hereby releases and holds harmless the other Party (and such other Party's Affiliates, and their respective officers, directors, employees and agents) from any such Claim.

- 19.5 **SBC-13STATE** shall not be liable for damages to an End User's premises resulting from the furnishing of any services, functions, facilities and products, including, if applicable, the installation and removal of equipment and associated wiring, unless the damage is caused by **SBC-13STATE's** gross negligence or willful misconduct. **SBC-13STATE** does not guarantee or make any warranty with respect to services, functions, facilities and products when used in an explosive atmosphere.
- 19.6 CLEC hereby releases **SBC-13STATE** from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided by CLEC to **SBC-13STATE** under this Agreement, including any errors or omissions occurring in CLEC's End User listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, Consequential, punitive or incidental damages.
- 19.7 **SBC-13 STATE** shall not be liable to CLEC, its End User or any other Person for any Loss alleged to arise out of the provision of access to 911 service or any errors, interruptions, defects, failures or malfunctions of 911 service.
- 19.8 This Section 19 is not intended to exempt any Party from all liability under this Agreement, but only to set forth the scope of liability agreed to and the type of damages that are recoverable. Both Parties acknowledge that they negotiated regarding alternate limitation of liability provisions but that such provisions would have altered the cost, and thus the price, of providing the services, functions, facilities and products available hereunder, and no different pricing reflecting different costs and different limits of liability was agreed to.

20. RESPONSIBILITIES OF CLEC

- 20.1 CLEC is solely responsible for the payment of all charges for all services furnished under this Agreement, including but not limited to, calls originated or accepted at CLEC's location and its End Users' service locations; provided, however, CLEC shall not be responsible for payment of charges for any retail services furnished by **SBC-13STATE** directly to End Users and billed by **SBC-13STATE** directly to End Users.
 - 20.1.1 Interexchange carried traffic (for example, sent-paid, information services and alternate operator services messages) received by **SBC-13STATE** for billing to resold End User accounts will be returned as unbillable and will not be passed to CLEC for billing. An unbillable code will be returned with those messages to the carrier indicating that the messages originated from a resold account and will not be billed by **SBC-13STATE**.
- 20.2 **SBC-13STATE** shall not be responsible for the manner in which utilization of resold services or the associated charges are allocated to End Users or others by CLEC. All applicable rates and charges for services provided to CLEC under this Agreement will be billed directly to CLEC and shall be the responsibility of CLEC; provided, however, that CLEC shall not be responsible for payment of charges for any retail services furnished by **SBC-13STATE** directly to End Users and billed by **SBC-13STATE** directly to End Users.
 - 20.2.1 Charges billed to CLEC for all services provided under this Agreement shall be paid by CLEC regardless of CLEC's ability or inability to collect from its End User(s) for such services.
- 20.3 If CLEC does not wish to be responsible for payment of charges for collect, third number billed, toll and information services (for example, 900) calls, it must order the appropriate blocking for lines provided under this Agreement and pay any applicable charges. It is the responsibility of CLEC to order the appropriate toll

restriction or blocking on lines resold to End Users. CLEC acknowledges that blocking is not available for certain types of calls, including 800, 888, 411 and Directory Assistance Express Call Completion. Depending on the origination point, for example, calls originating from correctional facilities, some calls may bypass blocking systems. CLEC acknowledges all such limitations and accepts all responsibility for any charges associated with calls for which blocking is not available and any charges associated with calls that bypass blocking systems.

- 20.4 CLEC shall be responsible for modifying and connecting any of its systems with **SBC-13STATE**-provided interfaces as described in this Agreement and Appendix OSS to this Agreement.
- 20.5 CLEC shall be responsible for providing to its End Users and to **SBC-13STATE** a telephone number or numbers that CLEC's End Users may use to contact CLEC in the event that the End User desires a repair/service call.
 - 20.5.1 In the event that CLEC's End Users contact **SBC-13STATE** with regard to repair requests, **SBC-13STATE** shall inform such End Users to call CLEC and will provide CLEC's contact number furnished by CLEC.
- 20.6 CLEC acknowledges and agrees that, in the event CLEC makes any "CLEC Change" as that term is defined in Section 5.3, CLEC shall comply with the provisions set forth in Section 5.3.
- 20.7 For the purposes of establishing, provisioning and billing services to be furnished CLEC under this Agreement, prior to the Effective Date, CLEC shall provide **SBC-13STATE** with CLEC's authorized and nationally recognized distinct Company Code/Operating Company Number ("OCN")/Alternate Exchange Carrier Number ("AECN") for resale of services.
- 20.8 CLEC will provide forecasts to **SBC-13STATE** every January and July using the **SBC-13STATE** network information form, or a format mutually agreed to by the Parties. These written forecasts will be based on CLEC's best estimates and will include all resale products CLEC will be ordering within the forecast period.
- 20.9 On no less than sixty (60) calendar days advance written notice, CLEC may, at its option, subscribe to the Local Disconnect Report ("LDR"). **SBC-13STATE** will furnish the following information via the LDR: the Billing Telephone Number ("BTN"), Working Telephone Number "WTN"), and terminal number of all End Users who have disconnected CLEC's service. Information furnished electronically will be provided daily on a per WTN basis and priced on a per WTN basis. CLEC shall pay **SBC-13STATE** for the LDR per WTN plus any applicable transmission charges for the LDR; current WTN prices are as set forth in Appendix Pricing in the "Other (Resale)" category, listed as "Local Disconnect Report."
 - 20.9.1 CLEC agrees that **SBC-13STATE** may change the per WTN charge, at **SBC-13STATE's** sole discretion, so long as **SBC-13STATE** provides CLEC no less than thirty (30) calendar days notice prior to any change in the per WTN charge.
 - 20.9.2 **SBC-13STATE** grants to CLEC a non-exclusive right to use the LDR information provided by **SBC-13STATE**. CLEC will not permit anyone but its duly authorized employees or agents to inspect or use this information.

21. INDEMNITY

- 21.1 Except as otherwise expressly provided herein or in specific appendices, each Party shall be responsible only for the services, functions, facilities and products that are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party shall bear any responsibility for the services, functions, facilities and products provided by the other Party, its agents, subcontractors, or others retained by such Parties.
- 21.2 Except as otherwise expressly provided herein or in specific appendices, and to the extent not prohibited by Applicable Law and not otherwise controlled by tariff, each Party (the "**Indemnifying Party**") shall release, indemnify, hold harmless and defend the other Party (the "**Indemnified Party**") against any Loss to a Third

Party arising out of the negligence or willful misconduct (“**Fault**”) of such Indemnifying Party, its agents, its End Users, contractors, or others retained by such Parties, in connection with the Indemnifying Party’s provision of services, functions, facilities and products under this Agreement; provided, however, that (i) with respect to employees or agents of the Indemnifying Party, such Fault occurs while performing within the scope of their employment, (ii) with respect to subcontractors of the Indemnifying Party, such Fault occurs in the course of performing duties of the subcontractor under its subcontract with the Indemnifying Party, and (iii) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.

- 21.3 In the case of any Loss alleged or claimed by an End User of either Party, the Party whose End User alleged or claimed such Loss (the “**Indemnifying Party**”) shall release, indemnify, hold harmless and defend the other Party (the “**Indemnified Party**”) against any and all such Claims or Losses by its End User regardless of whether the underlying service, function, facility or product giving rise to such Claim or Loss was provided or provisioned by the Indemnified Party, unless the Claim or Loss was caused by the gross negligence or willful misconduct of the Indemnified Party.
- 21.4 A Party (the “**Indemnifying Party**”) shall release, indemnify, hold harmless and defend the other Party (“**Indemnified Party**”) against any Claim or Loss arising from the Indemnifying Party’s use or resale of services, functions, facilities and products provided under this Agreement involving:
 - 21.4.1 any Claim or Loss arising from such Indemnifying Party’s use or resale of services, functions, facilities and products provided under this Agreement, involving any Claim for libel, slander, or invasion of privacy arising from the Indemnifying Party’s own communications or the communications of such Indemnifying Party’s End Users.
 - 21.4.1.1 The foregoing includes any Claims or Losses arising from disclosure of any End User-specific information associated with either the originating or terminating numbers used to provision services, functions, facilities and products provided hereunder and all other Claims arising out of any act or omission of the End User in the course of using any services, functions, facilities or products provided pursuant to this Agreement.
 - 21.4.2 any and all penalties imposed on either Party because of the Indemnifying Party’s failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (**CALEA**); provided that the Indemnifying Party shall also, at its sole cost and expense, pay any amounts necessary to modify or replace any service, product or equipment provided to the Indemnified Party under this Agreement to ensure that such services, products and equipment fully comply with CALEA.
- 21.5 In addition to any other indemnity obligations contained in this Agreement, CLEC shall release, indemnify, protect, save harmless and defend **SBC-13STATE** from and against any and all Losses, costs, liability, damages and expense (including reasonable attorney’s fees) arising out of any demand, Claim, suit or judgment by any Third Party, including a PSP, in any way relating to or arising from any of the following:
 - 21.5.1 CLEC’s failure to comply with all the terms and conditions of this Agreement; or
 - 21.5.2 Use by a PSP customer of CLEC of any service other than a Payphone Line to provide pay telephone service; or
 - 21.5.3 False representation by CLEC.
- 21.6 In addition to any other indemnity obligations contained in this Agreement, CLEC shall release, indemnify, protect, hold harmless and defend **SBC-13STATE** from and against any and all Losses, liability, damages and expense arising out of any demand, Claim, suit or judgment by a Third Party in any way related to any error or omission in CLEC’s End User listing information, including any error or omission related to non-published or non-listed End User listing information. Notwithstanding anything contained in this Agreement to the contrary, if such demand, claim or suit specifically alleges that an error or omission appears in CLEC’s End User listing information in the White Pages directory, **SBC-13STATE** may, at its option,

assume and undertake its own defense, or assist in the defense of CLEC, in which event CLEC shall reimburse **SBC-13STATE** for reasonable attorney's fees and other expenses incurred by **SBC-13STATE** in handling and defending such demand, claim and/or suit.

- 21.7 In addition to any other indemnity obligations contained in this Agreement, CLEC shall release, indemnify, protect, hold harmless and defend **SBC-13STATE** from any Loss arising out of **SBC-13STATE's** provision of access to 911 service or CLEC's End Users' use of 911 service, whether suffered, made, instituted or asserted by CLEC, its End User, or by any other Person, for any personal injury or death of any Person(s) or for any loss, damage or destruction of any property, whether owned by CLEC, its End User or any other Person, unless the act or omission proximately causing the Loss constitutes gross negligence, recklessness or intentional misconduct of **SBC-13STATE**.
- 21.8 In addition to any other indemnity obligations contained in this Agreement, CLEC shall release, indemnify, protect, hold harmless and defend **SBC-13STATE** from any Loss involving an allegation of the infringement or invasion of the right of privacy or confidentiality of any Person caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of the 911 service features and the equipment associated therewith, including the identification of the telephone number, address or name associated with the telephone used by the Person accessing 911 service, unless the act or omission proximately causing the Loss constitutes gross negligence, recklessness or intentional misconduct of **SBC-13STATE**.
- 21.9 CLEC acknowledges that its rights under this Agreement to may be subject to or limited by Intellectual Property rights and contract rights of Third Parties.
- 21.10 Subject to **SBC-13STATE's** obligations under any Commission decision and except as expressly stated in this Agreement, CLEC shall release, indemnify, hold harmless and defend **SBC-13STATE** from and against all Losses arising out of, caused by, or relating to any real or potential claim that CLEC's use of services, functions, facilities or products furnished under this Agreement violates or infringes upon any Third Party Intellectual Property rights or constitutes a breach of contract. In no event shall **SBC-13STATE** be liable for any actual or Consequential Damages that CLEC may suffer arising out of same.
- 21.11 CLEC shall reimburse **SBC-13STATE** for damages to **SBC-13STATE's** services, functions, facilities or products furnished hereunder caused by the negligence or willful act of CLEC, its agents or subcontractors or CLEC's End User or resulting from CLEC's improper use of services, functions, facilities or products furnished under this Agreement or due to malfunction of any services, functions, facilities, products or equipment provided by any Person other than **SBC-13STATE**. Upon reimbursement for damages, **SBC-13STATE** will cooperate with CLEC in prosecuting a claim against the Person causing such damage. CLEC shall be subrogated to the right of recovery by **SBC-13STATE** for the damages to the extent of such payment.
- 21.12 Indemnification Procedures
 - 21.12.1 Whenever a claim shall arise for indemnification under this Section 21, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.
 - 21.12.2 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.
 - 21.12.3 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.

21.12.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such claim, 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.

21.12.5 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.

21.12.6 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.

21.12.7 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.

21.12.8 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.

21.12.9 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 27.

22. PERFORMANCE MEASURES

22.1 Attachment Performance Measures provides monetary payments for failure to meet specified performance standards. The provisions of that Attachment constitute the sole obligation of SBC-13STATE to pay damages or financial penalties for failure to meet specified performance standards identified in such Attachment and all other Attachments to this Agreement.

23. INTELLECTUAL PROPERTY

23.1 Intellectual Property - SBC-8STATE

23.1.1 Any Intellectual Property that originates from or is developed by a Party shall remain in the exclusive ownership of that Party.

24. NOTICES

24.1 Subject to Section 24.2, notices given by one Party to the other Party under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be

- 24.1.1 delivered personally;
- 24.1.2 delivered by express overnight delivery service;
- 24.1.3 mailed, via certified mail or first class U.S. Postal Service, with postage prepaid, and a return receipt requested; or
- 24.1.4 delivered by facsimile; provided that a paper copy is also sent by a method described in (a), (b) or (c) of this Section 24.
- 24.1.5 Notices will be deemed given as of the earliest of:
 - 24.1.5.1 the date of actual receipt,
 - 24.1.5.2 the next Business Day when sent via express overnight delivery service,
 - 24.1.5.3 five (5) days after mailing in the case of first class or certified U.S. Postal Service, or
 - 24.1.5.4 on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone.

- 24.1.6 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	CLEC CONTACT	SBC-13STATE CONTACT
NAME/TITLE	Michael Crapp Director-Contract Management	Contract Administration ATTN: Notices Manager
STREET ADDRESS	6665 N. McArthur Blvd. Mailcode HQKO2E69	311 S. Akard, 9 th Floor Four SBC Plaza
CITY, STATE, ZIP CODE	Irving, TX 75039	Dallas, TX 75202-5398
FACSIMILE NUMBER	972-465-4715	214-464-2006

- 24.1.7 Either Party may unilaterally change its designated contact, address, telephone number and/or facsimile number for the receipt of notices by giving written notice to the other Party in compliance with this Section. Any notice to change the designated contact, address, telephone and/or facsimile number for the receipt of notices shall be deemed effective ten (10) days following receipt by the other Party.
- 24.2 **SBC-13STATE** communicates official information to CLECs via its Accessible Letter notification process. This process covers a variety of subjects, including updates on products/services promotions; deployment of new products/services; modifications and price changes to existing products/services; cancellation or retirement of existing products/services; and operational issues.
 - 24.2.1 In the **SBC-13STATE**, Accessible Letter notification will be via electronic mail (“e-mail”) distribution. Accessible Letter notification via e-mail will be deemed given as of date set forth on the e-mail message.
 - 24.2.2 In **SBC-13STATE**, CLEC may designate up to a maximum of ten (10) recipients for Accessible Letter notification via e-mail.
 - 24.2.3 In **SBC-13STATE**, CLEC shall submit a completed Accessible Letter Recipient Change Request Form to the individual specified on that form to designate in writing each individual's e-mail address to whom CLEC requests Accessible Letter notification be sent. CLEC shall submit a completed Accessible Letter Recipient Change Request Form to add, remove or change recipient information for any CLEC recipient of Accessible Letters. Any completed Accessible Letter Recipient Change Request Form shall be deemed effective ten (10) calendar days following receipt by **SBC-13STATE**. SBC may, at its discretion, change the process by which the CLEC provides Accessible Letter recipient information. Changes to this process will be developed through the CLEC User Forum

process and will be implemented only with the concurrence of the CLEC User Forum Global Issues group.

24.3 **SBC-SWBT** only:

24.3.1 **SBC-SWBT** shall provide a toll free facsimile number to CLEC for the submission of requests for services under this Agreement; CLEC shall provide **SBC-SWBT** with a toll free facsimile number for notices from **SBC-SWBT** relating to requests for services under this Agreement.

25. PUBLICITY AND USE OF TRADEMARKS OR SERVICE MARKS

25.1 Neither Party nor its subcontractors or agents shall use in any advertising or sales promotion, press releases, or other publicity matters any endorsements, direct or indirect quotes, or pictures that imply endorsement by the other Party or any of its employees without such first Party's prior written approval. The Parties will submit to each other for written approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied; the Party to whom a request is directed shall respond promptly. Nothing herein, however, shall be construed as preventing either Party from publicly stating the fact that it has executed this Agreement with the other Party. 25.2 Nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, logos, proprietary trade dress or trade names of the other Party in any advertising, press releases, publicity matters, marketing and/or promotional materials or for any other commercial purpose without prior written approval from such other Party.

26. NO LICENSE

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

27. CONFIDENTIALITY

27.1 Both Parties agree to treat Proprietary Information received from the other in accordance with the provisions of Section 222 of the Act.

27.2 Unless otherwise agreed, the obligations of confidentiality and non-use do not apply to such Proprietary Information that:

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

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

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

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

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

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

27.2.7 Is required to be made public or disclosed by the Receiving Party pursuant to Applicable Law or regulation or court order or lawful process.

28. INTERVENING LAW

28.1 This Agreement is entered into as a result of both private negotiations between the Parties and the incorporation of some of the results of arbitration by the STATE COMMISSION. If the actions of the State of Illinois or federal legislative bodies, courts, or regulatory agencies of competent jurisdiction invalidate, modify, or stay the enforcement of laws or regulations that were the basis or rationale for a provision of the contract, the affected provision shall be invalidated, modified, or stayed, consistent with the action of the legislative body, court, or regulatory agency upon the written request of either party. In such event, the Parties shall expend diligent efforts to arrive at an agreement respecting the appropriate conforming modifications to the Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Without limiting the general applicability of the foregoing, the Parties acknowledge that on January 25, 1999, the United States Supreme Court issued its opinion in *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) (and on remand *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000) and in *Ameritech v. FCC*, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (1999) and on appeal to and remand by the United States Supreme Court, *Verizon v. FCC*, et. al, 535 U.S. ____ (2002). The Parties further acknowledge and agree that by executing this Agreement, neither Party waives any of its rights, remedies, or arguments with respect to such decisions and any remand thereof or any other decisions, including its rights under this paragraph.

29. GOVERNING LAW

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

30. REGULATORY APPROVAL

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

30.2 Unless otherwise agreed, if the designated Party fails to file this agreement with the appropriate State commission within sixty (60) days of both Parties signatures, then this signed agreement is null and no longer valid. In such event, the designated Party may not file this signed agreement for approval unless it obtains the express written permission of the other Party. If the other Party objects to the filing of this signed agreement following the expiration of the sixty (60) days referenced above, then either Party may initiate negotiations for a successor agreement under Section 251/252 of the Act. If negotiations are commenced by either Party, then the Parties will determine what rates, terms and conditions, if any, will apply until such time as a successor agreement is reached. In any event, upon approval of the successor agreement by the appropriate State commission, the rates, terms and conditions of such successor agreement shall retroactively apply back to the expiration and/or effective termination date of the last State commission

approved agreement between the Parties or the effective date of any interim agreement entered into between the Parties, whichever is earlier.

31. CHANGES IN END USER LOCAL EXCHANGE SERVICE PROVIDER SELECTION

- 31.1 Prior to submitting an order under this Agreement, CLEC shall obtain End User authorization as required by applicable federal and state laws and regulations, and assumes responsibility for applicable charges as specified in Section 258(b) of the Act. SBC-13STATE shall abide by the same applicable laws and regulations.
- 31.2 Only an End User can initiate a challenge to a change in its local service provider. If an End User notifies SBC-13STATE or CLEC that the End User requests local exchange service, the Party receiving such request shall be free to provide service to such End User, except in those instances where the End User's account is local PIC protected. It is the responsibility of the End User to provide authorization in a FCC approved format to the current provider of record to remove local service provider protection before any changes in local service provider are processed.
 - 31.2.1 SBC-13STATE shall be free to connect an End User to any competitive local exchange carrier based upon that competitive local exchange carrier's request and that competitive local exchange carrier's assurance that proper End User authorization has been obtained. CLEC shall make any such authorization it has obtained available to SBC-13STATE upon request and at no charge.
 - 31.2.2 The following applies to AM-MI only:
 - 31.2.2.1 The Parties will adhere to the requirements adopted by the Commission in its Case No. U-11900 with respect to the selection of primary local exchange carriers and primary interexchange carriers.
- 31.3 When an End User changes or withdraws authorization, each Party shall release customer-specific facilities in accordance with the End User's direction or the direction of the End User's authorized agent. Further, when an End User abandons its premise, SBC-13STATE is free to reclaim the facilities for use by another customer and is free to issue service orders required to reclaim such facilities.
- 31.4 Neither Party shall be obligated by this Agreement to investigate any allegations of unauthorized changes in local exchange service (slamming) on behalf of the other Party or a Third Party.
- 31.5 Should SBC-13STATE receive an order from CLEC for services under this Agreement, and SBC-13STATE is currently providing the same services to another local service provider for the same End User, CLEC agrees that SBC-13STATE may notify the local service provider from whom the End User is being converted of CLEC's order coincident with or following processing CLEC's order. It shall then be the responsibility of the former local service provider of record and CLEC to resolve any issues related to the End User. This Section 31.5 shall not apply to new or additional lines and services purchased by the End User from multiple CLECs or from SBC-13STATE.
 - 31.5.1 If SBC-13STATE receives an order from another local service provider to convert services for an End User for whom CLEC is the current local service provider of record, and if CLEC already subscribes to the Local Disconnect Report ("LDR"), described in Section 20.9, then SBC-13STATE shall notify CLEC of such order coincident with or following processing such order. It shall be the responsibility of CLEC and the other local service provider to resolve any issues related to the End User. This Section 31.5.1 shall not apply to new or additional lines and services purchased by an End User from multiple CLECs or from SBC-13STATE.
- 31.6 In addition to any other indemnity obligations in this Agreement or any Appendix attached to this Agreement, CLEC shall release, indemnify, hold harmless and defend SBC-13STATE against any and all liability and Claims, including reasonable attorney's fees, which may result from SBC-13STATE acting under this Section 31.

31.7 Notwithstanding anything contained in this Section 31, nothing herein shall be interpreted or construed to apply to the transfer of provisioning of CLEC End Users' accounts pursuant to Section 10.6.

31.8 When a End User changes its service provider from **SBC-13STATE** to CLEC or from CLEC to **SBC-13STATE** and does not retain its original telephone number, the Party formerly providing service to such End User shall furnish a referral announcement (“**Referral Announcement**”) on the original telephone number that specifies the End User's new telephone number.

31.8.1 The following pertains to **AM-IL**, **AM-WI** and **PACIFIC** only:

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

31.8.2 The following applies to **AM-IN** only:

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

31.8.3 The following applies to **AM-MI** only:

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

31.8.4 The following applies to **AM-OH** only:

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

32. COMPLIANCE AND CERTIFICATION

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

32.2 CLEC warrants that it has obtained all necessary state certification required in each state covered by this Agreement prior to ordering any services, functions, facilities or products from **SBC-13STATE** pursuant to this Agreement. Upon request, CLEC shall provide proof of certification.

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

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

33. LAW ENFORCEMENT

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

33.1.1 Intercept Devices:

33.1.1.1 Local and federal law enforcement agencies periodically request information or assistance from local telephone service providers. When either Party receives a request associated with an End User of the other Party, it shall refer such request to the Party that serves such End User, unless the request directs the receiving Party to attach a pen register, trap-and-trace or form of intercept on the Party's facilities, in which case that Party shall comply with any valid request.

33.1.2 Subpoenas:

33.1.2.1 If a Party receives a subpoena for information concerning an End User the Party knows to be an End User of the other Party, it shall refer the subpoena to the Requesting Party with an indication that the other Party is the responsible company, unless the subpoena requests records for a period of time during which the receiving Party was the End User's service provider, in which case that Party will respond to any valid request.

33.1.3 Emergencies:

33.1.3.1 If a Party receives a request from a law enforcement agency for a temporary number change, temporary disconnect, or one-way denial of outbound calls by the receiving Party's switch for an End User of the other Party, that Receiving Party will comply with a valid emergency request. However, neither Party shall be held liable for any claims or Losses arising from compliance with such requests on behalf of the other Party's End User and the Party serving such End User agrees to indemnify and hold the other Party harmless against any and all such claims or Losses.

33.2 **SNET** and CLEC shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

33.2.1 Each of the Parties agree to comply with the applicable state and federal law enforcement authorities, laws, and requirements, including the CALEA, and to report to applicable State and Federal law enforcement authorities as required by law, the Telecommunications Services and related information provided by each of the Parties in Connecticut.

34. RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR

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

34.2 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will

be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

35. NO THIRD PARTY BENEFICIARIES; DISCLAIMER OF AGENCY

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

36. ASSIGNMENT

36.1 CLEC may not assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third person without the prior written consent of **SBC-13STATE**; provided that CLEC may assign or transfer this Agreement to its Affiliate by providing ninety (90) days' prior written notice to **SBC-13STATE** of such assignment or transfer; provided, further, that such assignment is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain proper Commission certification and approvals) or the terms and conditions of this Agreement. Notwithstanding the foregoing, CLEC may not assign or transfer this Agreement (or any rights or obligations hereunder) to its Affiliate if that Affiliate is a party to a separate agreement with **SBC-13STATE** under Sections 251 and 252 of the Act. Any attempted assignment or transfer that is not permitted is void ab initio.

36.2 As a condition of any assignment or transfer of this Agreement (or any rights hereunder) that is permitted under or consented to by **SBC-13STATE** pursuant to this Section 36, CLEC agrees that any change, modification or other activity required for **SBC-13STATE** to accommodate or recognize the successor to or assignee of CLEC shall be a CLEC Change and shall be subject to Section 5.3. **SBC-13STATE** shall have no obligation to proceed with such activities nor shall any otherwise acceptable assignment or transfer be effective against **SBC-13STATE** until the Parties agree upon the charges that apply to such CLEC Change.

36.3 If during the Term, **SBC-13STATE** sells, assigns or otherwise transfers any ILEC Territory or ILEC Assets to a person other than an Affiliate or subsidiary, **SBC-13STATE** shall provide CLEC not less than ninety (90) days prior written notice of such sale, assignment or transfer. Upon the consummation of such sale, assignment or transfer, CLEC acknowledges that **SBC-13STATE** shall have no further obligations under this Agreement with respect to the ILEC Territories and/or ILEC Assets subject to such sale, assignment or transfer, and that CLEC must establish its own Section 251 and 252 arrangement with the successor to such ILEC Territory and/or ILEC Assets.

37. INTENTIONALLY LEFT BLANK

38. SUBCONTRACTING

38.1 If a Party retains or engages any subcontractor to perform any of that Party's obligations under this Agreement, that Party will remain fully responsible for the performance of this Agreement in accordance with its terms, including any obligations that Party performs through subcontractors.

38.2 Each Party will be solely responsible for payments due that Party's subcontractors.

38.3 No subcontractor will be deemed a Third Party beneficiary for any purposes under this Agreement.

- 38.4 No contract, subcontract or other agreement entered into by either Party with any Third Party in connection with the provision of services, functions, facilities and products hereunder will provide for any indemnity, guarantee or assumption of liability by the other Party to this Agreement with respect to such arrangement, except as consented to in writing by the other Party.
- 38.5 Any subcontractor that gains access to Customer Proprietary Network Information ("CPNI") or Proprietary Information covered by this Agreement shall be required by the subcontracting Party to protect such CPNI or Proprietary Information to the same extent the subcontracting Party is required to protect such CPNI or Proprietary Information under the terms of this Agreement.

39. FORCE MAJEURE

- 39.1 No Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make money payments) resulting from acts or occurrences beyond the reasonable control of such Party, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any Governmental Authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, hurricanes, floods, work stoppages, equipment failures, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (individually or collectively, a "**Force Majeure Event**") or any Delaying Event caused by the other Party or any other circumstances beyond the Party's reasonable control. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other Party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like notice and proceed to perform with dispatch once the causes are removed or cease.

40. TAXES

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

purchasing Party shall remit such Tax to the applicable taxing authority. The purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing Party to pay or collect and remit such tax to such authority.

- 40.4 If the providing Party fails to bill or to collect any Tax as required herein, then, as between the providing Party and the purchasing Party: (i) the purchasing Party shall remain liable for such uncollected Tax; and (ii) the providing Party shall be liable for any penalty and interest assessed with respect to such uncollected Tax by such authority. However, if the purchasing Party fails to pay any Taxes properly billed, then, as between the providing Party and the purchasing Party, the purchasing Party will be solely responsible for payment of the Taxes, penalty and interest.
- 40.5 If the purchasing Party fails to impose and/or collect any Tax from End Users as required herein, then, as between the providing Party and the purchasing Party, the purchasing Party shall remain liable for such uncollected Tax and any interest and penalty assessed thereon with respect to the uncollected Tax by the applicable taxing authority. With respect to any Tax that the purchasing Party has agreed to pay or impose on and/or collect from End Users, the purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing Party to pay or collect and remit such Tax to such authority.
- 40.6 If either Party is audited by a taxing authority or other Governmental Authority, the other Party agrees to reasonably cooperate with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.
- 40.7 To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party for any period prior to the date that the purchasing Party presents a valid certificate. If Applicable Law excludes or exempts a purchase of services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party (a) furnishes the providing Party with a letter signed by an officer of the purchasing Party claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate; and (b) supplies the providing Party with an indemnification agreement, reasonably acceptable to the providing Party, which holds the providing Party harmless from any tax, interest, penalties, loss, cost or expense with respect to forbearing to collect such Tax.
- 40.8 With respect to any Tax or Tax controversy covered by this Section 40, the purchasing Party is entitled to contest with the imposing jurisdiction, pursuant to Applicable Law and at its own expense, any Tax that it is ultimately obligated to pay or collect. The purchasing Party will ensure that no lien is attached to any asset of the providing Party as a result of any contest. The purchasing Party shall be entitled to the benefit of any refund or recovery of amounts that it had previously paid resulting from such a contest. Amounts previously paid by the providing Party shall be refunded to the providing Party. The providing Party will cooperate in any such contest.
- 40.9 All notices, affidavits, exemption certificates or other communications required or permitted to be given by either Party to the other under this Section 40 shall be sent in accordance with Section 24 hereof.

41. NON-WAIVER

- 41.1 Except as otherwise specified in this Agreement, no waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same is in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default. Failure of either

Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.

42. CUSTOMER INQUIRIES

- 42.1 Each Party will refer all questions regarding the other Party's services or products directly to the other Party at a telephone number specified by that Party.
- 42.2 Each Party will ensure that all of its representatives who receive inquiries regarding the other Party's services:
 - 42.2.1 Provide the number described in Section 44.1 to callers who inquire about the other Party's services or products; and
 - 42.2.2 Do not in any way disparage or discriminate against the other Party or its products or services.
- 42.3 Except as otherwise provided in this Agreement, CLEC shall be the primary point of contact for CLEC's End Users with respect to the services CLEC provides such End Users.
- 42.4 CLEC acknowledges that **SBC-13STATE** may, upon End User request, provide services directly to such End User similar to those offered to CLEC under this Agreement.

43. EXPENSES

- 43.1 Except as expressly set forth in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the matters covered by this Agreement.
- 43.2 **SBC-12STATE** and CLEC shall each be responsible for one-half (1/2) of expenses payable to a Third Party for Commission fees or other charges (including regulatory fees and any costs of notice or publication, but not including attorney's fees) associated with the filing of this agreement.

44. CONFLICT OF INTEREST

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

45. AMENDMENTS AND MODIFICATIONS

- 45.1 No provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties. The rates, terms and conditions contained in the amendment shall become effective upon approval of such amendment by the appropriate Commissions.
- 45.2 Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

46. SURVIVAL

- 46.1 The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. Without limiting the general applicability of the foregoing, the following terms and conditions of this

Agreement are specifically agreed by the Parties to continue beyond the termination or expiration of this Agreement: Section 11.8; Section 11.9, Section 31.6; Section 15.3; Section 9.1; Section 9.2; Section 9.3; Section 9.4; Section 9.5, Section 9.6; Section 10.2; Section 10.3; Section 10.4; Section 10.5; Section 10.6; Section 15; Section 16; Section 18; Section 19; Section 21 Section 22; Section 23; Section 26; Section 25; Section 27; Section 33; Section 42.4, Section 28; Section 29; Section 40; Section 6.5; Section 6.6; Section 6.7; Section 6.8; Section 6.9; Section 6.10 and Section 46.

47. APPENDICES INCORPORATED BY REFERENCE

47.1 Operations Support Systems (OSS)

47.1.1 **SBC-13STATE** shall provide nondiscriminatory access to Operations Support Systems (OSS) “functions” to CLEC for pre-ordering, ordering, provisioning, maintenance/repair, and billing under the terms and conditions identified in the applicable Appendix OSS, which **is/are** attached hereto and incorporated herein by reference.

48. AUTHORITY

- 48.1 Each of the **SBC**-owned ILEC(s) for which this Agreement is executed represents and warrants that it is a corporation or limited partnership duly organized, validly existing and in good standing under the laws of its state of incorporation or formation. Each of the **SBC**-owned ILEC(s) for which this Agreement is executed represents and warrants that **SBC** Telecommunications, Inc. has full power and authority to execute and deliver this Agreement as agent for that **SBC**-owned ILEC. Each of the **SBC**-owned ILEC(s) for which this Agreement is executed represents and warrants that it has full power and authority to perform its obligations hereunder.
- 48.2 CLEC represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. CLEC represents and warrants that it has been or will be certified as a LEC by the Commission(s) prior to submitting any orders hereunder and is or will be authorized to provide the Telecommunications Services contemplated hereunder in the territory contemplated hereunder prior to submission of orders for such services.
- 48.3 Each Person whose signature appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

49. COUNTERPARTS

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

50. ENTIRE AGREEMENT

50.1 SBC-12STATE

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

50.2 SNET

50.2.1 The terms contained in this Agreement and any Appendices, Attachments, Exhibits, Schedules, Addenda, Commission approved tariffs and other documents or instruments referred to herein and incorporated into this Agreement by reference constitute the entire agreement between the Parties

with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written.

SBC-13 STATE Resale Agreement Signatures

Verizon Select Services, Inc.

Signature: Michael J. Grapp

Name: Michael J. Grapp

Title: Director - Alliance
Contract Management
(Print or Type)

Date: 03-21-03

AECN/OCN # 7646

Illinois Bell Telephone Company by
SBC Telecommunications, Inc., its authorized agent

Signature: M. Aulinbauh

Name: Mike Aulinbauh

(Print or Type)

Title: For/ President - Industry Markets

Date: MAR 26 2003

APPENDIX MERGER CONDITIONS

TABLE OF CONTENTS

1. MERGER CONDITIONS.....	3
2. DEFINED TERMS; DATES OF REFERENCE	3
3. PROMOTIONAL DISCOUNTS ON RESALE	3
4. CONFLICTING CONDITIONS.....	4
5. SUSPENSION OF CONDITIONS.....	4

APPENDIX MERGER CONDITIONS

1. MERGER CONDITIONS

- 1.1 For purposes of this Appendix only **SBC-13STATE** is defined as one of the following ILECs, as appropriate, in those geographic areas where the referenced SBC owned Company is the ILEC: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
 - 1.1.1 As used herein, **SBC-AMERITECH** means the applicable listed ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio and Wisconsin.
 - 1.1.2 As used herein, **SBC-13STATE** means an ILEC doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and/or Wisconsin.
- 1.2 **SBC-13STATE** was and/or is required to provide to CLEC certain items as set out in the Conditions for FCC Order Approving SBC/Ameritech Merger, CC Docket No. 98-141 (FCC Merger Conditions), including the items specified herein.
- 1.3 The Parties agree to abide by and incorporate by reference into this Appendix the FCC Merger Conditions to the extent that particular conditions have not yet terminated (sunset) and which are specifically addressed herein or relate to any provisions set forth herein.
- 1.4 Each of the obligations set forth in this Appendix terminates the earlier of: (1) the date this Agreement itself terminates without reference to this Appendix; or (2) the date such obligation terminates under the FCC Merger Conditions.

2. DEFINED TERMS; DATES OF REFERENCE

- 2.1 Unless otherwise defined in this Appendix, capitalized terms shall have the meanings assigned to such terms in the Agreement without reference to this Appendix and in the FCC Merger Conditions.
- 2.2 For purposes of calculating the intervals set forth in the FCC Merger Conditions concerning carrier to carrier promotions:
 - 2.2.1 the Merger Closing Date is October 8, 1999; and
 - 2.2.2 the Offering Window begins November 7, 1999.
- 2.3 "FCC Merger Conditions" means the Conditions for FCC Order Approving SBC/Ameritech Merger, CC Docket No. 98-141.

3. PROMOTIONAL DISCOUNTS ON RESALE

- 3.1 The promotional resale discount ("Resale Discount") on telecommunications services that **SBC-13STATE** provides at retail to subscribers who are not telecommunications carriers, where such services are resold to residential end user customers sunset (terminated) in each **SBC-13STATE** on November 8, 2002. Consequently, such discount is not available to any CLEC who did not have an approved and effective FCC Merger Conditions Appendix in each of its Agreements with **SBC-13STATE** that provided for such Resale Discount before November 8, 2002. Thus, notwithstanding anything to the contrary in this Appendix or Agreement, in the event that any other telecommunications carrier should adopt provisions in this Appendix or Agreement pursuant to Section 252(i) of the Act, or otherwise obtains this Appendix, CLEC shall not be

entitled to this Resale Discount unless the CLEC: (1) had an approved and effective FCC Merger Conditions Appendix in each of its Agreements with **SBC-13-STATE** that provided for this Resale Discount before November 8, 2002; and (2) even then, only with respect to those underlying resold lines the Adopting CLEC ordered prior to November 8, 2002 for this resale discount with a requested installation date of no later than December 7, 2002, as more specifically addressed in Paragraph 48 of the FCC Merger Conditions.

- 3.2 With respect to any CLEC that had an approved and effective FCC Merger Conditions Appendix in its Interconnection Agreement with **SBC-13STATE** that provided for such Resale Discount before November 8, 2002, such CLEC shall continue to receive this promotional discount only for those underlying resold lines CLEC ordered during the Offering Window for this resale discount that has/had a requested installation date of no later than December 7, 2002, as more specifically addressed in Paragraph 48 of the FCC Merger Conditions. Any resold services (such as Call Waiting) provided over a resold customer line that is/was placed in service after December 7, 2002 shall not be eligible for the Resale Discount. Resold services (such as Call Waiting) added to a resold line that qualifies for the Resale Discount (i.e., which was ordered by CLEC during the offering window and has/had a requested installation date of no later than December 7, 2002) shall be eligible for the Resale Discount for the duration of the Promotional Period for the underlying resold service regardless of whether such resold services were added after the end of the Offering Window (i.e., November 8, 2002). SBC/Ameritech is under no obligation to provide a service for resale at the Resale Discount outside the Promotional Period. For purposes of this subsection, Promotional Period is defined as a period of 36 months from the date a qualifying resold service was installed and operational, or the period during which the resold service remains in service at the same location and for the same telecommunications carrier, whichever is shorter.
- 3.3 If CLEC does not qualify for the Resale Discount, **SBC-13STATE**'s provision, if any, and CLEC's payment for promotional resale discounts shall continue to be governed by Appendix Resale as currently contained in the Agreement without reference to this Appendix. Unless SBC receives thirty (30) days advance written notice with instructions to terminate service provided via the Resale Discount or to convert such service to an available alternative service provided by **SBC-13STATE**, then upon expiration of the Resale Discount in any state, the service shall automatically convert to an appropriate **SBC-13STATE** product/service offering pursuant to the rates, terms and conditions of the Agreement or, in the absence of rates, terms and conditions in the Agreement, the applicable tariff. Where there are no provisions for such offering in the Agreement without reference to this Appendix and there is no applicable tariff, the Parties shall meet within 30 days of a written request to do so to negotiate mutually acceptable rates, terms and conditions that shall apply retroactively. If the Parties are unable to reach agreement within 60 days of the written request to negotiate, any outstanding disputes shall be handled in accordance with the Dispute Resolution procedures in the Agreement.

4. CONFLICTING CONDITIONS

- 4.1 If any of the FCC Merger Conditions in this Appendix and conditions imposed in connection with the merger under state law grant similar rights against **SBC-13STATE**, CLEC shall not have a right to invoke the relevant terms of these FCC Merger Conditions in this Appendix if CLEC has invoked substantially related conditions imposed on the merger under state law in accordance the FCC Merger Conditions.

5. SUSPENSION OF CONDITIONS

- 5.1 If the FCC Merger Conditions are overturned or any of the provisions of the FCC Merger Conditions that are incorporated herein by reference are amended or modified as a result of any order or finding by the FCC, a court of competent jurisdiction or other governmental and/or regulatory authority, any impacted promotional discounts and other provisions described in this Appendix shall be automatically and without notice suspended as of the date of such termination, order or finding and shall not apply to any product or service purchased by CLEC or provisioned by **SBC-13STATE** after the date of such termination, order or finding. Thereafter, **SBC-13STATE**'s continued provision and CLEC's payment for any service or item originally

ordered or provided under this Appendix shall be governed by the rates, terms, and conditions as currently contained in the Agreement without reference to this Appendix. In the event that the FCC changes, modifies, adds or deletes any of the FCC Merger Conditions set forth herein, the Parties agree that the FCC's final order controls and takes precedence over the FCC Merger Conditions set forth herein.

APPENDIX OSS – RESALE (ONLY)

TABLE OF CONTENTS

1. INTRODUCTION	3
2. DEFINITIONS	3
3. GENERAL CONDITIONS.....	4
4. PRE-ORDERING	6
5. ORDERING/PROVISIONING	8
6. MAINTENANCE/REPAIR.....	10
7. BILLING	10
8. REMOTE ACCESS FACILITY	11
9. DATA CONNECTION SECURITY REQUIREMENTS.....	12
10. OPERATIONAL READINESS TEST (ORT) FOR ORDERING/PROVISIONING AND REPAIR/ MAINTENANCE INTERFACES.....	15
11. OSS TRAINING COURSES	15
12. RESUMPTION OF FLAT RATE CHARGES FOR SYSTEM ACCESS AND CONNECTIVITY TO OSS IN SWBT REGION.....	16
13. MISCELLANEOUS CHARGES.....	16
14. SERVICE BUREAU PROVIDER ARRANGEMENTS FOR SHARED ACCESS TO OSS	17
15. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS	17

APPENDIX OSS (RESALE only) (ACCESS TO OPERATIONS SUPPORT SYSTEMS FUNCTIONS)

1.0 INTRODUCTION

- 1.1 This Appendix sets forth terms and conditions for nondiscriminatory access to Operations Support Systems (OSS) "functions" to CLEC for pre-ordering, ordering, provisioning, maintenance/repair, and billing provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC). With respect to all matters covered by this Appendix, the Parties will comply with the final SBC-Ameritech POR for Uniform and Enhanced OSS ("Uniform POR") as approved by FCC on September 22, 2000.
- 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 d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone L.P. d/b/a 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 ILEC(s) doing business in 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 **SWBT** - As used herein, **SWBT** means the applicable above listed ILEC(s) doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.8 **AMERITECH** - As used herein, **AMERITECH** means the applicable above listed ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.9 **PACIFIC** - As used herein, **PACIFIC** means the applicable above listed ILEC doing business in California.
- 1.10 **NEVADA** - As used herein, **NEVADA** means the applicable above listed ILEC doing business in Nevada.
- 1.11 **SNET** - As used herein, **SNET** means the applicable above listed ILEC doing business in Connecticut.
- 1.12 **SBC-13STATE** has established performance measurements to illustrate non-discriminatory access. These measurements are represented in Appendix Performance Measurements.

2.0 DEFINITIONS

- 2.1 "**LSC**" means (i) the Local Service Center (LSC) for **SBC-12STATE**; (ii) Local Exchange Carrier Center (LECC) for **SNET**.
- 2.2 "**LOC**" means (i) the Local Operations Center (LOC) for **SWBT**, **PACIFIC**, **NEVADA**, and **SNET**; and (ii) the Customer Response Unit (CRU) for **AMERITECH**.
- 2.3 "**Service Bureau Provider**" - For purposes of this Agreement, Service Bureau Provider is a company which has been engaged by CLEC to act as its agent for purposes of accessing **SBC-13STATE**'s OSS application-to-application interfaces.

3.0 GENERAL CONDITIONS

- 3.1 Resale functions will be accessible via electronic interface(s), as described herein, where such functions are available. The Parties agree that electronic order processing is more efficient than manual order processing. During implementation the Parties will negotiate a threshold volume of orders after which electronic ordering is required. Once CLEC is submitting more than the agreed to threshold amount, but not later than twelve (12) months from the Effective Date of this Agreement, CLEC will no longer submit orders manually (and **SBC-13STATE** shall not be required to accept and process manual orders) except when the electronic order processing is unavailable for a substantial period of time, or where a given order cannot be processed electronically. Provided however, in regions where SBC charges a flat rate monthly OSS access and connectivity charge, a CLEC who has been using OSS electronic interfaces and decides to revert to manual for all purposes, to avoid such flat rate OSS system access and connectivity charges, may do so upon written notice to SBC, or when CLEC elects to remain manual and not to use OSS in order to avoid SWBT's flat rate monthly OSS charges.
- 3.2 Proper Use of OSS interfaces:
 - 3.2.1 For **SBC-13STATE**, CLEC agrees to utilize **SBC-13STATE** electronic interfaces, as described herein, only for the purposes of establishing and maintaining Resale Services through **SBC-13STATE**. In addition, CLEC agrees that such use will comply with **SBC-13STATE**'s Data Connection Security Requirements as identified in Section 9 of this Appendix. Failure to comply with such security guidelines may result in forfeiture of electronic access to OSS functionality. In addition, CLEC shall be responsible for and indemnifies **SBC-13STATE** against any cost, expense or liability relating to any unauthorized entry or access into, or use or manipulation of **SBC-13STATE**'s OSS from CLEC systems, workstations or terminals or by CLEC employees, agents, or any third party gaining access through information and/or facilities obtained from or utilized by CLEC and shall pay **SBC-13STATE** for any and all damages caused by such unauthorized entry.
- 3.3 Within **SBC-13STATE** regions, CLEC's access to pre-order functions described in 4.2.2 will only be utilized to view Customer Proprietary Network Information (CPNI) of another carrier's End User where CLEC has obtained an authorization for release of CPNI from the End User and has obtained an authorization to become the End User's Local Service Provider.
 - 3.3.1 In **SBC-13STATE** regions, CLEC must maintain records of individual customers' authorizations for change in local exchange service and release of CPNI which adhere to all requirements of state and federal law, as applicable.
 - 3.3.2 This section applies to **PACIFIC** ONLY. For consumer End Users, prior to accessing such information, CLEC shall, on its own behalf and on behalf of **PACIFIC**, comply with all applicable requirements of Section 2891 of the California Public Utilities Code and 47 USC 222 (and implementing FCC decisions thereunder), and, where accessing such information via an electronic interface, CLEC shall have obtained an authorization to become the End User's local service provider. Accessing such information by CLEC shall constitute certification that CLEC is in compliance with applicable requirements of Section 2891 and Section 222 (and implementing FCC decisions thereunder) and has complied with the prior sentence. CLEC shall receive and retain such information in conformance with the requirements of 47 USC 222 (and implementing FCC decisions thereunder). CLEC agrees to indemnify, defend and hold harmless **PACIFIC** against any claim made by a consumer End User or governmental entity against **PACIFIC** or CLEC under Section 2891 or Section 222 (and implementing FCC decisions thereunder) or for any breach by CLEC of this section.
 - 3.3.3 Throughout **SBC-13STATE** region, CLEC is solely responsible for determining whether proper authorization has been obtained and holds **SBC-13STATE** harmless from any loss on account of CLEC's failure to obtain proper CPNI consent from an End User.

- 3.4 By utilizing electronic interfaces to access OSS functions, CLEC agrees to perform accurate and correct ordering including Resale services, rates, and charges, subject to the terms of this Agreement and applicable tariffs dependent on region of operation. CLEC is also responsible for all actions of its employees using any of **SBC-13STATE**'s OSS systems. As such, CLEC agrees to accept and pay all reasonable costs or expenses, including labor costs, incurred by **SBC-13STATE** caused by any and all inaccurate ordering or usage of the OSS, if such costs are not already recovered through other charges assessed by **SBC-13STATE** to CLEC. In addition, CLEC agrees to indemnify and hold **SBC-13STATE** harmless against any claim made by an End User of CLEC or other third parties against **SBC-13STATE** caused by or related to CLEC's use of any **SBC-13STATE** OSS.
- 3.5 In the event SBC has good cause to believe that CLEC has used **SBC-13STATE** OSS in a way that conflicts with this Agreement or Applicable Law, SBC shall give CLEC written notice describing the alleged misuse ("Notice of Misuse"). CLEC shall immediately refrain from the alleged misuse until such time that CLEC responds in writing to SBC's Notice of Misuse, which shall be provided to SBC within twenty (20) calendar days after receipt of the Notice of Misuse. In the event CLEC agrees with SBC's allegation of misuse, CLEC shall refrain from the alleged misuse during the term of this Agreement.
- 3.6 In the event CLEC does not agree that the CLEC's use of **SBC-13STATE** OSS is inconsistent with this Agreement or Applicable Law, then the parties agree to the following steps:
 - 3.6.1 If such misuse involves improper access of pre-order applications to obtain CPNI in violation of this Agreement, Applicable Law, or involves a violation of the security guidelines contained herein, or negatively affects another OSS user's ability to use OSS, CLEC shall continue to refrain from using the particular OSS functionality in the manner alleged by SBC to be improper, until CLEC has implemented a mutually agreeable remedy to the alleged misuse.
 - 3.6.2 To remedy the misuse for the balance of the agreement, Parties will work together as necessary to mutually determine a permanent resolution for the balance of the term of the agreement.
- 3.7 In order to determine whether CLEC has engaged in the alleged misuse described in the Notice of Misuse, and for good cause shown, SBC shall have the right to conduct an audit of CLEC's use of the **SBC-13STATE** OSS. Such audit shall be limited to auditing those aspects of CLEC's use of the **SBC-13STATE** OSS that relate to SBC's allegation of misuse as set forth in the Notice of Misuse. **SBC-13STATE** shall give ten (10) calendar days advance written notice of its intent to audit CLEC ("Audit Notice") under this Section 3.7, and shall identify the type of information needed for the audit. Such Audit Notice may not precede SBC's Notice of Misuse. Within a reasonable time following the Audit Notice, but no less than fourteen (14) calendar days after the date of the notice (unless otherwise agreed by the Parties), CLEC shall provide **SBC-13STATE** with access to the requested information in any reasonably requested format, at an appropriate CLEC location, unless otherwise agreed to by the Parties. The audit shall be at **SBC-13STATE**'s expense. All information obtained through such an audit shall be deemed proprietary and/or confidential and subject to confidential treatment without necessity for marking such information confidential. **SBC-13STATE** agrees that it shall only use employees or outside parties to conduct the audit who do not have marketing, strategic analysis, competitive assessment or similar responsibilities within **SBC-13STATE**.
- 3.8 When Resale Service order functions are not available via an electronic interface for the pre-order, ordering and provisioning processes, **SBC-13STATE** and CLEC will use manual processes. Should **SBC-13STATE** develop electronic interfaces for these functions for itself, **SBC-13STATE** will make electronic access available to CLEC within the specific operating region.
- 3.9 The Information Services (I.S.) Call Center for the **SBC-13STATE** region provides for technical support function of electronic OSS interfaces. CLEC will also provide a single point of contact for technical issues related to the CLEC's electronic interfaces.

- 3.10 The Parties will follow the final adopted guidelines of "SBC Competitive Local Exchange Carrier (CLEC) 13-State Interface Change Management Process", developed in collaboration with CLECs. This plan may be modified from time to time in accordance with the Change Management principles.
- 3.11 **SBC-13STATE** will and CLEC may participate in the Order and Billing Forum (OBF) and the Telecommunications Industry Forum (TCIF) to establish and conform to uniform industry guidelines for electronic interfaces for pre-order, ordering, and provisioning. Neither Party waives its rights as participants in such forums or in the implementation of the guidelines. To achieve system functionality as quickly as possible, the Parties acknowledge that **SBC-13STATE** may deploy interfaces with requirements developed in advance of industry guidelines. Thus, subsequent modifications may be necessary to comply with emerging guidelines. CLEC and **SBC-13STATE** are individually responsible for evaluating the risk of developing their respective systems in advance of guidelines and agree to support their own system modifications to comply with new requirements. In addition, **SBC-13STATE** has the right to define Local Service Request (LSR) Usage requirements according to the General Section 1.0, paragraph 1.4 of the practices in the OBF Local Service Ordering Guidelines (LSOG), which states: "Options described in this practice may not be applicable to individual providers tariffs; therefore, use of either the field or valid entries within the field is based on the providers tariffs/practices."
- 3.12 Due to enhancements and on-going development of access to **SBC-13STATE**'s OSS functions, certain interfaces described in this Appendix may be modified, temporarily unavailable or may be phased out after execution of this Appendix. **SBC-13STATE** shall provide proper notice of interface phase-out as required by the Change Management process.
- 3.13 CLEC is responsible for obtaining operating system software and hardware to access **SBC-13STATE** OSS functions. All hardware and software requirements are specified in: "CLEC Hardware/Software Requirements for Access of SBC Uniform OSS Applications", or any other documents or interface requirements subsequently generated by **SBC-13STATE** for any of its regions.

4.0 PRE-ORDERING

- 4.1 **SBC-13STATE** will provide real time access to pre-order functions to support CLEC ordering of Resale services. The Parties acknowledge that ordering requirements necessitate the use of current, real time pre-order information to accurately build service orders. The following lists represent pre-order functions that are available to CLEC so that CLEC order requests may be created to comply with **SBC-13STATE** region-specific ordering requirements.

4.2 Pre-Ordering functions for Resale Services include

4.2.1 Feature/Service Availability

Feature Inquiry provides **SBC-13STATE** with feature and service availability by WTN, NPA/NXX, and CLLI Code (as applicable).

4.2.1.2 PIC/LPIC Inquiry provides **SBC-13STATE** Primary Interexchange Carrier (PIC) options for intraLATA toll and interLATA toll.

4.2.2 Customer Service Information - CSI Inquiry

Access to **SBC-13STATE** retail or resold CPNI and account information for pre-ordering will include: billing name, service address, billing address, service and feature subscription, directory listing information, long distance carrier identity, and pending service order activity. CLEC agrees that CLEC's representatives will not access the information specified in this subsection until after the End User requests that his or her Local Service Provider be changed to CLEC, and an End User authorization for release of CPNI complies with conditions as described in section 3.2 of this Appendix.

4.2.3 Telephone Number Inquiry

SBC-13STATE provides a Telephone Number Reservation Inquiry and a Cancel Reservation function. With the rollout of the Uniform Pre-Order Interfaces, Ameritech also provides a Telephone Number Confirmation Inquiry function.

4.2.4 Scheduling Inquiry/Availability

4.2.4.1 Due Date Inquiry provides next available dates for the End User (where available).

4.2.4.2 Dispatch Inquiry provides information to indicate whether dispatch is required.

4.2.5 Address Validation Inquiry

SBC-13STATE provides address validation function.

4.4 **Electronic Access to Pre-Order Functions**

4.4.1 **Resale Pre-order Interface Availability**

4.4.1.1 Enhanced Verigate is the 13-state uniform pre-order GUI interface available in **SBC-13STATE** to provide the pre-ordering functions listed in section 4.2. Enhanced Verigate is accessible via a web-based Toolbar.

4.4.1.2 An industry standard EDI/CORBA Pre-ordering Gateway is provided by **SBC-13STATE**. This pre-ordering gateway supports two structural protocols, EDI and CORBA, as recommended by the technical industry committees. EDI/CORBA, like DataGate, is application-to-application interface that can be integrated with the CLEC's own negotiation system and that supports Resale services.

4.4.1.3 DataGate is a transaction-based data query system through which **SBC-7STATE** provides CLEC access to pre-ordering functions. This gateway shall be a Transmission Control Protocol/Internet Protocol (TCP/IP) gateway and will, once CLEC has developed its own interface, allow CLEC to access the pre-order functions for Resale services. DataGate follows industry guidelines, but is based on **SBC-7STATE**'s proprietary pre-ordering functionality.

4.4.1.4 Consumer Easy Access Sales Environment (C-EASE): C-EASE is an ordering entry system through which **SWBT** provides CLEC access to the functions of pre-ordering to order **SWBT** consumer Resale services.

4.4.1.5 Business Easy Access Sales Environment (B-EASE): B-EASE is an ordering entry system through which **SWBT** provides CLEC access to the functions of pre-ordering to order **SWBT** business Resale services.

4.4.1.6 Service Order Retrieval and Distribution (SORD) is available for the pre-order function of viewing the CPNI, when SORD is used to order **PACIFIC** Resale service.

4.4.1.7 **SNET** provides CLEC access to the Resale and UNE preorder functions described in section 4.2 via the application to application Electronic Data Interchange (EDI) based interface, known as MSAP. With the implementation of the Uniform EDI and CORBA application to application interfaces, the MSAP-based versions will retire as the Uniform versions are implemented, according to the CMP guidelines.

4.4.1.8 **SNET** provides CLEC access to the following Resale preorder applications through its proprietary (GUI) Graphical User Interface called W-CIWin. This platform of preorder applications is being retired via CMP, in February 2003, and has been replaced with the Uniform GUI – Enhanced Verigate.

4.4.1.8.1 W-SNAP is an order entry application through which **SNET** provides CLEC access to pre-ordering functionality embedded in the ordering tool. This

application is being retired via CMP in February 2003 and its preorder function has been replaced with the Uniform GUI – Enhanced Verigate.

4.4.1.8.2 CCTOOLS is a toolbar that provides icons for accessing pre-order GUI applications. This application is being retired via CMP in February of 2003 and has been replaced with the Uniform GUI – Web-based Toolbar.

4.4.1.8.3 Electronic Forms (EF) is an automated workflow process for obtaining pre-order information for specific complex resale products. This application is being retired via CMP in February 2003 and its preorder function has been replaced with the Uniform GUI – Enhanced Verigate.

4.5 Other Pre-order Function Availability

- 4.5.1 Where pre-ordering functions are not available electronically, CLEC will manually request this information from the LSC, dependent on operating region, for inclusion on the service order request.
- 4.5.2 Data Validation Files are available for the purpose of providing requesting CLECs with an alternate method of acquiring pre-ordering information that is considered relatively static. Upon request, **SBC-13STATE** will provide CLECs with any of the following Data Validation Files via Connect: Direct, CD-ROM, or downloadable via the pre-order GUI – Enhanced Verigate. Due to its size, the Street Address Guide (SAG) will be available only via Connect:Direct, and CD-ROM.

Data Validation Files:

SAG (Street Address Guide)
Feature/Service Availability by Switch
Directory Names
Class of Service Codes
USOC (Universal Service Order Codes)
Community Names
Yellow Page Headings
PIC/LPIC (InterLATA/IntraLATA)

5.0 ORDERING/PROVISIONING

- 5.1 **SBC-13STATE** provides access to ordering functions (as measured from the time **SBC-13STATE** receives accurate service requests from the interface) to support CLEC provisioning of Resale services via one or more electronic interfaces. To order Resale services, CLEC will format the service request to identify what features, services, or elements it wishes **SBC-13STATE** to provision in accordance with applicable **SBC-13STATE** ordering requirements. **SBC-13STATE** will provide CLEC access to one or more of the following systems or interfaces:

5.2 Service Order Request System Availability

- 5.2.1 **SBC-13STATE** makes available to CLEC an Electronic Data Interchange (EDI) interface for transmission of Local Service Requests (LSR) as defined by the OBF, consistent with **SBC-13STATE** Local Service Order Requirements (LSOR), and via EDI mapping as defined by TCIF. In ordering and provisioning of Resale Services, CLEC and **SBC-13STATE** will utilize industry guidelines developed by OBF and TCIF EDI to transmit data based upon **SBC-13STATE**'s Resale Service ordering requirements, dependent on operating region.

- 5.2.2 For **SBC-13STATE**, web-based LEX is the new 13-state uniform ordering GUI interface that provides access to the uniform ordering functions for Resale Services. Web-based LEX is accessible via a web-based Toolbar.

- 5.2.2.1 For **SWBT** region, C-EASE is available for the ordering of consumer Resale services.

5.2.2.2 For **SWBT** region, B-EASE is available for the ordering of business Resale services.

5.2.3 For **SWBT** and **PACIFIC** regions, SORD interface provides CLECs with the ability to create Resale orders as well as certain complex Resale orders that cannot be ordered through Easy Access Sales Environment (EASE), Electronic Data Interchange (EDI) or Local Exchange (LEX).

5.2.3.1 For **SWBT** region, SORD interface supports CLEC initiated modification of service orders submitted electronically by CLEC via the following SWBT OSS applications: Business EASE, Consumer EASE or SORD (via DOES-Direct Order Entry System). CLEC should not use SORD to modify service orders issued electronically via LEX/EDI. In addition, CLEC should not use SORD to modify orders submitted manually to the LSC. The Parties agree that the following conditions are applicable to EASE and SORD generated service orders with errors corrected via SORD. If CLEC chooses to use SORD to issue orders and/or modify EASE generated orders, then CLEC becomes responsible for correction of all EASE and SORD service order errors that occur between order application and order completion. CLEC may need to call the LSC to obtain additional information. For terms and conditions for service order error correction within SORD, see section 5.3.3.

5.2.3.2 In **PACIFIC** region, any service order errors will be corrected by the LSC. CLEC will be given a list generated by the LSC of CLEC order errors, and CLEC will be responsible for contacting their customer when necessary to clear an error. With CLEC being the point of contact for their customer, the CLEC agrees to respond timely to the LSC with correct information in order for LSC to complete the correction of the error and subsequent completion of the order. For terms and conditions for service order error correction within SORD, see section 5.3.3.

5.2.4 For **PACIFIC** and **NEVADA** regions, the Pacific Bell Service Manager (PBSM) system is available for ordering Centrex and ISDN Resale services.

5.2.5 In **SNET**, Resale ordering is supported by W-CIWin (**SNET**'s proprietary GUI interface). This platform of ordering applications is being retired via CMP, in February 2003, and has been replaced with the Uniform GUI – Web-based LEX.

5.2.5.1 W-SNAP is made available for the ordering of non-complex Resale products and services. This application is being retired via CMP in February 2003 and its ordering function has been replaced with the Uniform GUI Interface – Web-based LEX.

5.2.5.2 Order Negotiation (as part of CCTOOLS) is made available for the ordering of complex Resale products and services. This application is being retired via CMP in February 2003 and its ordering function has been replaced with the Uniform GUI Interface – Web-based LEX.

5.2.5.3 Electronic Forms (EF) is an automated workflow process for ordering of specific complex Resale products and services. This application is being retired via CMP in February 2003 and its ordering function has been replaced with the Uniform GUI Interface – Web-based LEX.

5.2.6 In **SNET**, MSAP (**SNET**'s EDI-based industry standard app-to-app interface) is available for the ordering of both complex and non-complex Resale Services. With the implementation of the Uniform EDI ordering application to application interface, the MSAP-based versions will retire as the Uniform versions are implemented, according to the CMP Guidelines.

5.3 **Provisioning for Resale Services in SBC-13STATE**

SBC-13STATE will provision Resale services as detailed in CLEC order requests. Access to status on such orders will be provided via the following electronic interfaces:

- 5.3.1 For **SBC-13STATE**, Order Status and Provisioning Order Status functionality is provided through the Enhanced Verigate interface which will allow CLEC to check service order status. In addition, in **SWBT** pending orders can be viewed in SORD.
- 5.3.2 For EDI ordering, **SBC-13STATE** will provide, and CLEC shall use, an EDI interface for transferring and receiving orders, Firm Order Confirmation (FOC), service completion, and, as available, other provisioning data and information.
- 5.3.3 For **SWBT** and **PACIFIC** regions, as detailed in section 5.2.3, the Parties agree that the following timelines are applicable to electronically generated service orders with errors corrected via SORD:
 - 5.3.3.1 Errors occurring between application and distribution must be corrected within five (5) business hours for a simple order and within twenty four (24) hours for a complex order;
 - 5.3.3.2 Error Service Order Image (ESOI) errors must be corrected within three (3) business hours.
 - 5.3.3.4 Service orders will be excluded from calculation of the results for all related performance measurements, described in Appendix Performance Measurements, if CLEC fails to correct service order errors within the timeframes specified in this Section 5.3.3.
 - 5.3.3.5 Additionally, service orders with errors that occur after order generation, but prior to distribution will not qualify for an **SBC-13STATE** issued FOC.

6.0 MAINTENANCE/REPAIR

- 6.1 Two electronic interfaces are accessible in each region to place, and check the status of, trouble reports for both Resale services. Upon request, CLEC may access these functions via the following methods:
 - 6.1.1 In **SBC-13STATE**, Electronic Bonding for Trouble Administration (EBTA-GUI) allows CLEC to perform MLT, issue trouble tickets, view status, and view trouble history on-line.
 - 6.1.2 In **SBC-13STATE**, Electronic Bonding Trouble Administration (EBTA) is an application to application interface that is available for trouble report submission and status updates. EBTA conforms to ANSI guidelines T1:227:1995, T1.228:1995 and T1.262:1998, Electronic Communications Implementation Committee (ECIC) Trouble Report Format Definition (TFRD) Number 1 as defined in ECIC document ECIC/TRA/95-003, and all guidelines referenced within those documents, as mutually agreed upon by CLEC and **SBC-13STATE**. Functions currently implemented include Enter Trouble, Request Trouble Report Status, Add Trouble Information, Modify Trouble Report Attributes, Trouble Report Attribute Value Change Notification, and Cancel Trouble Report, as explained in 6 and 9 of ANSI T1.228:1995. CLEC and **SBC-13STATE** will exchange requests over a mutually agreeable X.25-based network.
 - 6.1.3 In **SBC-7STATE**, Trouble Administration (TA) system access provides CLEC with **SBC-7STATE** software that allows CLEC to submit trouble reports and subsequently check status on trouble reports for CLEC End-Users. TA will provide the ability to review the maintenance history of a converted Resale CLEC account. TA is accessible via **SBC-7STATE** Classic Toolbar.
 - 6.1.4 In **SNET** the maintenance and repair functionality for Resale services is available via the MSAP EDI interface which is being replaced with Uniform application to application interface - EBTA. In addition, for Resale products and services, trouble history and trouble status functions are available via CCTOOLS. This application is being retired via CMP in February of 2003 and has been replaced with the Uniform GUI interface – EBTA-GUI.

7. BILLING

- 7.1 **SBC-13STATE** will bill CLEC for Resold services. **SBC-13STATE** will send associated billing information to CLEC as necessary to allow CLEC to perform billing functions. At minimum **SBC-13STATE** will provide CLEC billing information in a paper format, or via 18-track magnetic tape, as agreed to between CLEC and

SBC-13STATE. Such alternate bill media will be made available to CLEC consistent with the individual state tariff provisions.

- 7.2 Electronic access to billing information for Resale services will also be available via the following interfaces:
 - 7.2.1 In **SBC-13STATE**, CLEC may receive a mechanized bill format via the EDI 811 transaction set.
 - 7.2.2 For Resale Services in **SWBT**, CLEC may receive Bill Plus™, an electronic version of its bill, as described in, and in accordance with, **SWBT**'s Local Exchange Tariff.
 - 7.2.3 For Resale Services in **PACIFIC**, CLEC may elect to receive Custom Billing Disk/ CD Bill. Custom Billing Disk/ CD Bill provides an electronic bill with the same information as a paper bill along with various reporting options.
 - 7.2.4 For Resale Services in **AMERITECH**, CLEC may elect to receive its bill on CD.
 - 7.2.5 For Resale Services in **SWBT**, CLEC may also view billing information through the Bill Information interface. Bill Information will be accessible via **SWBT** Classic Toolbar.
 - 7.2.6 In **SBC-13STATE**, CLEC may receive a mechanized bill format via the EDI 811 transaction set.
 - 7.2.7 In **SBC-13STATE**, CLEC may receive electronically a Daily Usage Extract. On a daily basis, this feed provides information on the usage billed to its accounts for Resale services in the industry standardized EMI format.
 - 7.2.8 **SBC-13STATE** will provide Loss Notifications. This notification alerts CLECs that a change requested by another telecommunications provider has been completed and, as a result, the Local Service Provider associated with a given telephone number has been changed. It will be provided via the uniform ordering application to application interface using the EDI 836 transaction, and will also be available via the uniform ordering GUI interface, WebLEX. The current loss notification processes via CARE record format and the "Local Disconnect Report", where applicable in the **SBC-8STATE** region, will remain in effect until full implementation and testing of the new Loss Notification processes is completed.
 - 7.2.9 In **SNET**, CLEC may receive a Billing Detail File on 18-track magnetic tape.
 - 7.2.10 In **AMERITECH**, CLEC may receive a mechanized bill for Resale Services via the **AMERITECH** Electronic Billing System (AEBS) transaction set.

8.0 REMOTE ACCESS FACILITY

- 8.1 CLEC must access OSS interfaces via a CLEC Remote Access Facility. For the **SWBT** region, the LRAF located in Dallas, TX will be used. The PRAF in Fairfield, CA handles the **PACIFIC** and **NEVADA** regions. The ARAF, located in Chicago, IL, serves **AMERITECH** and the SRAF in New Haven, CT, handles the **SNET** region. Connection to these remote access facilities will be established via a "port" either through dial-up or direct connection as described in Section 8.2. CLEC may utilize a port to access **SBC-13STATE** OSS interfaces to perform the supported functions in any **SBC-13STATE** where CLEC has executed an Appendix OSS. OSS applications that are accessible through the Internet will also go through a secured Remote Access Facility.
- 8.2 For **SBC-13STATE**, CLEC may use three types of access: Switched, Private Line, and Frame Relay. For Private Line and Frame Relay "Direct Connections," CLEC shall provide its own router, circuit, and two Channel Service Units/Data Service Units (CSU/DSU). The demarcation point shall be the router interface at the LRAF, PRAF, ARAF, or SRAF. Switched Access "Dial-up Connections" require CLEC to provide its own modems and connection to the **SWBT** LRAF, **PACIFIC** PRAF, **AMERITECH** ARAF, and **SNET** SRAF. CLEC shall pay the cost of the call if Switched Access is used. Connections via the Public Internet require CLEC to connect to an ISP of their choice and use one of the HTTPS URLs associated with access to SBC OSS via the public internet.

- 8.3 For **SBC-13STATE**, CLEC shall use TCP/IP to access **SBC-13STATE** OSS via the LRAF, ARAF, SRAF, and the PRAF. In addition, each CLEC shall have one valid Internet Protocol (IP) network address per region. CLEC shall maintain a user-id / password unique to each individual for accessing a **SWBT**, **PACIFIC**, **NEVADA**, **AMERITECH**, or **SNET** OSS on CLEC's behalf. CLEC shall provide estimates regarding its volume of transactions, number of concurrent users, desired number of private line or dial-up (switched) connections, and length of a typical session.
- 8.4 For **SBC-13STATE**, CLEC shall attend and participate in implementation meetings to discuss CLEC LRAF/PRAF/ARAF/SRAF access plans in detail and schedule testing of such connections.

9.0 DATA CONNECTION SECURITY REQUIREMENTS

- 9.1 CLEC agrees that interconnection of CLEC data facilities with **SBC-13STATE** data facilities for access to OSS will be in compliance with **SBC-13STATE**'s "Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures" document current at the time of initial connection to a RAF. The following additional terms in this Section 9 govern direct and dial up connections between CLEC and the PRAF, LRAF, ARAF and SRAF for access to OSS Interfaces.
- 9.2 **Joint Security Requirements**
 - 9.2.1 Both Parties will maintain accurate and auditable records that monitor user authentication and machine integrity and confidentiality (e.g., password assignment and aging, chronological logs configured, system accounting data, etc.).
 - 9.2.2 Both Parties shall maintain accurate and complete records detailing the individual data connections and systems to which they have granted the other Party access or interface privileges. These records will include, but are not limited to, user ID assignment, user request records, system configuration, time limits of user access or system interfaces. These records should be kept until the termination of this Agreement or the termination of the requested access by the identified individual. Either Party may initiate a compliance review of the connection records to verify that only the agreed to connections are in place and that the connection records are accurate.
 - 9.2.3 CLEC shall immediately notify the ISCC when a employee userid is no longer valid (e.g. employee termination or movement to another department).
 - 9.2.4 Both Parties shall use an industry standard virus detection software program at all times. The Parties shall immediately advise each other by telephone upon actual knowledge that a virus or other malicious code has been transmitted to the other Party.
 - 9.2.5 All physical access to equipment and services required to transmit data will be in secured locations. Verification of authorization will be required for access to all such secured locations. A secured location is where walls and doors are constructed and arranged to serve as barriers and to provide uniform protection for all equipment used in the data connections which are made as a result of the user's access to either the CLEC or **SBC-13STATE** network. At a minimum, this shall include: access doors equipped with card reader control or an equivalent authentication procedure and/or device, and egress doors which generate a real-time alarm when opened and which are equipped with tamper resistant and panic hardware as required to meet building and safety standards.
 - 9.2.6 Both Parties shall maintain accurate and complete records on the card access system or lock and key administration to the rooms housing the equipment utilized to make the connection(s) to the other Party's network. These records will include management of card or key issue, activation or distribution and deactivation.

9.3 Additional Responsibilities of Both Parties

- 9.3.1 **Modem/DSU Maintenance And Use Policy:** To the extent the access provided hereunder involves the support and maintenance of CLEC equipment on **SBC-13STATE**'s premises, such maintenance

will be provided under the terms of the Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures document cited above.

- 9.3.2 **Monitoring:** Each Party will monitor its own network relating to any user's access to the Party's networks, processing systems, and applications. This information may be collected, retained, and analyzed to identify potential security risks without notice. This information may include, but is not limited to, trace files, statistics, network addresses, and the actual data or screens accessed or transferred.
- 9.3.3 Each Party shall notify the other Party's security organization immediately upon initial discovery of actual or suspected unauthorized access to, misuse of, or other "at risk" conditions regarding the identified data facilities or information. Each Party shall provide a specified point of contact. If either Party suspects unauthorized or inappropriate access, the Parties shall work together to isolate and resolve the problem.
- 9.3.4 In the event that one Party identifies inconsistencies or lapses in the other Party's adherence to the security provisions described herein, or a discrepancy is found, documented, and delivered to the non-complying Party, a corrective action plan to address the identified vulnerabilities must be provided by the non-complying Party within thirty (30) calendar days of the date of the identified inconsistency. The corrective action plan must identify what will be done, the Party accountable/responsible, and the proposed compliance date. The non-complying Party must provide periodic status reports (minimally monthly) to the other Party's security organization on the implementation of the corrective action plan in order to track the work to completion.
- 9.3.5 In the event there are technological constraints or situations where either Party's corporate security requirements cannot be met, the Parties will institute mutually agreed upon alternative security controls and safeguards to mitigate risks.
- 9.3.6 All network-related problems will be managed to resolution by the respective organizations, CLEC or **SBC-13STATE**, as appropriate to the ownership of a failed component. As necessary, CLEC and **SBC-13STATE** will work together to resolve problems where the responsibility of either Party is not easily identified.

9.4 **Information Security Policies And Guidelines For Access To Computers, Networks and Information By Non-Employee Personnel**

- 9.4.1 Information security policies and guidelines are designed to protect the integrity, confidentiality and availability of computer, networks and information resources. Section 9.5 - 9.11 summarizes the general policies and principles for individuals who are not employees of the Party that provides the computer, network or information, but have authorized access to that Party's systems, networks or information. Questions should be referred to CLEC or **SBC-13STATE**, respectively, as the providers of the computer, network or information in question.
- 9.4.2 It is each Party's responsibility to notify its employees, contractors and vendors who will have access to the other Party's network, on the proper security responsibilities identified within this Attachment. Adherence to these policies is a requirement for continued access to the other Party's systems, networks or information. Exceptions to the policies must be requested in writing and approved by the other Party's information security organization.

9.5 **General Policies**

- 9.5.1 Each Party's resources are for approved business purposes only.
- 9.5.2 Each Party may exercise at any time its right to inspect, record, and/or remove all information contained in its systems, and take appropriate action should unauthorized or improper usage be discovered.

- 9.5.3 Individuals will only be given access to resources that they are authorized to receive and which they need to perform their job duties. Users must not attempt to access resources for which they are not authorized.
- 9.5.4 Authorized users must not develop, copy or use any program or code which circumvents or bypasses system security or privilege mechanism or distorts accountability or audit mechanisms.
- 9.5.5 Actual or suspected unauthorized access events must be reported immediately to each Party's security organization or to an alternate contact identified by that Party. Each Party shall provide its respective security contact information to the other.

9.6 User Identification

- 9.6.1 Access to each Party's corporate resources will be based on identifying and authenticating individual users in order to maintain clear and personal accountability for each user's actions.
- 9.6.2 User identification shall be accomplished by the assignment of a unique, permanent user id, and each user id shall have an associated identification number for security purposes.
- 9.6.3 User ids will be revalidated on a monthly basis.

9.7 User Authentication

- 9.7.1 Users will usually be authenticated by use of a password. Strong authentication methods (e.g. one-time passwords, digital signatures, etc.) may be required in the future.
- 9.7.2 Passwords must not be stored in script files.
- 9.7.3 Passwords must be entered by the user.
- 9.7.4 Passwords must be at least 6-8 characters in length, not blank or a repeat of the user id; contain at least one letter, and at least one number or special character must be in a position other than the first or last one. This format will ensure that the password is hard to guess. Most systems are capable of being configured to automatically enforce these requirements. Where a system does not mechanically require this format, the users must manually follow the format.
- 9.7.5 Systems will require users to change their passwords regularly (usually every 31 days).
- 9.7.6 Systems are to be configured to prevent users from reusing the same password for 6 changes/months.
- 9.7.7 Personal passwords must not be shared. A user who has shared his password is responsible for any use made of the password.

9.8 Access and Session Control

- 9.8.1 Destination restrictions will be enforced at remote access facilities used for access to OSS Interfaces. These connections must be approved by each Party's corporate security organization.
- 9.8.2 Terminals or other input devices must not be left unattended while they may be used for system access. Upon completion of each work session, terminals or workstations must be properly logged off.

9.9 User Authorization

- 9.9.1 On the destination system, users are granted access to specific resources (e.g. databases, files, transactions, etc.). These permissions will usually be defined for an individual user (or user group) when a user id is approved for access to the system.

9.10 Software and Data Integrity

- 9.10.1 Each Party shall use a comparable degree of care to protect the other Party's software and data from unauthorized access, additions, changes and deletions as it uses to protect its own similar

software and data. This may be accomplished by physical security at the work location and by access control software on the workstation.

- 9.10.2 Untrusted software or data shall be scanned for viruses before use on a Party's corporate facilities that can be accessed through the direct connection or dial up access to OSS interfaces.
- 9.10.3 Unauthorized use of copyrighted software is prohibited on each Party's corporate systems that can be accessed through the direct connection or dial up access to OSS Interfaces.
- 9.10.4 Proprietary software or information (whether electronic or paper) of a Party shall not be given by the other Party to unauthorized individuals. When it is no longer needed, each Party's proprietary software or information shall be returned by the other Party or disposed of securely. Paper copies shall be shredded. Electronic copies shall be overwritten or degaussed.

9.11 Monitoring and Audit

- 9.11.1 To deter unauthorized access events, a warning or no trespassing message will be displayed at the point of initial entry (i.e., network entry or applications with direct entry points). Each Party should have several approved versions of this message. Users should expect to see a warning message similar to this one:

*"This is a (**SBC-13STATE** or CLEC) system restricted to Company official business and subject to being monitored at any time. Anyone using this system expressly consents to such monitoring and to any evidence of unauthorized access, use, or modification being used for criminal prosecution."*

- 9.11.2 After successful authentication, each session will display the last logon date/time and the number of unsuccessful logon attempts. The user is responsible for reporting discrepancies.

10. OPERATIONAL READINESS TEST (ORT) FOR ORDERING/PROVISIONING AND REPAIR/MAINTENANCE INTERFACES

- 10.1 Prior to live access to interface functionality, the Parties must conduct Operational Readiness Testing (ORT), which will allow for the testing of the systems, interfaces, and processes for the OSS functions. ORT will be completed in conformance with agreed upon processes and implementation dates.

11. OSS TRAINING COURSES

- 11.1 Prior to live system usage, CLEC must complete user education classes for **SBC-13STATE**-provided interfaces that affect the **SBC-13STATE** network. Course descriptions for all available classes by region are posted on the CLEC website in the Customer Education section. CLEC Training schedules by region are also available on the CLEC website and are subject to change, with class lengths varying. Classes are train-the-trainer format to enable CLEC to devise its own course work for its own employees. Charges as specified below will apply for each class:

Training Rates	5 day class	4.5 day class	4 day class	3.5 day class	3 day class	2.5 day class	2 day class	1.5 day class	1 day class	1/2 day class
1 to 5 students	\$4,050	\$3,650	\$3,240	\$2,835	\$2,430	\$2,025	\$1,620	\$1,215	\$810	\$405
6 students	\$4,860	\$4,380	\$3,890	\$3,402	\$2,915	\$2,430	\$1,945	\$1,455	\$970	\$490
7 students	\$5,670	\$5,100	\$4,535	\$3,969	\$3,400	\$2,835	\$2,270	\$1,705	\$1,135	\$570
8 students	\$6,480	\$5,830	\$5,185	\$4,536	\$3,890	\$3,240	\$2,590	\$1,950	\$1,300	\$650
9 students	\$7,290	\$6,570	\$5,830	\$5,103	\$4,375	\$3,645	\$2,915	\$2,190	\$1,460	\$730
10 students	\$8,100	\$7,300	\$6,480	\$5,670	\$4,860	\$4,050	\$3,240	\$2,430	\$1,620	\$810
11 students	\$8,910	\$8,030	\$7,130	\$6,237	\$5,345	\$4,455	\$3,565	\$2,670	\$1,780	\$890
12 students	\$9,720	\$8,760	\$7,780	\$6,804	\$5,830	\$4,860	\$3,890	\$2,920	\$1,945	\$970

- 11.2 A separate agreement will be required as a commitment to pay for a specific number of CLEC students in each class. CLEC agrees that charges will be billed by **SBC-13STATE** and CLEC payment is due thirty

(30) days following the bill date. CLEC agrees that personnel from other competitive Local Service Providers may be scheduled into any class to fill any seats for which the CLEC has not contracted. Class availability is first-come, first served with priority given to CLECs who have not yet attended the specific class.

- 11.3 Class dates will be based upon **SBC-13STATE** availability and will be coordinated among CLEC, the CLEC's **SBC-13STATE** Account Manager, and **SBC-13STATE** Industry Markets CLEC Training Product Management.
- 11.4 CLEC agrees to pay the cancellation fee of the full price noted in the separate agreement if CLEC cancels scheduled classes less than two (2) weeks prior to the scheduled start date. CLEC agrees to provide to **SBC-13STATE** completed registration forms for each student no later than one week prior to the scheduled training class.
- 11.5 CLEC agrees that CLEC personnel attending classes are to utilize only training databases and training presented to them in class. Attempts to access any other **SBC-13STATE** system are strictly prohibited.
- 11.6 CLEC further agrees that training material, manuals and instructor guides can be duplicated only for internal use for the purpose of training employees to utilize the capabilities of **SBC-13STATE**'s OSS in accordance with this Appendix and shall be deemed "Proprietary Information" and subject to the terms, conditions and limitations of Section 20 of the General Terms and Conditions.

12. RESUMPTION OF FLAT RATE CHARGES FOR SYSTEM ACCESS AND CONNECTIVITY TO OSS IN SWBT REGION

- 12.1 For SWBT region only, with the sunset of the SBC/Ameritech Merger conditions, SBC is resuming its flat rate monthly OSS charges for CLECs that utilize OSS in any of the 5 SWBT states. CLEC will be billed the appropriate state specific rates (identified in the each of the 5 SWBT state Price List appendices) for use of any of the OSS interfaces to place electronic transactions.
- 12.2 These SWBT specific flat rates to access OSS include a "System Access" charge for use of the OSS, and a "Connectivity Charge" depending on type of Remote Access Facility connection (Dedicated connection versus Dial-up/Internet connection).
- 12.3 These specific OSS charges will be billed as follows:
 - 12.3.1 The flat rate "System Access" charge will be billed for each SWBT state in which the CLEC has access to OSS.
 - 12.3.2 The flat rate "Connectivity" charge will be billed per port for the entire SWBT region at either the dial-up rate or the dedicated connection rate depending on the CLEC's connection configuration.
 - 12.3.2.1 Connectivity charges for CLECs connecting via the Internet will be consistent with dial-up rates listed in the state specific Appendix Pricing – Schedule of Prices.
 - 12.3.2.2 If CLEC is utilizing OSS in multiple SWBT states, the CLEC will be charged per port per region, but not billed a "Connectivity" Charge in every state that the CLEC does business. The appropriate Connection Charge (Dial-up/Internet or Dedicated; but not both) will be billed at the lowest billable state rate of the SWBT states in which the CLEC has access to OSS.
- 12.4 These SWBT rates for the OSS "System Access" and "Connectivity" charges appear in the each SWBT state specific Appendix Pricing – Schedule of Prices.

13. MISCELLANEOUS CHARGES

- 13.1 For **SWBT** region only, CLEC requesting the Bill Plus™, as described in 7.2.2, agrees to pay applicable tariffed rate, less Resale discount.

- 13.2 For **SBC-7STATE**, CLEC requesting the billing function for the Daily Usage Extract which contains the usage billable records, as described in 7.2.7 and 7.3.3, agrees to pay established rates pursuant to Appendix Pricing.
- 13.3 For **SBC-7STATE**, CLEC requesting the Local Disconnect Report, as described in 7.2.8 and 7.3.4, agrees to pay established rates pursuant to Appendix Pricing.
- 13.4 For **SBC-13STATE**, should CLEC request custom development of an exclusive interface to support OSS functions, such development will be considered by **SBC-13STATE** on an Individual Case Basis (ICB) and priced as such.
- 13.5 **SNET** will charge for the Billing Detail File, Daily Usage Extract, and Loss Notification File at rates filed and approved by DPUC.

14. SERVICE BUREAU PROVIDER ARRANGEMENTS FOR SHARED ACCESS TO OSS

- 14.1 **SBC-13STATE** shall allow CLEC to access its OSS via a Service Bureau Provider under the following terms and conditions:
 - 14.2.1 CLEC shall be permitted to access **SBC-13STATE** application-to-application OSS interfaces, via a Service Bureau Provider where CLEC has entered into an agency relationship with such Service Bureau Provider, and the Service Bureau Provider has executed an Agreement with **SBC-13STATE** to Allow Service Bureau Provider to establish access to and use of **SBC-13STATE**'s OSS.
 - 14.2.2 CLEC's use of a Service Bureau Provider shall not relieve CLEC of the obligation to abide by all terms and conditions of this Agreement. CLEC must ensure that its agent properly performs all OSS obligations of CLEC under this Agreement, which CLEC delegates to Service Bureau Provider.
 - 14.2.3 It shall be the obligation of CLEC to provide notice in accordance with the notice provisions of the Terms and Conditions of this Agreement whenever it established an agency relationship with a Service Bureau Provider or terminates such a relationship. **SBC-13STATE** shall have a reasonable transition time to establish a connection to a Service Bureau Provider once CLEC provides notice. Additionally, **SBC-13STATE** shall have a reasonable transition period to terminate any such connection after notice from CLEC that it has terminated its agency relationship with a Service Bureau Provider.
- 14.3 Notwithstanding any language in this Agreement regarding Performance Measures to the contrary, **SBC-13STATE** shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measurement to the extent that such noncompliance was the result of actions or events beyond **SBC-13STATE**'s control associated with third-party systems or equipment including systems, equipment and services provided by a Service Bureau Provider (acting as CLEC's agent for connection to **SBC-13STATE**'s OSS) which could not be avoided by **SBC-13STATE** through the exercise of reasonable diligence or delays or other problems resulting from actions of a Service Bureau Provider, including Service Bureau provided processes, services, systems or connectivity.

15. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

- 15.1 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 PRICING

TABLE OF CONTENTS

1. INTRODUCTION.....	3
2. RECURRING CHARGES	4
3. NONRECURRING CHARGES	4
4. BILLING TIMELINES- THIS SECTION APPLIES TO <u>PACIFIC ONLY</u>	4
5. BILLING.....	5
6. APPLICABILITY OF OTHER RATES, TERMS, AND CONDITIONS.....	5

APPENDIX PRICING

1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions under which the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) offers services and products to CLEC at the rates, prices and/or charges set forth in the applicable state pricing sheet(s) attached hereto. The services and products offered to CLEC have been divided into two categories: Resale and Other (Resale). These categories are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.
- 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 d/b/a Ameritech Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company d/b/a SBC Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a 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 ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 **SBC-SWBT** - As used herein, **SBC-SWBT** means the applicable above listed ILEC doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.5 **SBC-AMERITECH** - As used herein, **SBC-AMERITECH** means the applicable above listed ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.6 **PACIFIC** -As used herein, **PACIFIC** means the applicable above listed ILEC doing business in California.
- 1.7 **NEVADA** -As used herein, **NEVADA** means the applicable above listed ILEC doing business in Nevada.
- 1.8 **AM-IL** -As used herein, **AM-IL** means the applicable SBC owned ILEC doing business in Illinois.
- 1.9 **SNET** -As used herein, **SNET** means the applicable above listed ILEC doing business in Connecticut.
- 1.10 This section applies to **SNET** only
 - 1.10.1 Other than as specifically set out elsewhere in this Agreement, **SNET** resale prices are available as described in DPUC ordered CT Access Service Tariff Section 18.
 - 1.10.2 Operator Services (OS) and Director Assistance (DA) Monthly Recurring Charges (MRCs) and Nonrecurring Charges (NRCs) are set forth in the Connecticut rate sheet attached.
- 1.11 This section applies to **AM-IL** only
 - 1.11.1 Other than as specifically set out elsewhere in this Agreement, **AM-IL** resale prices are available as described in ILL.C.C. No. 20 Tariff Part 22.
- 1.12 This section applies to **SBC-AMERITECH** only
 - 1.12.1 If a rate element, price and/or charge for a product or service contained in, referenced to or otherwise provided by **SBC-AMERITECH** under this Agreement (including any attached or referenced Appendices) is not listed in this Appendix Pricing, including any rates, prices and/or charges developed in response to a CLEC Bona Fide Request(s) (BFR), such rates, prices and charges shall be determined in accordance with Section 252(d) of the Act; provided however, if **SBC-AMERITECH** provides a product or service that is not subject to the pricing principles of the Act, such rate(s), prices(s) and/or charges shall be as negotiated by **SBC-AMERITECH** and CLEC.
 - 1.12.2 Except as otherwise agreed upon by the Parties in writing, **SBC-AMERITECH** shall not be required to provide CLEC a product or service under this Agreement unless and until the Parties have

agreed upon a rate element, price or charge (whether a final rate/price/charge or, as agreed upon by the Parties, an interim rate/price/charge subject to a true-up, true-down) applicable to the requested product and/or service.

1.12.2 Certain of the rates, prices and charges set forth in this Appendix Pricing were established by the Commission. If during the Term the Commission or the FCC changes a rate, price or charge in an order or docket that generally applies to the products and services available hereunder, the Parties agree to amend this Appendix Pricing to incorporate such new rates, prices and charges with such rates, prices and charges to be effective as of the date specified in such order or docket.

2. RECURRING CHARGES

- 2.1 Unless otherwise identified in the Pricing Tables, where rates are shown as monthly, a month will be defined as a calendar month. The minimum term for each monthly rated Resale or Other (Resale), and Other element service or product will be one (1) month. After the initial month, billing will be on the basis of whole or fractional months used.
- 2.2 Where rates, prices or charges consist of usage sensitive charges or per occurrence charges, such rates, prices or charges are classified as "recurring charges".
- 2.3 CLEC shall pay for all usage on usage sensitive or per occurrence calls including those that are not completed due to "busy" or "don't answer" status.

3. NONRECURRING CHARGES

- 3.1 Nonrecurring Charges are applicable for both categories of services and products.
- 3.2 For Resale, when a CLEC migrates an End User's existing service and the migration service request also includes the addition of new service or features and/or changes or disconnects some portion of the existing service or features, the normal service order charges and/or non- recurring charges associated with said additions and/or changes will apply.
- 3.3 The appropriate nonrecurring charges shall apply for each service request processed by **SBC-8STATE**, including but not limited to the following:
 - 3.3.1 Installation (Service Order and Connect);
 - 3.3.2 Disconnection (Disconnect);
 - 3.3.3 Rearrangement/modification (Change);
 - 3.3.4 Record Order (Record)
- 3.4 Some items, which must be individually charged, are billed as nonrecurring charges.
- 3.5 CLEC shall pay a service order processing/administration charge for each service order submitted by CLEC to **SBC-AMERITECH** to process a request for installation, disconnection, rearrangement, changes to or record orders for Resale.
- 3.6 Time and Material charges (a.k.a. additional labor charges) are defined in the document specified below for the ILEC indicated.
 - 3.6.1 Tariff Schedule Cal P.U.C. No.175-T for **PACIFIC**.
 - 3.6.2 FCC Tariff 73 for **SBC-SWBT and NEVADA**.
 - 3.6.3 The applicable pricing appendix for **SBC-AMERITECH**.

4. BILLING TIMELINES- This section applies to **PACIFIC** only

- 4.1 To the extent that any billing for services or products offered under this Agreement is made through **PACIFIC**'s Carrier Access Billing System (CABS), the prices for monthly recurring charges (MRCs) and

nonrecurring charges (NRCs) provided for in this Agreement may take a substantial period of time from the Effective Date of this Agreement to implement in **PACIFIC**'s CABS.

- 4.2 To the extent that any billing for services or products offered under this Agreement is made through **PACIFIC**'s CABS, any prices for MRCs and NRCs subsequently adopted by the CPUC may take a substantial period of time from the date of the final order to implement in CABS and shall comply with any Commission timeline.
- 4.3 Until such time as any prices discussed in Section 5.1 or Section 5.2 above are implemented in CABS, **PACIFIC** may continue to bill at the established prices contained within the most recent prior interconnection agreement between the Parties, if any. If there is no prior interconnection agreement between the Parties, **PACIFIC** shall bill at the prices **PACIFIC** is currently billing one or more of its other CLEC customers that, in **PACIFIC**'s good faith judgment, most closely match the prices applicable hereunder.
- 4.4 Due to this CABS billing implementation time period, a true-up or true-down of all such prices, without interest, retroactive to the effective date specified in the order or docket, will be due upon billing implementation of the new prices.

5. BILLING

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

6. APPLICABILITY OF OTHER RATES, TERMS, AND CONDITIONS

- 6.1 Every resale service provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such resale service. 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 resale service provided hereunder: introduction, definitions, interpretation, construction and severability; description and charges of service; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud by end users; deposits; billing and payment of charges; non-payment and procedures for disconnection; services; additional terms applicable to resale of services; ancillary services; network and service order conditions; dispute resolution; audits; responsibilities of SWBT; disclaimer of representations and warranties; limitation of liability; responsibilities of CLEC; indemnification; remedies; intellectual property; notices; 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; delegation to affiliate; assignment; force majeure; taxes; non-waiver; customer inquiries; expenses; conflicts of interest; survival; appendices incorporated by reference; authority; counterparts; amendments and modifications; and entire agreement.

TBD- To be determined
NRO- Nonrecurring only
ICB- Individual Case Basis
NA- Not applicable

AMERITECH
TELEPHONE COMPANY
ILLINOIS
Rates
January 7, 2000

APPENDIX PRICING
AM-IL/VERIZON SELECT SERVICES, INC.

<u>RESALE</u>					
See ILL.C.C. No. 20 Tariff Part 22					
Line Connection Charge					
Residence					
Business					NA
Service Order/Service Request Charge					
Residence					\$18.85
Business					\$14.12
Non-Electronic (Manual) Service Order Charge					
Residence					\$24.19
Business					\$17.17

APPENDIX
ILLINOIS RECOURSE CREDITS

TABLE OF CONTENTS

1. INTRODUCTION.....	3
2. REQUEST FOR REIMBURSEMENT	4
3. RESPONSE TO REQUESTS FOR REIMBURSEMENT	5
4. LIMITATION OF LIABILITY	5
5. METHOD AND TIMING OF REIMBURSEMENT	6
6. OBLIGATION TO UPDATE	6
7. RESERVATION OF RIGHTS	7

APPENDIX ILLINOIS RE COURSE CREDITS**1. INTRODUCTION**

- 1.1 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, L.P. d/b/a Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.2 As used herein, **Ameritech-Illinois** means Illinois Bell Telephone Company.
- 1.3 As used herein, **Consequential Damages** shall mean indirect, special, consequential, incidental or punitive damages, including loss on anticipated profits or revenues or any other economic loss in connection with or arising under the Agreement.
- 1.4 As used herein, **Customer Credits** shall mean those credits that CLEC provides to its end users pursuant to 83 IL Admin Code. Section 732.30 for violation of a Local Exchange Service Obligation.
- 1.5 As used herein, **Local Exchange Service Obligations** means those basic local exchange service standards that telecommunications carriers are expected to fulfill in accordance with 83 IL Admin. Code Section 732.20.
- 1.6 As used herein, **Recourse Credits** shall mean those credits that **Ameritech-Illinois** is required to provide to CLEC pursuant to 83 IL Admin. Code Section 732.35, to reimburse CLEC for those Customer Credits paid by CLEC in the event that CLEC's violation of a Local Exchange Service Obligation is caused by **Ameritech-Illinois**.
- 1.7 As used herein, **Recourse Credit Claim Form** shall mean the form which is attached as Exhibit RC completed by CLEC and submitted to **Ameritech-Illinois** to request and obtain Recourse Credits. Such form shall also be available on the SBC CLEC Online website: <https://clec.sbc.com>.
- 1.8 This Appendix implements an Illinois-specific requirement imposed by 83 Ill. Admin Code Section 732.35, and corresponds to the terms and conditions by which **Ameritech-Illinois** provides Recourse Credits to CLEC pursuant to 83 Ill. Admin. Code Section 732.35 and then only to the extent required by that regulation.

2. REQUEST FOR REIMBURSEMENT

- 2.1 CLEC shall submit a Recourse Credit Claim Form to Ameritech-Illinois’ Local Service Center [specify address] by the 10th day of each month for which CLEC seeks Recourse Credits. The Recourse Credit Claim Form shall separately identify all Customer Credits made, paid or otherwise provided by the CLEC to its end users that were required by IL Admin. Code Section 732.30 during the preceding calendar month for which reimbursement is requested from Ameritech-Illinois.
- 2.2 The Recourse Credit Claim Form may also include requests pertaining to Customer Credits made, paid or otherwise provided by the CLEC to its end users in prior months and not previously requested by the CLEC in an earlier Recourse Credit Claim Form, provided, however, that the CLEC shall have a maximum of ninety (90) days from the date on which the Customer Credits were credited, paid or provided by the CLEC to its end users to request a Recourse Credit from Ameritech-Illinois. Provided further, that the CLEC shall have ninety (90) days from earliest of a) the effective date of 83 IL Admin. Code Section 732.35 or b) the effective date of this Appendix to request reimbursement for Customer Credits paid to end users from August 1, 2001 to such effective date of this Appendix.
- 2.3 By submitting a Recourse Credit Claim Form requesting a Recourse Credit, CLEC represents and warrants to Ameritech-Illinois that (i) at the time CLEC submits such a Recourse Credit Claim Form that the information contained within is a true and correct calculation of the credit claimed due to the CLEC based on information known to the CLEC and information received by the CLEC from its customer and relied upon for substantiation under 83 IL Admin. Code Section 732.30, and (ii) that a credit in an amount that is not less than the one sought from Ameritech-Illinois was actually made to CLEC’s end user associated with alleged violation of a Local Exchange Service Obligation.
- 2.4 CLEC’s Recourse Credit Claim Form shall include the following information with respect to each request for Recourse Credit:
 - 2.4.1 The name and telephone number of the CLEC’s end user that was alleged affected;
 - 2.4.2 The specific Local Exchange Service Obligation that was violated;
 - 2.4.3 Brief statement as to how the alleged actions or inactions of Ameritech-Illinois, or alleged failure or deficiency in any network element or service provided by Ameritech-Illinois to the CLEC, caused the violation of the Local Exchange Service Obligation by CLEC; and

2.4.4 Amount of Customer Credit made, paid or provided by CLEC to its end user (including the cost to the CLEC of any alternative telephone service provided to end user) for which Recourse Credit is requested, and the date or dates on which the Customer Credit was provided.

3.0 RESPONSE TO REQUESTS FOR REIMBURSEMENT

3.1 **Ameritech-Illinois** shall have thirty (30) calendar days after receipt of CLEC's Recourse Credit Claim Form to notify CLEC in writing if it disputes a request for a Recourse Credit. Such notice shall separately identify each request for Recourse Credit that is disputed, and the basis on which **Ameritech-Illinois** disputes the reimbursement. A request for a Recourse Credit which is not disputed in writing by **Ameritech-Illinois** within the thirty (30) calendar day period shall be reimbursed by **Ameritech-Illinois**, subject to **Ameritech-Illinois**' right to seek recovery of credits pursuant to Section 6 of this Appendix.

3.2 For each request for Recourse Credit that is timely disputed by **Ameritech-Illinois**, the parties shall use the dispute resolution process set forth in the Agreement.

4.0 LIMITATION OF LIABILITY

4.1 **Ameritech-Illinois** shall not be required to make, pay or otherwise provide any Recourse Credit unless CLEC (i) is legally required to make a Customer Credit to its end users under 83 IL Admin. Code Section 732.30 and (ii) actually makes, pays, or otherwise provides such Customer Credit. In no event shall any Recourse Credit include any amount attributable to any liquidated damages or Consequential Damages or any other damages that CLEC may have paid its end user in excess of those credits expressly required by 83 IL Admin. Code Section 732.30 (a) – (c).

4.2 **Ameritech-Illinois** shall not be required to provide CLEC with Recourse Credits if a violation of a Local Exchange Service Obligations resulted from one or more of the occurrences described in 83 IL Admin. Code Section 732.30 (e).

4.3 In the event that **Ameritech-Illinois** is not the sole cause of a CLEC violation of a Local Exchange Service Obligation, the Parties shall agree to a reduction of the Recourse Credit based upon a proper allocation of fault. If the Parties cannot agree to the proper allocation of fault, the Parties shall resolve the issue by following the dispute resolution process set forth in the Agreement.

5.0 METHOD AND TIMING OF REIMBURSEMENT

- 5.1 Recourse Credits made under this Appendix shall be credited to the CLEC on Ameritech-Illinois' invoice to the CLEC for network elements or other services on the first billing date that is not less than thirty (30) Business Days after the Ameritech-Illinois' receipt of the Recourse Credit Claim Form. Any Recourse Credit claims agreed to by Ameritech-Illinois after dispute resolution negotiations pursuant to Section 3.2 shall be credited to CLEC on Ameritech-Illinois' invoice to CLEC for network elements or other services on the first billing date that is not less than thirty (30) Business Days after dispute resolution negotiations conclude. Should dispute resolution fail, any request for Recourse Credits that Ameritech-Illinois that is ordered to honor pursuant to an order by the Illinois Commerce Commission or court of competent jurisdiction shall be credited to CLEC on Ameritech-Illinois' invoice to CLEC for network elements or other services on the first billing date that is not less than thirty (30) Business Days after the effective date of such order.
- 5.2 Where reimbursement is to be made by credit on Ameritech-Illinois' invoice to the CLEC, the invoice shall show separately the credit and the reason for it.
- 5.3 Any disputed request for a Recourse Credit which Ameritech-Illinois is ordered to pay by the Commission as the result of a formal complaint proceeding initiated by CLEC or by a court, arbitration panel or other tribunal as a result of a proceeding initiated by CLEC, shall bear interest from the date the formal complaint proceeding or other proceeding was initiated by CLEC to the date of payment. Any disputed request for refund or repayment of a Recourse Credit previously provided by Ameritech-Illinois which CLEC is ordered to pay by the Commission as the result of a formal complaint proceeding initiated by Ameritech-Illinois or by a court, arbitration panel or other tribunal as a result of a proceeding initiated by Ameritech-Illinois, shall bear interest from the date the formal complaint proceeding or other proceeding was initiated by Ameritech-Illinois to the date of payment.

6.0 OBLIGATION TO UPDATE

- 6.1 If CLEC becomes aware of any inaccuracy or omission in any information that it previously provided to Ameritech-Illinois to substantiate Recourse Credit claims, including if such inaccuracy or omission arises from events subsequent to the submission, CLEC shall notify Ameritech-Illinois of such inaccuracy or omission within five (5) Business Days of becoming aware of such inaccuracy or omission, and do so on a per-Claim basis. If in light of such inaccuracy or omission, a Recourse Credit(s) made should not or would not have been made under this

Appendix, in whole or in part (even if CLEC provided a Customer Credit), Ameritech-Illinois may recover the amount of such inappropriate credits on Ameritech-Illinois upon providing CLEC with ten (10) days advance notice. If CLEC fails to dispute such notice within ten (10) days, CLEC shall be deemed to have agreed with Ameritech-Illinois’s notice and Ameritech-Illinois may recover the amount of such inappropriate credits on its next invoice to CLEC. If CLEC disputes such notice, the Parties shall comply with the dispute resolution procedures set forth in the Agreement.

- 6.2 If Ameritech-Illinois denies a Recourse Credit request, in whole or in part, and becomes aware of any inaccuracy or omission in the facts that it relied upon for its decision for that denial, Ameritech-Illinois shall notify CLEC of such inaccuracy or omission within five (5) Business Days of becoming aware of such inaccuracy or omission on a per-Claim basis. If such inaccuracy or omission resulted in Ameritech-Illinois failing to pay Recourse Credits, in whole or in part, to CLEC that it otherwise should have paid, Ameritech-Illinois shall provide such Recourse Credit not less than thirty (30) Business Days after Ameritech-Illinois agrees that such Recourse Credit should have been paid.

7.0 RESERVATION OF RIGHTS

- 7.1 The Parties acknowledge and agree that this Appendix is the result of an Illinois law and Illinois Commerce Commission regulations imposing Illinois-specific requirements and is not entered into to fulfill any Section 251 or 252 requirement or obligation. Ameritech is not admitting that this Appendix or any subject addressed herein is subject to Section 251 or 252, nor is it waiving its rights to take any position with respect to the application of the Section 251/252 process. The parties further acknowledge and agree that this Appendix was therefore agreed upon outside of the negotiation procedures of 47 U.S.C. Section 252(a)(1). (See SBC/Ameritech Order in CC Docket No. 98-141, FCC 99-279 at Condition 43, and Note 725). The parties further acknowledge that the entirety of this Appendix and its provisions are non-severable, and are “legitimately related” as that phrase is understood under Section 252(i) of Title 47, United States Code, notwithstanding the fact that Section 252(i) does not apply to this Appendix.
- 7.2 This Appendix provides a mechanism to incorporate the 83 Ill. Admin. Code Section 732.35 and 220 ILCS 5/13-712 Illinois-specific requirements regarding Local Exchange Service Obligations. This Appendix is expressly conditional and is valid and binding only so long as no court or agency has ruled that the provisions of relevant 220 ILCS 5/13-712 or 83 Ill. Admin. Code Section 732.30 are unlawful, or has enjoined the effectiveness, application, or enforcement of those provisions, or has ruled that those provisions do not require all or any part of the provisions provided for in this Appendix. In any such event, the Appendix automatically expires and is no longer available upon and to the extent of any

such ruling or injunctive action. In addition, the parties agree to comply with the Intervening Law or Change of Law provisions within the Agreement to amend this Appendix in the event that there is a change in relevant 220 ILCS 5/13-712 or 83 IL Admin. Code requirements.

SBC ILLINOIS
COMMISSION APPROVED SECTION 271 PLAN
DESCRIPTION

This Performance Remedy Plan sets forth the terms and conditions under which SBC Illinois will report performance to CLEC and compare that performance to SBC Illinois' own performance ("parity"), benchmark criteria, or both, whichever is applicable. This document further provides for enforcement through liquidated damages and assessments.

- 1.0 SBC Illinois agrees to provide CLEC a monthly report of performance for the performance measures listed in Appendix 1 – SBC Illinois Performance Measurement User Guide. SBC Illinois will collect, analyze, and report performance data for these measures in accordance with the business rules defined in Appendix 1, as approved by the Commission. Both the performance measures and the business rules in Appendix 1 are subject to modification in accordance with section 6.4 below regarding six-month reviews. SBC Illinois further agrees to use the two-tiered enforcement structure for performance measurements provided for in this document. The Commission-approved performance measurements shown in Appendix 1 hereto identify the measurements that belong to Tier 1 (payable to CLECs) and/or Tier 2 (payable to the State) categories.
 - 1.1 SBC Illinois will not levy a separate charge for provision of the data to CLEC called for under this document. Upon CLEC's request, data files of CLEC's raw data, or any subset thereof, will be transmitted to CLEC. If CLEC's request is transmitted to SBC Illinois on or before the last day of the month for which data is sought, SBC Illinois shall provide the data to CLEC on or before the last day of the following month pursuant to mutually acceptable format, protocol, and transmission media. If CLEC's request is transmitted to SBC Illinois after the last day of the month for which data is sought, SBC Illinois shall provide the data to CLEC within 30 days of receipt pursuant to mutually acceptable format, protocol, and transmission media. Notwithstanding other provisions of this Agreement, the Parties agree that such records will be deemed Proprietary Information.
- 2.0 SBC Illinois will use a statistical test, namely the modified "Z-test," for evaluating the difference between two means (SBC Illinois retail or its affiliate – whichever is better, provided the number of affiliate data points equal or exceed 30 – and CLEC) or percentages, or the difference between two ratios for purposes of this document. SBC Illinois agrees to use the modified Z-tests as outlined below as the statistical tests for the determination of parity when the results for SBC Illinois retail or its affiliate (whichever is better, provided the number of affiliate data points equal or exceed 30) and the CLEC are compared. This statistical test will compare the CLEC performance to the SBC Illinois retail performance or the affiliate performance (whichever is better). If the affiliate data has fewer than 30 observations, the comparison will be to SBC Illinois' retail performance. The modified Z-tests are applicable if the number of data points are greater than or equal to 30 for a given disaggregation category. In cases where benchmarks are established, the determination of compliance is through a comparison to the applicable Commission-approved benchmark. For testing compliance for measures for which the number of data points is 29 or less, the use of permutation tests as outlined below may be used.
- 3.0 For purposes of this document, performance for the CLEC on a particular sub-measure (disaggregated level) will be considered in compliance with the parity requirement when the measured results in a single month (whether in the form of means, percents, or ratios) for the same sub-measurement, at equivalent disaggregation, for both SBC Illinois and/or its affiliate (whichever is better, provided the number of affiliate data points exceeds 30) and CLEC are used to calculate a Z-test statistic and the resulting value is no greater than Critical-Z value that would maintain 95% confidence that the difference in results reflects disparity. That Critical-Z value is 1.645.

Z-Test:

SBC Illinois will utilize the following formulae for determining parity using Z-Test:

For Measurement results that are expressed as Averages or Means:

$$Z = (DIFF) / \sigma_{DIFF}$$

Where: $DIFF = M_{ILEC} - M_{CLEC}$

M_{ILEC} = ILEC Average

M_{CLEC} = CLEC Average

$\sigma_{DIFF} = \text{SQRT} \left[\sigma_{ILEC}^2 (1/n_{ILEC} + 1/n_{ILEC}) \right]$

σ_{ILEC}^2 = Calculated variance for ILEC

n_{ILEC} = number of observations or samples used in ILEC measurement

n_{CLEC} = number of observations or samples used in CLEC measurement

For Measurement results that are expressed as Percentages or Proportions:

Step 1:

$$\rho = \frac{(n_{ILEC} P_{ILEC} + n_{CLEC} P_{CLEC})}{n_{ILEC} + n_{CLEC}}$$

Step 2:

$$\sigma_{PILEC-PCLEC} = \text{SQRT} \left\{ [p(1-p)]/n_{ILEC} + [p(1-p)]/n_{CLEC} \right\}$$

Step 3:

$$Z = (P_{ILEC} - P_{CLEC}) / \sigma_{PILEC-PCLEC}$$

Where: n = number of observations

P = Percentage or Proportion

For Measurement results that are expressed as Rates or Ratios:

$$Z = (DIFF) / \sigma_{DIFF}$$

Where: DIFF = $R_{ILEC} - R_{CLEC}$

$R_{ILEC} = \text{num}_{ILEC} / \text{denom}_{ILEC}$

$R_{CLEC} = \text{num}_{CLEC} / \text{denom}_{CLEC}$

$\sigma_{DIFF} = \text{SQRT} \left\{ \left[(\text{num}_{CLEC} + \text{num}_{ILEC}) / (\text{denom}_{CLEC} + \text{denom}_{ILEC}) \right] * \left[(1/\text{denom}_{CLEC} + 1/\text{denom}_{ILEC}) \right] \right\}$

4.0 Qualifications to use Z-Test:

- 4.1 The proposed Z-tests are applicable to reported measurements that contain 30 or more data points. The Z-test is not applied to measures with benchmark standards.
- 4.2 The minimum sample size for Tier 2 is 10 observations for the aggregate of all CLECs. Sub-measures in Tier 2 with fewer than 10 observations do not have statistical tests conducted on them.
- 4.3 In calculating the difference between the performances, the formulas defined above apply when a larger CLEC value indicates a higher quality of performance. In cases where a smaller CLEC value indicates a higher quality of performance the order of subtraction should be reversed (i.e., $M_{ILEC} - M_{CLEC}$, $P_{ILEC} - P_{CLEC}$, $R_{ILEC} - R_{CLEC}$).
- 4.4 For measurements where the performance delivered to the CLEC is compared to SBC Illinois performance and for which the number of data points are 29 or less for either the CLEC or SBC Illinois, SBC Illinois will apply the following alternatives for compliance.
 - 4.4.1 Alternative 1 (used only in the following situations: 1) for a measure where results for both the CLEC and SBC Illinois Retail or affiliate (whichever is used) both show perfect compliance (no failures), and 2) where the individual transaction detail required to conduct permutation testing is not available):
SBC Illinois applies the Z-Test as described in section 3.0.
 - 4.4.2 Alternative 2 (used in all situations except those defined above for Alternative 1):
For Percentages, the Fisher Exact Permutation Test will be used.
For Averages and Ratios, the following Permutation analysis will be applied to calculate the Z-statistic using the following logic:
(1) Choose a sufficiently large number T.

- (2) Pool and mix the CLEC and ILEC data sets.
- (3) Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set (n_{CLEC}) and one reflecting the remaining data points, (which is equal to the size of the original ILEC data set, or n_{ILEC}).
- (4) Compute and store the Z-test score (Z_S) for this sample.
- (5) Repeat steps 3 and 4 for the remaining T-1 sample pairs to be analyzed. (If the number of possibilities is less than 1 million, include a programmatic check to prevent drawing the same pair of samples more than once).
- (6) Order the Z_S results computed and stored in step 4 from lowest to highest.
- (7) Compute the Z-test score for the original two data sets and find its rank in the ordering determined in step 6.
- (8) To calculate P, divide the rank of the Z-test score as determined in step 7 by the number of total runs executed. ($P = \text{rank} / T$).
- (9) Using a cumulative standard normal distribution table, find the value Z_A such that the probability (or cumulative area under the standard normal curve) is equal to P calculated in step 8.

Compare Z_A with the Critical Z-value. If $Z_A >$ the Critical Z-value, then the performance is non-compliant.

- 4.5 SBC Illinois and CLECs will provide software and technical support as needed by Commission Staff for purposes of statistical analysis. Any CLEC who opts into this plan agrees to share in providing such support to Commission Staff.

5.0 Overview of Enforcement Structure

SBC Illinois agrees with the following methodology for developing the liquidated damages and penalty assessment structure for Tier 1 liquidated damages and Tier 2 assessments:

- 5.1 SBC Illinois will pay Liquidated Damages to the CLEC according to the terms set forth in this document.
- 5.2 Liquidated damages apply to Tier 1 measurements identified as "Remedied" in the Measurement Type section of the performance measurement business rules documented in Appendix 1.
- 5.3 Assessments are applicable to Tier 2 measures identified as "Remedied" in the Measurement Type section of the performance measurement business rules documented in Appendix 1, and are payable to the State Fund designated by the Commission.
- 5.4 Any CLEC wishing to incorporate, substitute or add this Performance Remedy Plan to its existing interconnection agreement, or a new interconnection agreement, must notify SBC Illinois and the Commission, in writing, of its intent to "opt-in" to a remedy plan. The CLECs "opt-in" becomes effective 20 days from the date of filing said written notice with the Commission, and it supersedes the Performance Remedy Plan previously in effect for that CLEC, if any. Payments shall be calculated in accordance with the Plan beginning with the first full calendar month following the effective date of the "opt-in". An opt-in shall be followed with an amendment to the Interconnection Agreement filed with the Commission. Any CLEC that adopts a remedy plan by purchasing out of a tariff must notify SBC Illinois and the Commission, in writing, of its intent to adopt a tariffed remedy plan. Any notice required above shall be sent to SBC Illinois' regulatory offices and the Chief Clerk's Office of the Illinois Commerce Commission.
- 5.5 SBC Illinois will be liable for the payment of Tier 2 assessments upon formal approval of this plan by the Commission in either a generic proceeding or by approving an Interconnection Agreement amendment referencing this plan. Tier 2 assessments will be paid on the aggregate performance for all CLECs that are operating in Illinois as specified in Section 9.0. To the extent that there are one or more other Commission-approved remedy plan(s) in effect that also require SBC Illinois to make Tier 2 assessments to the State (as opposed to, or in addition to, Tier 1 payments to a CLEC or CLECs), SBC Illinois will be liable for a single Tier 2 assessment for the applicable time period, which payment to the State shall be equal to either the Tier 2 assessment under such other plan(s) or the Tier 2 assessments payable under this plan, whichever is greater.

5.6 In order to receive payment by check CLEC must complete the CLEC Identification and Liquidated Damages Information Form located on the CLEC OnLine website (<https://clec.sbc.com/clec>). Otherwise, remedy payment will be made via bill credit.

6.0 Procedural Safeguards and Exclusions

6.1 SBC Illinois agrees that the application of the assessments and damages provided for herein is not intended to foreclose other non-contractual legal and regulatory claims and remedies that may be available to a CLEC. By incorporating these liquidated damages terms into an interconnection agreement and tariff, SBC Illinois and CLEC agree that proof of damages from any "noncompliant" performance measure would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damage resulting from a non-compliant performance measure. SBC Illinois and CLEC further agree that liquidated damages payable under this provision are not intended to be a penalty.

6.2 SBC Illinois' agreement to implement these enforcement terms, and specifically its agreement to pay any "liquidated damages" or "assessments" hereunder, will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating to the same performance. SBC Illinois and CLEC agree that CLEC may not use: (1) the existence of this enforcement plan; or (2) SBC Illinois' payment of Tier 1 "liquidated damages" or Tier 2 "assessments" as evidence that SBC Illinois has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. SBC Illinois' conduct underlying its performance measures, and the performance data provided under the performance measures, however, are not made inadmissible by these terms. Any CLEC accepting this performance remedy plan agrees that SBC Illinois' performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. Further, any liquidated damages payment by SBC Illinois under these provisions is not hereby made inadmissible in any proceeding relating to the same conduct where SBC Illinois seeks to offset the payment against any other damages a CLEC might recover. Whether or not the nature of damages sought by the CLEC is such that an offset is appropriate will be determined in the related proceeding. The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether SBC Illinois has met or continues to meet the requirements of section 271 of the Act.

6.3 SBC Illinois shall not be liable for Tier 2 "assessments" under this remedy plan to the extent they are duplicative of any other assessments or sanctions under the Commission's service quality rules relating to the same performance. This section does not limit the Commission's ability to assess remedies, penalties or fines regarding such performance consistent with their lawful authority.

6.4 Every six months, CLEC may participate with SBC Illinois, other CLECs, and Commission representatives to review the performance measures to determine (a) whether measurements should be added, deleted, or modified; (b) whether the applicable benchmark standards should be modified or replaced by parity standards, or vice versa; and (c) whether to move a classification of a measure, either Tier 1, Tier 2 or both, from Remedied to Diagnostic, or vice versa. Criteria for review of performance measures, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. Any changes to existing performance measures and this remedy plan shall be by mutual agreement of the parties and approval of the Commission. Should disputes occur regarding changes, additions and/or deletions to the performance measurements, the dispute shall be referred to the Commission for resolution. The current measurements and benchmarks will be in effect until modified hereunder through this review process or expiration of the interconnection agreement.

6.5 CLEC and SBC Illinois will consult with one another and attempt in good faith to resolve any issues regarding the accuracy or integrity of data collected, generated, and reported pursuant to this document.

6.5.1 SBC Illinois agrees to an audit of the performance measurements data collection, retention, transformation, result and remedy calculation, and result publication processes and systems. The audit shall commence sixteen months after completion of the performance measurement audit of the OSS Third Party Test conducted by KPMG (a/k/a BearingPoint) under Docket No. 98-0555. Subsequent to that initial audit, additional audits will be scheduled as deemed necessary by the

Commission. CLECs and the Commission will have input into the design and schedule of the audit. An independent, third party auditor chosen by SBC Illinois and approved by the Commission will conduct these audits at SBC Illinois' expense.

6.5.2 Mini Audits. In addition to an annual audit, CLEC may request mini-audits of individual performance measures/submeasures during the year. When a CLEC has reason to believe the data collected for that measure are flawed or the reporting criteria for the measure are not being adhered to, it can request that a mini-audit be performed on the specific measure/submeasure upon written request, which will include the designation of a CLEC representative to engage in discussions with SBC Illinois about the requested mini-audit. If, thirty (30) days after the CLEC's written request, the CLEC believes that the issues has not been resolved to its satisfaction, the CLEC can commence the mini-audit, after providing SBC Illinois with written notice five (5) days in advance. Each CLEC is limited to auditing three (3) single measures/submeasures during the audit year. The audit year shall commence with the start of the KPMG OSS test. **Mini-audits may not be performed, conducted or requested while the OSS third-party test, or an Annual Audit, is being conducted.** Mini-audits will be of all systems, processes and procedures associated with the production and reporting of performance measurement results for the audited measure/submeasure. Mini-audits will include two (2) months of data, and all parties agree that raw data supporting the performance measurement results will be made available, on a monthly basis, to the CLECs.

6.5.3 A third-party auditor will conduct the mini-audits. SBC Illinois and the CLECs will jointly select the third-party auditor. If the parties cannot agree on the auditor, the auditors selected by each party will jointly determine the auditor. The responsibility for paying the costs of such audits shall be wholly dependent on the result of the audit. A CLEC initiating a mini-audit that finds no culpability or misfeasance on SBC Illinois' part shall be fully responsible for bearing the cost of the mini-audit. In those instances where a CLEC requests a mini-audit which results in a finding that SBC Illinois has materially misreported or misrepresented data, or, SBC Illinois is found to have non-compliance procedures, SBC Illinois shall bear responsibility for full payment of the costs of the mini-audit. SBC Illinois is deemed to be materially at fault when a reported successful measure changes as a consequence of the audit to a missed measure, or, when there is an increase in the ranking of the measure as a result of the audit, i.e., from low to medium or from medium to high, as a result of a material misreport or misrepresentation. Each party to the mini-audit shall bear its own internal costs, regardless of which party ultimately bears the cost of the third-party auditor.

6.5.4 Each mini-audit shall be submitted to the CLEC involved and to the Commission as a proprietary document. SBC Illinois shall notify all CLECs of any mini-audit requests, on a monthly basis, within forty-five (45) days of the date of a mini-audit request. All written notices pursuant to this provision include e-mail.

6.6 Pursuant to Commission Order in Docket No. 01-0662, the termination of this "Commission Approved Section 271 Plan" shall be addressed in a Commission proceeding, as set forth in the Order.

7.0 Exclusions Limited

7.1 SBC Illinois shall not be obligated to pay for noncompliance with a performance measure, if, but only to the extent that, such noncompliance could not have been avoided by SBC Illinois in the exercise of due diligence. SBC Illinois shall not be excused from payment on any other grounds, except by application of the procedural threshold below. Any dispute regarding whether SBC Illinois' performance failure is excused under this paragraph shall be resolved with the Commission through a dispute resolution proceeding under the Commission's Procedural Rules, or, if the parties consent, through commercial arbitration with the American Arbitration Association. SBC Illinois shall have the burden of proof in any such proceeding to demonstrate that its noncompliance with the performance measurement should be excused because it could not have been avoided by SBC Illinois in the exercise of due diligence. Section 7.1 only suspends SBC Illinois' ability to timely perform an activity subject to performance measurement, the applicable time frame in which SBC Illinois' compliance with the parity or benchmark criterion is measured shall be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the excusing event. Upon commencement of the dispute resolution proceeding set forth above, SBC Illinois shall place

the liquidated damages and/or assessments in dispute in an interest-bearing escrow, to be held by a neutral third party. The outcome of the dispute resolution shall determine which party to that proceeding is entitled to the funds held in escrow, and the interest on those funds.

- 7.2 In addition to the provisions set forth herein, SBC Illinois shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measure to the extent that such noncompliance was the result of an act or omission by a CLEC that is contrary to any of the CLEC's obligations under its interconnection agreement with SBC Illinois or under the Act or Illinois law or tariff. An example of a potential act or omission could include, *inter alia*, unreasonably holding orders and/or applications and "dumping" such orders or applications in unreasonably large batches, at or near the close of a business day, on a Friday evening or prior to a holiday.
- 7.3 In any event where SBC Illinois believes there has been an act or omission by a CLEC that is contrary to any of the CLEC's obligations under its interconnection agreement with SBC Illinois or under the Act or Illinois law or tariff and that has caused noncompliance with a performance measurement, and a dispute occurs, SBC Illinois shall pay one-half of the Tier 1 remedies to the CLEC while disputes are referred to the Commission for resolution, subject to refund, including interest, if SBC Illinois prevails. If SBC Illinois does not prevail, the remaining one-half of the Tier 1 remedies will be paid, with interest, within 30 days of a final, non-appealable resolution by the Commission. SBC Illinois shall pay Tier 2 remedies to the State Fund designated by the Commission after the disputes are resolved. SBC Illinois will have the burden in any such proceeding to demonstrate that its noncompliance with the performance measurement is due to such acts or omissions by a CLEC.
- 7.4 SBC Illinois and CLEC agree that a procedural annual threshold will apply to the aggregate total of any Tier 1 liquidated damages (including any such damages paid pursuant to this Agreement or to any other Illinois interconnection agreement with a CLEC) and Tier 2 assessments or voluntary payments made by SBC Illinois pursuant to any Illinois interconnection agreement or tariff with a performance remedy plan for the calendar year. The annual threshold amounts will be determined by SBC Illinois, based on the formula of 36% of Net Return as set forth at ¶ 436 and footnote 1332 of the FCC's December 22, 1999 Memorandum Opinion and Order in CC Docket No. 99-295. The annual threshold shall be re-calculated on the first business day of the calendar year when updated ARMIS data is made publicly available. For purposes of applying the threshold, the calendar year shall apply. Once the annual threshold is established, a maximum monthly threshold will be determined by dividing the amount of the annual threshold by twelve. CLEC further acknowledges that a maximum monthly threshold of one-twelfth of the annual threshold for Tier 1 liquidated damages and Tier 2 assessments will apply to all performance payments made by SBC Illinois under all SBC Illinois interconnection agreements and tariff. To the extent in any given month the monthly threshold is not reached, the subsequent month's total threshold will be increased by an amount equal to the unpaid portion of the previous month's threshold. At the end of the year, if the aggregate total of Tier 1 liquidated damages and Tier 2 assessments under all SBC Illinois interconnection agreements and Performance Measurements and Remedy Plan tariff equals or exceeds the annual threshold, but SBC Illinois has paid less than that amount due to the monthly threshold, SBC Illinois shall be required to pay an amount equal to the difference between the annual threshold and the amount paid. In such event, Tier 1 liquidated damages shall be paid first on a pro rata basis to CLECs, and any remainder within the annual threshold shall be paid as a Tier 2 assessment. In the event the total calculated amount of damages and assessments for the year is less than the annual threshold, SBC Illinois shall be obligated to pay ONLY the actual calculated amount of damages and assessments.
- 7.5 Whenever SBC Illinois Tier 1 payments to an individual CLEC in a given month exceed 12.5% of the monthly threshold amount, or the Tier 1 payments to all CLECs in a given month exceed the monthly threshold, then SBC Illinois may request a hearing before the Commission. Upon timely commencement of this proceeding, SBC Illinois must pay one-half of the damages owed to the individual CLEC (subject to refund, including interest, if it prevails), and the balance of damages owed into escrow to be held by a third party pending the outcome of the hearing. To invoke these escrow provisions, SBC Illinois must file with the Commission, not later than the due date of the affected damages payments, an application to show cause why it should not be required to pay any amount in excess of the threshold amount. SBC Illinois' application

will be processed in an expedited manner under the process set forth in the Procedural Rules. SBC Illinois will have the burden of proof to demonstrate why, under the circumstances, it should not be required to pay liquidated damages in excess of the applicable threshold amount. If SBC Illinois reports non-compliant performance to the CLEC for three consecutive months on 20% or more of the measures reported to the CLEC, but SBC Illinois has incurred no more than 4.2% of the monthly threshold amount in liquidated damages obligations to the CLEC for that period under the enforcement terms set out here, then the CLEC may commence an expedited dispute resolution under this paragraph pursuant to the Commission's Procedural Rules to request that SBC Illinois should have to pay an amount of damages in excess of the amount calculated under these enforcement terms. In any such proceeding the CLEC will have the burden of proof to demonstrate why SBC Illinois should have to pay any amount of damages in excess of the amount calculated under these enforcement terms.

- 7.6 SBC Illinois' Tier 1 remedy liability to any individual CLEC in any month will not exceed (will be capped at) the total billed revenue due SBC Illinois for services provided to the CLEC in the same month for which the remedy liability was incurred.
- 7.7 SBC Illinois will post on its Internet website the aggregate payments of any liquidated damages or assessments paid during the current calendar year.
- 7.8 With respect to any interconnection agreement, SBC Illinois or any CLEC may request an expedited dispute resolution proceeding before the Commission pursuant to sections 7.4 and 7.5 above.

8.0 Tier 1 Damages Payable to CLECs:

- 8.1 Tier 1 liquidated damages apply to measures designated in Appendix 1 as Remedied when SBC Illinois delivers "non-compliant" performance as defined in Section 3 above.
- 8.2 Liquidated damages in the amount specified in TABLE 1: Per Occurrence Liquidated Damage Amount Index Table below apply to all "non-compliant" sub-measures subject to remedies. Liquidated damages apply on a per occurrence basis, using the amount per occurrence taken from the table below, based on the number of consecutive months for which SBC Illinois has reported noncompliance for the sub-measure and on the overall percentage of sub-measures subject to remedies for which SBC Illinois met or exceeded the performance standard. For those measures listed in Attachment 2 to Appendix 1 as "Measurements That Are Subject to Per Occurrence Damages or Assessments With a Cap," the amount of liquidated damages in a single month for a disaggregation category shall not exceed the amount listed in TABLE 2: Per Measure/Cap Liquidated Damage Amount Index Table. For those measures listed in Attachment 2 to Appendix 1 as "Measurements That Are Subject to Per Measure Damages or Assessments," liquidated damages will apply on a per disaggregation category basis, at the amounts set forth in the TABLE 2: Per Measure/Cap Liquidated Damage Amount Index Table below. The methodology for determining the number of occurrences is addressed in "Methods of Calculating Liquidated Damages and Assessment Amounts," below.
- 8.3 TABLE 1 and TABLE 2 utilize an Index Value ("IV") that establishes the single level of liquidated damages assessment amount to be paid to all CLECs participating in the Plan in the case of a failure to meet or exceed a performance standard. This Index Value is uniquely established for each month's results based on the overall performance SBC Illinois provided to the CLECs as a whole on remedied sub-measures. The IV is calculated by (1) determining the number of reported sub-measure results subject to remedies for which performance met or exceeded the standard of comparison; (2) determining the total number of reported sub-measures subject to remedies; and (3) dividing (1) by (2) and multiplying by 100. The number of sub-measures is intended to reflect all CLEC activity within the state that is subject to remedy as defined in the performance measurement user guide. More specifically, a sub-measure is defined as a fully disaggregated (e.g. by product, by geography, by CLEC) performance measurement result. For determining the IV, the denominator is the total number of sub-measures reported, across all CLECs with activity, that are subject to liquidated damages remedy payments payable to CLECs or assessments payable to the State are included. This formula is provided below.

$$IV = (RSM_{passed} \div RSM_{total}) \times 100$$

Where

RSM_{passed} = Total number of Remedied Sub-Measure results where performance met or exceeded the standard of comparison

RSM_{total} = Total count of Remedied Sub-Measure results

- 8.4 Upon completion of each twelve-month period of performance reporting under this plan beginning June 2003, performance for the previous twelve months in total shall be calculated in the same fashion as defined in Section 8.3. Should the IV result calculated for that entire twelve-month period, by averaging the individual month's IV values, not meet or exceed 92%, the liquidated damages remedy amounts applicable in Tables 1 and 2 will step back to the previous level for the next twelve months, unless the level of payments is already at the highest payment schedule whereby it would remain at that level for the next twelve months.
- 8.5 Nothing herein precludes SBC Illinois and a CLEC from agreeing, in a negotiated amendment to the interconnection agreement, to the language of SBC Illinois' original proposal as it relates to the inclusion of "floors and ceilings" for the determination of a performance shortfall.
- 8.6 Following at least two consecutive months of non-compliance for a given sub-measure, liquidated damages will be subject to a "proof of compliance" period for that individual metric. This process will require SBC Illinois to return to compliance for a specified number of months, based on the number of consecutive months non-compliant performance, before the liquidated damages amount is reduced to the lowest, or single month of non-compliance, level. For example, if SBC Illinois was out of compliance for four consecutive months for a given performance measurement reported for a specific CLEC, SBC Illinois will have to provide this CLEC three consecutive months of compliant performance for this same submeasure before it can begin paying the "Month 1" liquidated damage amount.
- 8.7 During this "proof of compliance" period, SBC Illinois will make liquidated damages payments only for those months during which the performance result for a specific sub-measure is determined to be "non-compliant" for a CLEC. This remedy payment amount will return to the lowest level of payment when SBC Illinois provides "compliant" performance for the number of consecutive months identified in TABLE 4: "Step-Down" Table Of Liquidated Damages For Tier 1 Measures where the payment amount is "Month One Amount". Until the performance result has met or exceeded the standard of comparison for three consecutive months, liquidated damages amounts will be determined using the number of months defined in Table 4.
- 8.8 SBC Illinois is obligated to correctly and completely report performance results for CLEC and the aggregate of all CLECs. On occasion, it may be necessary for SBC Illinois to restate previously published performance results to comply with this obligation where the originally published results were materially different from actual performance. SBC Illinois will provide notice, via the CLEC OnLine web site, to CLEC and the Commission of each restatement, indicating the performance measurements restated, which months' performance the measurements were restated for, and why the restatement was necessary.
- 8.9 In the event that performance measurement results need to be restated, SBC Illinois will restate those results as soon as possible for a period not to exceed the three months prior to the month for which results have most recently been reported at time of the restatement. In a case where restatement is required to address an audit finding, the restatement will be applied for the period of time necessary to resolve the finding.
- 8.10 If it is determined through restatement of performance results or other means that SBC Illinois underpaid liquidated damages due a CLEC, or assessments due the State, SBC Illinois will make additional payment/bill credit to the CLEC and/or payments to the State to the extent that it underpaid. All underpayments will be credited with interest. Beginning October 1, 2003, in the event that determination is made through restatement of performance results or other means that SBC Illinois overpaid, current and/or future monthly liquidated damages remedy payments/bill credits to CLEC and/or assessments to the State will be offset by the amount of overage.

8.11 SBC Illinois shall be able to apply any liquidated damages remedy payments due toward those charges that the CLEC owes SBC Illinois for services rendered (or facilities provided) so long as such charges are undisputed and are past due for not less than 90 days.

8.12 If performance for any sub-measure fails to meet the standard of performance (parity or benchmark) defined in Appendix 1 for three consecutive months, SBC Illinois will, at request of the CLEC, initiate a "gap closure" effort. The "gap closure" effort will (1) identify the root cause for the failure to meet the performance standard, and (2) develop an action plan to improve performance to a level where it is meeting the standard of performance. Documentation of the root cause and the action plan to address it will be provided to the CLEC requesting "gap closure" within 30 days of CLEC request. If requesting CLEC assesses the action plan as inadequate, the issue will be escalated to senior management responsible for the CLEC account and the operational area(s) impacted. A response will be provided to CLEC senior management within 10 business days of receipt of the escalation from the CLEC.

TABLE 1: Per Occurrence Liquidated Damage Amount Index Table

Index Value ("IV")	Consecutive Months Missed					
	One	Two	Three	Four	Five	Six or More
Effective Beginning With The First Month's Results Reported Under This Plan Through The Twelfth Month's Results Reported Under This Plan						
IV >= 92.0%	\$35	\$50	\$100	\$200	\$300	\$400
86.0% <= IV < 92.0%	\$50	\$70	\$125	\$250	\$350	\$450
80.0% <= IV < 86.0%	\$75	\$90	\$150	\$300	\$400	\$500
74.0% <= IV < 80.0%	\$100	\$125	\$250	\$500	\$600	\$700
IV < 74%	\$150	\$175	\$350	\$700	\$800	\$900
Effective Beginning With The Thirteenth Month's Results Reported Under This Plan Through The Twenty-Fourth Month's Results Reported Under This Plan						
IV >= 92.0%	\$30	\$55	\$100	\$200	\$300	\$400
86.0% <= IV < 92.0%	\$40	\$65	\$125	\$250	\$350	\$450
80.0% <= IV < 86.0%	\$50	\$80	\$150	\$300	\$400	\$500
74.0% <= IV < 80.0%	\$100	\$125	\$250	\$500	\$600	\$700
IV < 74%	\$150	\$175	\$350	\$700	\$800	\$900
Effective Beginning With The Twenty-Fifth Month's Results Reported Under This Plan						
IV >= 92.0%	\$25	\$50	\$100	\$200	\$300	\$400
86.0% <= IV < 92.0%	\$35	\$60	\$125	\$250	\$350	\$450
80.0% <= IV < 86.0%	\$50	\$75	\$150	\$300	\$400	\$500
74.0% <= IV < 80.0%	\$100	\$125	\$250	\$500	\$600	\$700
IV < 74%	\$150	\$175	\$350	\$700	\$800	\$900

TABLE 2: Per Measure/Cap Liquidated Damage Amount Index Table

Index Value ("IV")	Consecutive Months Missed					
	One	Two	Three	Four	Five	Six or More
Effective Beginning With The First Month's Results Reported Under This Plan Through The Twelfth Month's Results Reported Under This Plan						
IV >= 92.0%	\$9,000	\$15,000	\$15,000	\$20,000	\$25,000	\$30,000
86.0% <= IV < 92.0%	\$12,500	\$20,000	\$22,500	\$30,000	\$37,500	\$45,000
80.0% <= IV < 86.0%	\$15,000	\$25,000	\$30,000	\$40,000	\$50,000	\$60,000
74.0% <= IV < 80.0%	\$20,000	\$30,000	\$45,000	\$60,000	\$75,000	\$90,000
IV < 74%	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000
Effective Beginning With The Thirteenth Month's Results Reported Under This Plan Through The Twenty-Fourth Month's Results Reported Under This Plan						
IV >= 92.0%	\$7,500	\$12,500	\$15,000	\$20,000	\$25,000	\$30,000
86.0% <= IV < 92.0%	\$10,000	\$17,500	\$22,500	\$30,000	\$37,500	\$45,000
80.0% <= IV < 86.0%	\$15,000	\$20,000	\$30,000	\$40,000	\$50,000	\$60,000
74.0% <= IV < 80.0%	\$20,000	\$30,000	\$45,000	\$60,000	\$75,000	\$90,000
IV < 74%	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000

Effective Beginning With The Twenty-Fifth Month's Results Reported Under This Plan						
IV >= 92.0%	\$5,000	\$10,000	\$15,000	\$20,000	\$25,000	\$30,000
86.0% <= IV < 92.0%	\$7,500	\$15,000	\$22,500	\$30,000	\$37,500	\$45,000
80.0% <= IV < 86.0%	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000	\$60,000
74.0% <= IV < 80.0%	\$15,000	\$30,000	\$45,000	\$60,000	\$75,000	\$90,000
IV < 74%	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000

TABLE 3: Assessment Amounts For Tier 2 Measures	
Per Occurrence	\$200
Per Measure / Cap*	\$20,000

TABLE 4: "Step-Down" Table Of Liquidated Damages For Tier 1 Measures				
	Consecutive Months Non-Compliant Performance Prior to First Month of Compliant Performance			
Consecutive Months Compliant Performance Before Subsequent Non-Compliant Month	Three Months	Four Months	Five Months	Six Months or More
Per Occurrence and Per Measure/Cap				
One Month	Month Two Amount	Month Three Amount	Month Four Amount	Month Five Amount
Two Months	Month One Amount	Month Two Amount	Month Two Amount	Month Three Amount
Three Months or More	Month One Amount	Month One Amount	Month One Amount	Month One Amount

8.13 Example Application of "Step-Down" Table

Assume a measurement result is deemed non-compliant for four consecutive months. Performance is then deemed compliant with the measurement standard in the fifth month. Further assume that in the sixth month performance is again deemed non-compliant, resulting in four consecutive months missed, followed by one month (month five) met and the next month (month six) missed. Using Table 4 above, remedies for performance in month six would be at the level of three consecutive months missed. This can be confirmed by looking at the column for "Consecutive Months Non-Compliant Performance Prior to First Month of Complaint Performance", or the "Four Months" column in this example, then looking at the row for "Consecutive Months Complaint Performance Before Subsequent Non-Compliant Month", or the "One Month" row in this example. The intersecting cell indicates that remedies would be paid at the "Month Three Amount", or the level corresponding to three consecutive months misses for the measure from Table 1 or Table 2 (as applicable to the specific measure).

9.0 Tier 2 Assessments to the State:

- 9.1 Assessments payable to the State Fund designated by the Commission apply to the Tier 2 measures designated in Appendix 1 as "Remedied" when SBC Illinois and/or its affiliate (whichever is better, provided the affiliate data points equal or exceed 30) performance is out of parity or does not meet the benchmarks for the aggregate of all CLEC data. Specifically, if the Z-test value is greater than the Critical Z, the performance for the reporting category is out of parity or below standard. Assessments will be paid when the aggregate of all CLECs has at least 10 observations.
- 9.2 For those measurements where a per occurrence assessment applies, an assessment as specified in TABLE 3: Assessment Amounts for Tier 2 Measures shown above for each occurrence is payable to the State Fund designated by the Commission for each sub-measure that exceeds the Critical Z-value for three consecutive months. For those measurements listed in Attachment 2 to Appendix 1 as measurements subject to per occurrence with a cap, an assessment as shown in TABLE 3: Assessment Amounts for Tier 2 Measures shown above for each occurrence within the applicable cap is payable to the State Fund designated by the Commission for each sub-measure that exceeds the Critical Z-value for three consecutive

months. For those Tier 2 measurements listed in Attachment 2 to Appendix 1 as subject to a per measurement assessment, an assessment amount as shown in TABLE 3: Assessment Amounts for Tier 2 Measures shown above is payable to the State Fund designated by the Commission for each sub-measure that exceeds the Critical Z-value for three consecutive months.

10.0 Posting of Results and Provision of Liquidated Damages and Assessment Payments:

10.1 If SBC Illinois fails to submit performance reports by the last business day of the month following actual performance, the following assessments payable to the State Fund designated by the Commission apply unless excused for good cause by the Commission:

- If no reports are filed, \$5,000 per day past due;
- If incomplete reports are filed, \$1,000 per day for each performance measurement listed in the User Guide for which results are not posted, but not to exceed \$5,000 per day past due.

10.2 If SBC Illinois alters previously reported data for a CLEC, and after discussions with SBC Illinois the CLEC disputes such alterations, then the CLEC may ask the Commission to review the submissions and the Commission may take appropriate action. This does not apply to the limitation stated under the section titled "Exclusions Limited."

10.3 When SBC Illinois' performance creates an obligation to pay liquidated damages to a CLEC or an assessment to the State under the terms set forth herein, SBC Illinois shall make payment by check, bill credit or other direct payment method in the required amount on or before the last business day of the month following the due date of the performance measurement report for the month in which the obligation arose (e.g., if SBC Illinois' performance through March is such that SBC Illinois owes liquidated damages to CLECs for March performance, or assessments to the State for January – March performance, then those payments will be due the last business day of May, the last business day of the month following the month (April) in which results were posted). (In order to receive payment by check CLEC must complete the CLEC identification and liquidated damages Information Form located on the CLEC website.) For each day after the due date that SBC Illinois fails to pay the required amount, SBC Illinois will pay interest to the CLEC at the maximum rate permitted by law for a past due liquidated damages obligation and will pay an additional \$3,000 per day to the State Fund designated by the Commission for a past due assessment.

10.4 SBC Illinois may not withhold payment of liquidated damages to a CLEC unless SBC Illinois has commenced a Commission arbitration proceeding on or before the payment due date, asserting that noncompliance was the result of an act or omission by a CLEC as more fully described in Section 7.2 and 7.3.

10.5 CLEC will have access to monthly reports on performance measures and business rules through an Internet website that includes performance results for individual CLECs, the aggregate of all CLECs, and SBC Illinois.

10.6 The thresholds more fully described in Section 7.4. do not apply to assessments under Section 10 of this document.

11.0 Methods of Calculating Liquidated Damages and Assessment Amounts

The following methods apply in calculating per occurrence liquidated damage and assessments:

11.1 Calculating Tier 1 Liquidated Damages

11.1.1 Measures for Which the Reporting Dimensions are Averages or Means

Step 1: Calculate the average or the mean for the sub-measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the percentage difference between the actual average and the calculated average. For benchmark measures or floors (for measures that have floors and the floor applies to the result), calculate the percentage difference between the actual average and the benchmark. This percentage is capped at 100%.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and round this number up to the next integer. Then multiply the result by the per occurrence dollar amount taken from the Liquidated Damages Table for Tier 1 Measures to determine the applicable liquidated damages for the given month for that sub-measure.

11.1.2 Measures for Which the Reporting Dimensions are Percentages

Step 1: Calculate the percentage for the sub-measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage. For benchmark measures or floors (for measures that have floors and the floor applies to the result), calculate the difference between the actual percentage and the benchmark.

Step 3: Multiply the total number of data points by the difference in percentage calculated in the previous step and then round this number up to the next integer. Then multiply the result by the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that sub-measure.

11.1.3 Measures for Which the Reporting Dimensions are Ratios or Rates

Step 1: Calculate the ratio for the sub-measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual ratio for the CLEC and the calculated ratio. For benchmark measures or floors (for measures that have floors and the floor applies to the result) calculate the difference between the actual ratio and the benchmark. This difference is capped at 100%.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and then round this number up to the nearest integer. Then multiply the result by the per occurrence dollar amount taken from the Liquidated Damages Table for Tier 1 Measures to determine the applicable liquidated damages for the given month for that sub-measure.

11.2 Calculating Tier 2 Assessments

11.2.1 Determine the Tier 2 measurement results that are non-compliant for three consecutive months for the aggregate of all CLECs. If the non-compliant classification continues for three consecutive months, an additional assessment will apply in the third month and in each succeeding month as calculated below, until SBC Illinois reports performance that meets the applicable criterion. That is, Tier 2 assessments will apply on a "rolling three month" basis, one assessment for the average number of occurrences for months 1-3, one assessment for the average number of occurrences for months 2-4, one assessment for the average number of occurrences for months 3-5, and so forth, until satisfactory performance is established.

11.2.2 Measures for Which the Reporting Dimensions are Averages or Means

Step 1: Calculate the average or the mean for the sub-measure for the CLECs that would yield the Critical Z-value for each of the three non-compliant months. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the percentage difference between the actual average and the calculated average for each of the three non-compliant months. For benchmark measures, calculate the percentage difference between the actual average and the benchmark for each of the three non-compliant months. This percentage is capped at 100%.

Step 3: Multiply the total number of data points for each month by the percentage calculated in the previous step. Calculate the average for three months of these numbers rounding up the result to the next highest integer. Then multiply the result by the per occurrence dollar

amount specified in the Assessment Table for Tier 2 Measures to determine the applicable assessment payable to the State Fund designated by the Commission for that sub-measure.

11.2.3 Measures for Which the Reporting Dimensions are Percentages

Step 1: Calculate the percentage for the sub-measure for the CLECs that would yield the Critical Z-value for each of the three non-compliant months. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual percentage for the CLECs and the calculated percentage for each of the three non-compliant months. For benchmark measures, calculate the difference between the actual percentage and the benchmark for the three non-compliant months.

Step 3: Multiply the total number of data points for each month by the difference in percentage calculated in the previous step. Calculate the average for three months of these numbers rounding up the result to the next highest integer. Then multiply the result by the per occurrence dollar amount specified in the Assessment Table for Tier 2 Measures to determine the applicable assessment payable to the State Fund designated by the Commission for that sub-measure.

11.2.4 Measures for Which the Reporting Dimensions are Ratios or Rates

Step 1: Calculate the ratio for the sub-measure for the CLECs that would yield the Critical Z-value for each of the three non-compliant months. Use the same denominator as the one used in calculating the Z-statistic for the sub-measure. (There are no Critical Z-values calculated for Benchmark measures.)

Step 2: Calculate the difference between the actual ratio for the CLECs and the calculated ratio for each month of the non-compliant three-month period. For benchmark measures calculate the difference between the actual ratio and the benchmark for the three non-compliant months. This difference is capped at 100%.

Step 3: Multiply the total number of service orders by the percentage calculated in the previous step for each month. Calculate the average for three months of these numbers rounding up the result to the next highest integer. Then multiply the result by the per occurrence dollar amount specified in the Assessment Table for Tier 2 Measures to determine the applicable assessment payable to the State Fund designated by the Commission for that sub-measure.

12.0 Advanced and Nascent Services:

12.1 In order to ensure parity and benchmark performance where CLECs order low volumes of advanced and nascent services, SBC Illinois will make increased voluntary payments to the State Fund designated by the Commission on those measurements listed in section 12.3 below (the "Qualifying Measurements"). Such increased voluntary payments will only apply when there are more than 10 and less than 100 observations for a Qualifying Measurement on average statewide for a three-month period with respect to the following order categories:

12.2 The following are the qualifying sub-measures (if within a qualifying measurement):

- UNE loop and port combinations;
- resold ISDN;
- ISDN UNE loop and port combinations;
- BRI loop with test access; and
- DSL loops.

12.3 The Qualifying Measurements are as follows:

Provisioning Measurements:

- PMs 29, 45, 58 – Percent SBC Illinois Caused Missed Due Dates
- PMs 35, 46, 59 – Installation Trouble Reports Within "X" Days

- PMs 27, 43, 56 – Mean Installation Interval
- PMs 32, 49, 62 – Average Delay Days for SBC Illinois Caused Missed Due Dates
- PM 55.1 – Average Installation Interval – DSL
- PM 1.1 – Average Response Time for Loop Qualification Information

Maintenance Measurements:

- PMs 38, 66 – % Missed Repair Commitments
- PMs 41, 53, 69 – % Repeat Reports
- PMs 39, 52, 67 – Mean Time to Restore
- PMs 37.1, 54.1, 65.1 – Trouble Report Rate

12.4 The increased voluntary payments referenced in section 12.1 will be made only if SBC Illinois fails to provide parity or benchmark service for the above measurements as determined by the use (where appropriate) of the Modified Z-test and a Critical Z-value for either:

- 3 consecutive months; or
- 6 months or more in a calendar year.

12.5 The increased voluntary payments will only be calculated on the rolling average of occurrences or measurements, as appropriate, where SBC Illinois has failed to provide parity or benchmark performance for 3 consecutive months. If SBC Illinois fails to provide parity or benchmark performance in Illinois for 6 or more months in a calendar year, the increased voluntary payments will be calculated as if all such months were missed consecutively.

12.6 If, for the three months that are utilized to calculate the rolling average, there were 100 observations or more on average for the qualifying measurement or sub-measurement, then no increased voluntary payments will be made to the State Fund designated by the Commission. However, if during this same time frame there either is (i) an average of more than 10 but less than 100 observations for a qualifying sub-measure on a statewide basis or (ii) an average of more than 10 but less than 100 for a non-qualifying sub-measure within a qualifying measure where the measure's average is more than 10 but less than 100 observations, then SBC Illinois shall calculate the payments to be made in addition to the normal payment to the State Fund designated by the Commission by first applying the normal Tier 2 assessment calculation methodology to that qualifying measurement, and then doubling (multiplying by 2) that amount. The effect of this calculation results in total payment being made at three times the normal amount alone.

12.7 Any payments made hereunder shall be subject to the annual threshold set forth in Section 7.4.

13.0 Attached hereto, and incorporated herein by reference, are the following Appendices:

Appendix 1: Performance Measurement Business Rules (Illinois)

In the event of any inconsistency between Appendix 1, Attachment 2 to Appendix 1, and this performance remedy plan, this performance remedy plan shall supersede and control.

APPENDIX 1

Performance Measurement Business Rules (Illinois)

The Performance Measurement Business Rules are found in SBC Illinois' tariff at III. C. C. No. 20, Part 2, Section 11.E. This tariff can be found at the following web address:

http://www.sbc.com/public_affairs/regulatory_documents/tariffs/1,5932,281,00.html?pid=9

**AMENDMENT TO
INTERCONNECTION AGREEMENT
BY AND BETWEEN
ILLINOIS BELL TELEPHONE COMPANY d/b/a SBC ILLINOIS
AND
VERIZON SELECT SERVICES INC.**

WHEREAS, effective December 1, 2004, the Illinois Commerce Commission has made changes to the Illinois Administrative Code (the "Code"), Title 83, Chapter I subchapter f, Part 725, Section 725.810 regarding the process for collecting and remitting all applicable 911 fees and surcharges on a per line basis to the appropriate Public Safety Answering Point ("PSAP") or other governmental authority responsible for collection of such fees and surcharges, and

NOW, THEREFORE, the Parties agree that the existing Interconnection Agreement (the "Agreement") by and between Illinois Bell Telephone Company d/b/a SBC Illinois¹ ("SBC Illinois") and Verizon Select Services Inc. ("CLEC") is hereby amended as follows:

- (1) To the extent that the Agreement contains a "9-1-1" or "E9-1-1" section of the Resale Appendix² governing CLEC's resale operations, (hereafter, "Reseller CLEC"), the parties agree to add the following terms:
 - (A) Upon the Effective Date of this Amendment, and no later than November 30, 2005, the Parties hereby agree to comply with the changes made by the Illinois Commerce Commission to the Illinois Administrative Code (the "Code"), Title 83, Chapter I, subchapter f, Part 725, Section 725.810, regarding collection and remittance of all applicable 911 fees and surcharges. (B) The Reseller CLEC is responsible for remitting the aforementioned 9-1-1 surcharges or fees regardless of whether such 9-1-1 surcharges or fees are billed and/or collected from the Resale End User, and regardless of whether they are itemized on a per-line basis or simply included as a part of the overall charges assessed to the Resale End User.
 - (B) Beginning on the effective date of this Amendment, and no later than November 30, 2005, SBC Illinois will cease billing the 9-1-1 surcharges to the Reseller CLEC on the monthly Resale Services bill, and SBC Illinois will cease remitting the 9-1-1 surcharges to the applicable municipalities or government agencies on the Reseller CLEC's behalf. SBC Illinois' obligations to route the Resale End User's 9-1-1 calls to the appropriate PSAP, and to administer the 9-1-1 database, where applicable, will remain unchanged by this change in billing processes.
- (2) All other terms and conditions of the Agreement remain unchanged.
- (3) This Amendment shall not modify or extend the Effective Date or Term of the underlying Agreement, but rather, shall be coterminous with such Agreement.
- (4) EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.
- (5) In entering into this Amendment and carrying out the provisions herein, neither Party waives, but instead expressly reserves, all of its rights, remedies and arguments with respect to any orders, decisions, legislation or proceedings and any remands thereof and any other federal or state regulatory, legislative or judicial action(s), including, without limitation, its intervening law rights (including intervening law rights asserted by either Party via written notice predating this Amendment) relating to the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order, CC Docket Nos. 01-338, 96-98, and 98-147 (FCC 03-36) including,

¹ Illinois Bell Telephone Company (previously referred to as "Illinois Bell"), is a wholly owned subsidiary of Ameritech Corporation and now operates under the name "SBC Illinois" pursuant to an assumed name filing with the State of Illinois. Ameritech Corporation is a wholly-owned subsidiary of SBC Communications Inc.

² Or the 911 section of the standalone Resale Agreement, if a standalone Resale Agreement is in place.

without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004); the FCC's Order on Remand (FCC 04-290) in WC Docket No. 04-312 and CC Docket No. 01-338 (rel. Feb. 4, 2005) ("TRO Remand Order"); and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001) ("ISP Compensation Order"), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002) to the FCC's Notice of Proposed Rulemaking as to Intercarrier Compensation, CC Docket 01-92 (Order No. 01-132) (rel. April 27, 2001).

- (6) This Amendment shall be filed with and subject to approval by the Illinois Commerce Commission and hereinafter referred to as Effective Date of this Amendment.

IN WITNESS WHEREOF, this Amendment to the Agreement was exchanged in triplicate on this 16th day of January, 2006, by SBC Illinois, signing by and through its duly authorized representative, and CLEC, signing by and through its duly authorized representative.

Verizon Select Services Inc.

By: Michael J. Crapp

Name: Michael J. Crapp
(Print or Type)
Director - Alliance
Contract Management

Title: _____
(Print or Type)

Date: 01-09-06

FACILITIES-BASED OCN # _____

ACNA _____

Illinois Bell Telephone Company d/b/a SBC Illinois
by AT&T Operations, Inc., its authorized agent

By: Rebecca L. Sparks

Name: Rebecca L. Sparks
(Print or Type)

Title: Executive Director - Regulatory

Date: JAN 16 2006