



0000126826

**T-01051B-99-0068**

**Qwest Corporation's Notice of  
Updated Statement of Generally  
Available Terms and Conditions**

**Part 2 of 2**

**To view Part 1 please see  
barcode # 0000126825**

**EXHIBIT C  
SERVICE INTERVAL TABLES**

**1.0 Unbundled Loops, Line Sharing and Line Splitting Service Interval Table:**

- (a) Established Service Intervals 2/4 Wire Analog (Voice Grade), 2-Wire Analog Distribution Loop:

a)	1-8 lines	5 Business days
b)	9-16 lines	6 Business days
c)	17-24 lines	7 Business days
d)	25 or more	ICB

- (b) Established Service Intervals for 2/4 Wire Non-Loaded Loops, Basic Rate ISDN Capable Loops, and ADSL Compatible Loops that do not require conditioning:

a)	1-8 lines	5 Business days
b)	9-16 lines	6 Business days
c)	17-24 lines	7 Business days
d)	25 or more	ICB

- (c) Established Service Intervals for xDSL-I/ BRI ISDN Capable Loops that do not require conditioning:

a)	1-8 lines	5 Business days
b)	9-16 lines	6 Business days
c)	17-24 lines	7 Business days

- (d) Established Service Intervals for existing DS-1 Capable Loops, DS1 Capable Feeder Loop:

a)	1 - 8 lines	5 Business days
b)	9 - 16	7 Business days
c)	17 - 24 lines	9 Business days
d)	25 or more	ICB

- (e) Established Service Intervals for existing DS3 Capable Loops:

a)	1-3 lines	7 Business days
b)	4 or more	ICB

- (f) Established Service Intervals for Line Sharing and Line Splitting that do not require conditioning:

a)	1-24 lines	3 Business days
d)	25 or More	ICB

**EXHIBIT C  
SERVICE INTERVAL TABLES**

- (g) Conditioned Loops for 2/4 Wire Non-Loaded Loops, ADSL Compatible, Basic Rate ISDN Capable, xDSL-I Capable Loops, Line Sharing and Line Splitting:

a)	1-8 lines	15 Business days
b)	9 or more	ICB

- (h) Established Repair Intervals for Basic 2-wire Analog Loops, Line Sharing, Line Splitting, and Shared Distribution Loop:

24 Hours OSS
48 Hours AS

- (i) Established Repair Intervals for 4-wire Analog Loops, 2/4 Wire Non-Loaded Loops, Basic Rate ISDN Capable Loops, and ADSL Compatible Loops, xDSL-I Capable Loops, DS1 Capable Loops, DS3 Capable Loops, and Ocn Capable Loops:

4 Hours
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- (j) Quick Loop

a)	1 to 8 Lines	Three (3) Business Days
b)	9 to 16 Lines	Three (3) Business Days
c)	17 to 24 Lines	Three (3) Business Days
d)	25 or more Lines	ICB

- (k) OCn Loop

1 or more Lines	ICB
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- (l) Shared Distribution Loop

1 or more Lines	Five (5) Business Days
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**EXHIBIT C  
SERVICE INTERVAL TABLES**

**2.0 Unbundled Dedicated Interoffice Transport (UDIT) Service Interval Table:**

<b>Product</b>	<b>Services Ordered</b>	<b>Installation Commitments</b>	<b>Repair Commitments</b>
<b>UDIT (Qwest Wire Center to Qwest Wire Center), UCCRE</b>			
<b>DS0</b>	1 to 8	High Density: Five (5) Business Days	4 hrs. High Density
		Low Density: Six (6) Business Days	4 hrs. Low Density
	9 to 16	High Density: Six (6) Business Days	4 hrs. High Density
		Low Density: Seven (7) Business Days	4 hrs. Low Density
17 to 24	High Density: Seven (7) Business Days	4 hrs. High Density	
	Low Density: Eight (8) Business Days	4 hrs. Low Density	
	25 or more	ICB	ICB
<b>DS1</b>	1 to 8	High Density: Five (5) Business Days	4 hrs High Density
		Low Density: Eight (8) Business Days	4 hrs Low Density
	9 to 16	High Density: Six (6) Business Days	4 hrs High Density
		Low Density: Nine (9) Business Days	4 hrs Low Density
17 to 24	High Density: Seven (7) Business Days	4 hrs High Density	
	Low Density: Ten (10) Business Days	4 hrs Low Density	
	25 or more	ICB	4 hrs
<b>DS3</b>	1 to 3 Circuits	High Density: Seven (7) Business Days	4 hrs High Density
		Low Density: Nine (9) Business Days	4 hrs Low Density
	4 or more Circuits	ICB	4 hrs
<b>OC3 and Higher</b>	1 or more Circuits	ICB	4 hrs
<b>UDIT (Termination at CLEC Wire Center or IXC POP) Facility</b>	All	UDIT Interval + 3 days	4 hrs
Remote Node (must already be installed)/Remote Port	Any	ICB	ICB

**EXHIBIT C  
SERVICE INTERVAL TABLES**

**3.0 Unbundled Local Switching Service Interval Table:**

<b>Product</b>	<b>Services Ordered</b>	<b>Installation Commitments</b>	<b>Repair Commitments</b>
<b>Unbundled Switching</b>			
<b>Unbundled Switching – Line Side Analog With Line Class Code (LCC) already supported in requested switch.</b>	1 to 8	High Density: Five (5) Business Days  Low Density: Six (6) Business Days	24 hrs. High Density  24 hrs. Low Density
	9 to 16	High Density: Six (6) Business Days  Low Density: Seven (7) Business Days	24 hrs. High Density  24 hrs. Low Density
	17 to 24	High Density: Seven (7) Business Days  Low Density: Eight (8) Business Days	24 hrs. High Density  24 hrs. Low Density
	25 or more	ICB	24 hrs.
<b>Unbundled Switching – Line Side Analog – Existing – Vertical Feature(s) (Features change without inward line activity and not impacting the design of the circuit.)</b>	1 to 19	Two (2) Business Days	24 hrs. OOS 48 hrs. AS
	20 to 39	Four (4) Business Days	24 hrs. OOS 48 hrs. AS
	40 or more	ICB	24 hrs. OOS 48 hrs. AS
<b>Unbundled Switching – Line Side Analog New Line Class Code (LCC) ordered through customized routing</b>		ICB	24 hrs.
<b>Unbundled Switching – BRI-ISDN Line-side Port. With a U S WEST standard configuration and Line Class Code (LCC) already supported in the requested switch</b>	1 to 3 Lines	High Density: Seven (7) Business Days  Low Density: ICB	24 hrs. High Density  24 hrs. Low Density
	4 or more	ICB	24 hrs.
<b>Unbundled Switching – BRI-ISDN Line-side Port. With non-standard configuration and Line Class Code (LCC) already supported in the requested switch</b>	1 to 3 Lines	High Density: Seventeen (17) Business Days (includes 10 days for complex translations.)  Low Density: ICB	24 hrs. High Density  24 hrs. Low Density
	4 or more	ICB	24 hrs.
<b>Unbundled Switching – BRI-ISDN Line-side Port. Non supported Line Class Code (LCC) ordered through Customized Routing</b>		ICB	24 hrs.

**EXHIBIT C  
SERVICE INTERVAL TABLES**

<b>Unbundled Switching – DS1 Trunk Port</b>	1 to 8 Ports	High Density: Five (5) Business Days	24 hrs. High Density
		Low Density: Six (6) Business Days	24 hrs. Low Density
	9 to 16 Ports	High Density: Six (6) Business Days	24 hrs. High Density
		Low Density: Seven (7) Business Days	24 hrs. Low Density
	17 to 24 Ports	High Density: Seven (7) Business Days	24 hrs. High Density
		Low Density: Eight (8) Business Days	24 hrs. Low Density
	25 or more Ports	ICB	24 hrs.
<b>Unbundled Switching – Message Trunk Groups</b> <ul style="list-style-type: none"> <li>• Translation questionnaire required</li> <li>• Routing to trunks is ordered separately as Customized Routing</li> <li>• DS1 trunk port &amp; UDIT in place.</li> </ul>	<b>High Density</b>	Seven (7) Business Days	24 hrs.
	1 to 24		
	25 to 48	Eight (8) Business Days	24 hrs.
	49 to 72	Ten (10) Business Days	24 hrs.
	73 to 96	Twelve (12) Business Days	24 hrs.
	97 to 120	Fourteen (14) Business Days	24 hrs.
	121 to 144	Fifteen (15) Business Days	24 hrs.
	145 to 168	Sixteen (16) Business Days	24 hrs.
	169 to 240	Eighteen (18) Business Days	24 hrs.
	241 or more	ICB	24 hrs.
	<b>Low Density</b>	Eighteen (18) Business Days	24 hrs.
	1 to 24		
	25 to 72	Nineteen (19) Business Days	24 hrs.
	73 to 120	Twenty (20) Business Days	24 hrs.
121 or more	ICB	24 hrs.	
<b>Unbundled Switching – Two Way and DID Equivalent Group</b> (add/change/increase) DS1 trunk port in place	1 to 8 Trunks	High Density: Five (5) Business Days	24 hrs. High Density
		Low Density: Six (6) Business Days	24 hrs. Low Density
	9 to 16 Trunks	High Density: Six (6) Business Days	24 hrs. High Density
	Low Density: Seven (7) Business Days	24 hrs. Low Density	

**EXHIBIT C  
SERVICE INTERVAL TABLES**

	17 to 24 Trunks	High Density: Seven (7) Business Days	24 hrs. High Density
		Low Density: Eight (8) Business Days	24 hrs. Low Density
	25 or more Trunks	ICB	24 hrs.
<b>Unbundled Switching – PRI-ISDN Capable Trunk-Side DS1 Trunk port in place</b>	1 to 8	High Density: Five (5) Business Days	4 hrs. High Density
		Low Density: Six (6) Business Days	4 hrs. Low Density
	9 to 16	High Density: Six (6) Business Days	4 hrs. High Density
		Low Density: Seven (7) Business Days	4 hrs. Low Density
	17 to 24	High Density: Seven (7) Business Days	4 hrs. High Density
		Low Density: Eight (8) Business Days	4 hrs. Low Density
	25 or more	ICB	4 hrs.
<b>Unbundled Packet Switching</b>	<ul style="list-style-type: none"> <li>• Design changes – 8 Business days</li> <li>• Non-design changes – 5 Business days</li> <li>• Service changes – 5 Business days</li> </ul>	New service request – 10 Business days	24 hrs

**EXHIBIT C  
SERVICE INTERVAL TABLES**

**4.0 Unbundled Dark Fiber Interval Table:**

<b>Product</b>	<b>Activity/ Features</b>	<b>Services Ordered</b>	<b>FOC Guidelines</b>	<b>Installation Guidelines</b>	<b>Repair Guidelines</b>
<b>Dark Fiber</b>					
<b>Initial Records Inquiry (IRI) (simple &amp; complex)</b>			N/A	Ten (10) Business Days	N/A
<b>Field Verification And Quote Preparation (FVOP)</b>			N/A	Twenty (20) Business Days	N/A
<b>Provisioning (non- FVOP requests)</b>			N/A	Twenty (20) Business Days	
<b>OC3 and Higher</b>			N/A	ICB	

**EXHIBIT C  
SERVICE INTERVAL TABLES**

**5.0 Unbundled Network Elements Platform (UNE-P) Service Interval Table:**

<b>Product</b>	<b>Services Ordered</b>	<b>Installation Commitments</b>	<b>Repair Commitments</b>
<b>UNE-P POTS 'New'-Soft Dial Tone (SDT)</b> [Where available] <b>Facility Check indicates "AVAILABLE (SDT)" and DISPATCH "NO"</b>		Two (2) Business Days (regardless of the time of day the request is received)	24 hrs OOS 48 hrs AS
<b>UNE-P POTS 'New'-Residence Flow Through, Fully Electronic (N, T Orders)</b> <b>Facility Check indicates "AVAILABLE" and DISPATCH "NO"</b>	1 to 39 Lines	Three (3) Business Days	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P POTS 'New'-Business Flow Through, Fully Electronic (N, T Orders)</b> <b>Facility Check indicates "AVAILABLE" and DISPATCH "NO"</b>	1 to 19 Lines	Three (3) Business Days	24 hrs OOS 48 hrs AS
	20-39 Lines	Four (4) Business Days or next available due date thereafter as indicated by Appointment Scheduler.	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P POTS 'New'-Residence Simple CO Features, or Number Changes without inward line activity, or Hunting changes without inward line activity</b>	1 to 39 Lines	Three (3) Business Days	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P POTS 'New'-Business Simple CO Features, or Number Changes without inward line activity, or Hunting changes without inward line activity</b>	1 to 19 Lines	Three (3) Business Days	24 hrs OOS 48 hrs AS
	20-39 Lines	Four (4) Business Days	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P POTS 'New'-Suspend/Restore</b>	Customers with service placed on "vacation"	Next Business Day	24 hrs OOS 48 hrs AS
	Treatment for Non-payment issues	Same Business Day as payment receipt validated	24 hrs OOS 48 hrs AS
<b>UNE-P POTS 'New'-Residence New Installs, Address Changes, Changes with inward line activity</b> <b>Facility Check indicates "AVAILABLE DISP. REQ" and DISPATCH "YES"</b>	1 to 39 Lines	Next available due date as indicated by Appointment Scheduler <b>Note:</b> Appointment Scheduler minimum default interval is 3 (Three) Business Days.	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS

**EXHIBIT C  
SERVICE INTERVAL TABLES**

<b>UNE-P POTS 'New'-Business</b> New Installs, Address Changes, Changes with inward line activity Facility Check indicates "AVAILABLE DISP. REQ" and DISPATCH "YES"	1 to 19 Lines	Next available due date as indicated by Appointment Scheduler <b>Note:</b> Appointment Scheduler minimum default interval is 3 (Three) Business Days.	24 hrs OOS 48 hrs AS
	20-39 Lines	Four (4) Business Days or next available due date thereafter as indicated by Appointment Scheduler.	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P POTS 'New'-</b> ▪ Directory Listings Changes (R Orders)  ▪ Voice Mail	1-10 Listings	Two (2) Business Days	
	11 to 20 Listings	Five (5) Business Days	
	21-50 Listings	Ten (10) Business Days	
	51-100 Listings	Thirty (30) Business Days	
	Over 100 Listings	Sixty (60) Business Days	
	Add Voice Mail to POTS line	Three (3) Business Days	
<b>Conversions to UNE-P POTS-</b> POTS Residence to UNE-P - Conversion as Specified - Simple CO Features	1 to 39 Lines	Three (3) Business days	24 hrs OOS 48 hrs AS
	40 or more lines	ICB	24 hrs OOS 48 hrs AS
<b>Conversions to UNE-P POTS-</b> UNE-P to UNE-P POTS Residence - Conversion as Is	1 to 39 Lines	Same Business Day if received before 12:00 p.m., or, Next Business Day if received later than 12:00 p.m.	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>Conversions to UNE-P POTS-</b> POTS Business to UNE-P - Conversion As Specified - Simple CO Features	1 to 19 Lines	Three (3) Business days	24 hrs OOS 48 hrs AS
	20 to 39 Lines	Four (4) Business Days	24 hrs OOS 48 hrs AS
	40 or more Line	ICB	24 hrs OOS 48 hrs AS
<b>Conversions to UNE-P POTS-</b> UNE-P to UNE-P POTS Business - Conversion As Is	1 to 39 Lines	Same Business Day if received before 12:00 p.m., or, Next Business Day if received later than 12:00 p.m.	24 hrs OOS 48 hrs AS
	40 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P Line Splitting –</b> UNE-P POTS to UNE-P POTS with Line Splitting - Conversion As Specified	1 to 40 lines or more	3 Business Days	24 hrs OOS 48 hrs AS

**EXHIBIT C  
SERVICE INTERVAL TABLES**

<b>UNE-P Line Splitting –</b> POTS Residence or POTS Business with Line Sharing to UNE-P POTS with Line Splitting - Conversion as Specified	1 to 40 lines or more	3 Business Days	24 hrs OOS 48 hrs AS
<b>UNE-P PBX 'New'-</b>	1 to 8 Trunks	Five (5) Business Days	4 hrs
	9 to 16 Trunks	Six (6) Business Days	4 hrs
	17 to 24 Trunks	Seven (7) Business Days	4 hrs
	25 or more Trunks	ICB	4 hrs
<b>Conversions to UNE-P PBX –</b> Conversion As Specified or Conversion As Is	1 to 8 Trunks	Five (5) Business Days	4 hrs
	9 to 16 Trunks	Six (6) Business Days	4 hrs
	17 to 24 Trunks	Seven (7) Business Days	4 hrs
	25 or more Trunks	ICB	4 hrs
<b>UNE-P DSS 'New'-</b> T1 Facility	1 to 3	Nine (9) Business Days	4 hrs
	4 or more	ICB	4 hrs
<b>UNE-P DSS 'New'-</b> Trunks	1 to 3 Lines	Twelve (12) Business Days	4 hrs
	4 to 6 Lines	Sixteen (16) Business Days	4 hrs
	7 to 9 Lines	Twenty (20) Business Days	4 hrs
	10 to 12 Lines	Twenty four (24) Business Days	4 hrs
	13 or more Lines	ICB	4 hrs
<b>Conversions to UNE-P DSS-</b> T1 Facility	1 to 3	Nine (9) Business Days	4 hrs
	4 or more	ICB	4 hrs
<b>Conversions to UNE-P DSS-</b> Trunks	4 to 6 Lines	Sixteen (16) Business Days	4 hrs
	7 to 9 Lines	Twenty (20) Business Days	4 hrs
	10 to 12 Lines	Twenty four (24) Business Days	4 hrs
	13 or more Lines	ICB	4 hrs
<b>UNE-P ISDN BRI 'New'-</b> New Installs, Address Changes, Change to add Loop (N2Q)	1 to 10 Lines	Thirteen (13) Business Days	24 hrs
	11 or more Lines	ICB	24 hrs
<b>UNE-P ISDN BRI 'New'-</b> Add or Change Feature(s), Add Primary Directory Number (PDN ) to established Loop (N2Q), Add Call Appearance	1 to 10 Lines	Three (3) Business Days	24 hrs
	11 or more Lines	ICB	24 hrs
	1 to 10 Lines	Three (3) Business Days	24 hrs

**EXHIBIT C  
SERVICE INTERVAL TABLES**

<b>Conversion to UNE-P ISDN BRI- Conversion As Is</b>	1 to 10 Lines	Three (3) Business Days	24 hrs
	11 or more Lines	ICB	24 hrs
<b>Conversion to UNE-P ISDN BRI- Conversion As Specified</b>	1 to 10 Lines	Three (3) Business Days if a Loop is not involved (or) Thirteen (13) Business Days if a Loop is added or changed	24 hrs
	11 or more Lines	ICB	24 hrs
<b>UNE-P ISDN PRI 'New'- T1 Facility</b>	1 to 3	Nine (9) Business Days	4 hrs
	4 or more	ICB	4 hrs
<b>UNE-P ISDN PRI 'New'- Trunks</b>	1 to 3 Lines	Twelve (12) Business Days	4 hrs
	4 to 6 Lines	Sixteen (16) Business Days	4 hrs
	7 to 9 Lines	Twenty (20) Business Days	4 hrs
	10 to 12 Lines	Twenty four (24) Business Days	4 hrs
	13 or more Lines	ICB	4 hrs
<b>Conversion to UNE-P ISDN PRI- T1 Facility</b>	1 to 3	Nine (9) Business Days	4 hrs
	4 or more	ICB	4 hrs
<b>Conversion to UNE-P ISDN PRI- Trunks</b>	1 to 3 Lines	Twelve (12) Business Days	4 hrs
	4 to 6 Lines	Sixteen (16) Business Days	4 hrs
	7 to 9 Lines	Twenty (20) Business Days	4 hrs
	10 to 12 Lines	Twenty four (24) Business Days	4 hrs
	13 or more Lines	ICB	4 hrs
<b>UNE-P Centrex 21 - Non Designed- Conversions as Specified</b>	1 to 10 Lines	Five (5) Business Days	24 hrs OOS 48 hrs AS
	11 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex 21 - Non Designed- New Installations</b>	1 to 10 Lines [Facility check indicates "Available Dispatch Required" and Dispatch "Yes".]	Five (5) Business Days or Next available due date thereafter as indicated by Appointment Scheduler.	24 hrs OOS 48 hrs AS
	11 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron [Centron is MN only] Common Block Configuration Required - Establish Common Block</b>	1 to 10 Lines - No Optional Features	Twenty (20) Business Days	24 hrs OOS 48 hrs AS
	1 to 10 Lines - w/ Optional Features (i.e., ARS, DFIs, SMDR, UCD, etc.)	ICB	24 hrs OOS 48 hrs AS
	11-21 Lines - No Optional Features	Twenty (20) Business Days	24 hrs OOS 48 hrs AS

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SERVICE INTERVAL TABLES**

	11 to 21 Lines – w/Optional Features (i.e., ARS, DFIs, SMDR, UCD, etc.)	ICB	24 hrs OOS 48 hrs AS
	22 or more Lines with or without Optional Features	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>Common Block Configuration Required</b> - Feature Additions requiring Common Block activity per Common Block	1 to 10 Lines	Twenty (20) Business Days	24 hrs OOS 48 hrs AS
	11 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>Common Block Configuration Required</b> - Line Class Codes (LCCs)/ CAT/NCOS/DPAT additions/changes requiring Common Block work.	Per Common Block (must be existing Line Class Codes(LCCs)/ CAT/NCOS/DPAT)	Five (5) Business Days	24 hrs OOS 48 hrs AS
	If new LCC/CAT/NCOS or DPAT	Twenty (20) Business Days	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>Common Block Configuration Required</b> - Centrex Management System (CMS)	New Common Blocks & Cust ID's (lines installed at the same time the Common Block is installed)	Twenty (20) Business Days (after the initial Common Block & associated lines are installed)	N/A
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>Common Block Configuration Required</b> - Designed Services subsequent to initial Common Block installation	Tie Lines/DFI/FX	Thirteen (13) Business Days (may be longer due to facility due date requirements)	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>No Common Block</b>	Additional/New Station Lines to be added to CMS	Five (5) Business Days after line is installed	N/A
	Additions	Five (5) Business Days	N/A

**EXHIBIT C  
SERVICE INTERVAL TABLES**

<b>Configuration Required</b> - Centrex Management System (CMS) Network Access Registers (NARs)	Change from Non Blocked to Blocked Service	ICB	N/A
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>No Common Block Configuration Required</b> - Station Lines (subsequent to the establishment of the Common Block) Includes: Conversions New Lines Moves  <b>NOTE:</b> On conversions, numbers are "chipped" into the Common Block at the time of installation.	1 to 10 Lines per location	Five (5) Business Days or Next available due date thereafter as indicated by Appointment Scheduler.	24 hrs OOS 48 hrs AS
	11 to 20 Lines per location	Ten (10) Business Days or Next available due date thereafter as indicated by Appointment Scheduler.	24 hrs OOS 48 hrs AS
	21 or more Lines per location	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>No Common Block Configuration Required</b> Line Feature changes/additions/Removals	1 to 19 Lines	Three (3) Business Days	24 hrs OOS 48 hrs AS
	20 or more Lines	ICB	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>No Common Block Configuration Required</b> Designed Services subsequent to initial Common Block installation	Tie Lines/DFI/FX	Thirteen (13) Business Days (may be longer due to facility due date requirements)	24 hrs OOS 48 hrs AS
<b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>No Common Block Configuration Required</b> Automatic Route Selection (ARS)	Subsequent to Common Block Installation	Twenty (20) Business Days (may be longer if the activation of ARS is tied to a Private Line facility installation)	24 hrs OOS 48 hrs AS
	Changes to Patterns: 1 to 25 changes 26 to 50 changes 51 or more changes	Business Days: Five (5) days Ten (10) days Twenty (20) days	24 hrs OOS 48 hrs AS
	Adding new Patterns	Twenty (20) Business Days	24 hrs OOS 48 hrs AS

**EXHIBIT C  
SERVICE INTERVAL TABLES**

<p><b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>No Common Block Configuration Required</b> Uniform Call Distribution (UCD)</p>	<p>Per Request</p>	<p>Thirteen (13) Business Days</p>	<p>24 hrs OOS 48 hrs AS</p>
<p><b>UNE-P Centrex Plus / UNE-P Centron</b> [Centron is MN only] <b>No Common Block Configuration Required</b> Additional Numbers subsequent to initial Common Block installation</p> <p><b>NOTE:</b> Additional numbers are "chipped" into the Common Block at the time of request.</p>	<p>Blocks (No limit on amount of numbers.)</p>	<p>Five (5) Business Days</p>	<p>N/A</p>

**EXHIBIT C  
SERVICE INTERVAL TABLES**

**6.0 Enhanced Extended Loop Service Interval Table (EEL):**

<b>Product</b>	<b>Services Ordered</b>	<b>Installation Commitments</b>	<b>Repair Commitments</b>
<b>Enhanced Extended Loop (EEL)- DS0 or Voice Grade Equivalent</b>	1 to 8	High Density: Five (5) Business Days  Low Density: Six (6) Business Days	4 hrs High Density  4 hrs Low Density
	9 to 16	High Density: Six (6) Business Days  Low Density: Seven (7) Business Days	4 hrs High Density  4 hrs Low Density
	17 to 24	High Density: Seven (7) Business Days  Low Density: Eight (8) Business Days	4 hrs High Density  4 hrs Low Density
	25 or more	ICB	4 hrs
<b>Enhanced Extended Loop (EEL) - DS1</b>	1 to 8	High Density: Five (5) Business Days  Low Density: Eight (8) Business Days	4 hrs High Density  4 hrs Low Density
	9 to 16	High Density: Six (6) Business Days  Low Density: Nine (9) Business Days	4 hrs High Density  4 hrs Low Density
	17 to 24	High Density: Seven (7) Business Days  Low Density: Ten (10) Business Days	4 hrs High Density  4 hrs Low Density
	25 or more	ICB	4 hrs
<b>Enhanced Extended Loop (EEL) - DS3</b>	1 to 3 Circuits	High Density: Seven (7) Business Days  Low Density: Nine (9) Business Days	4 hrs High Density  4 hrs Low Density
	4 or more Circuits	ICB	4 hrs

**EXHIBIT C  
SERVICE INTERVAL TABLES**

<b>Enhanced Extended Loop Conversions (EEL-C) – Private Line (PLTS) - Conversion as is</b>		ICB	24 hrs OOS 48 hrs AS
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\* Installation Guidelines apply where facilities/network capacity is in place. Where facilities/network capacity are not in place, intervals are handled on an Individual Case Basis (ICB).

## SGAT Exhibit D

Date General Information Provided by Qwest: \_\_\_\_\_

General Agreement : \_\_\_\_\_

BAN Number(must be assigned before processing): \_\_\_\_\_

### REVISED QWEST RIGHT OF WAY, POLE ATTACHMENT, INNERDUCT OCCUPANCY GENERAL INFORMATION: EFFECTIVE 6/29/01

- 1 **1. PURPOSE.** The purpose of this General Information document is to share information and provide or deny permission to attach and maintain CLEC's facilities ("Facilities") to Qwest Corporation's ("Qwest") Poles, to place Facilities on or within Qwest's Innerduct (collectively "Poles/Innerduct") and to obtain access to Qwest's private right of way ("ROW"), to the extent Qwest has the right to grant such access. This General Information is necessary to determine if Qwest can meet the needs of the CLEC's request but does not guarantee that physical space or access is currently available. Permission will be granted on a first-come, first-serve basis on the terms and conditions set forth in the appropriate agreement pertaining to "Poles/Innerduct".
- 2 **2. PROCESS.** The Qwest process is designed to provide the CLEC the information so as to assist CLEC and Qwest to make Poles, Innerduct and ROW decisions in a cost-efficient manner. The Process has these distinct steps:

2.1 Inquiry Review - Attachment 1.A (Database Search). The CLEC is requested to review this document and return Attachment 1.A along with two copies of a map and the nonrefundable Inquiry Fee, calculated in accordance with Attachment 1.A hereto. These fees are intended to cover Qwest's expenses associated with performing an internal record (database) review, preparing a cost estimate for the required field survey, setting up an account, and determining time frames for completion of each task to meet the CLEC's Request. Be sure a BAN number is assigned by the Qwest Service Support Representative for each request before sending an Attachment 1.A. To request a BAN number send an email requesting one to: [wsst@qwest.com](mailto:wsst@qwest.com). Include your name, company, phone number, email address, city and state of our inquiry. A BAN number will be assigned to your inquiry and will be emailed to you along with other materials.

As indicated on Attachment 1.A, a copy of the signed Attachment and maps of the desired route must be emailed to [wsst@qwest.com](mailto:wsst@qwest.com) while the fee must be sent to the Qwest CLEC Joint Use Manager with the original signed Attachment 1.A. The map should clearly show street names and highways along the entire route, and specific locations of entry and exit of the ROW/duct/pole system. Area Maps should be legible and identify all significant geographic characteristics including, but not limited to, the following: Qwest central offices, streets, cities, states, lakes, rivers, mountains, etc. Qwest reserves the right to reject illegible or incomplete maps. If CLEC wishes to terminate at a particular manhole (such as a POI) it must be indicated on the maps. For ROW: Section, Range and Township, to the ¼ section must also be provided.

Qwest will complete the Inquiry review and prepare and return a Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation (Attachment 1.B) to the CLEC generally within ten (10) days or the applicable federal or state law, rule or regulation that governs this Agreement in the state in which Innerduct attachment is requested. In the case of poles, Qwest will assign a Field Engineer and provide his/her name and phone number to the CLEC. The Field Engineer will check the local database and be available for a joint verification with the CLEC. The Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation will be valid for thirty (30) calendar days from the date of quotation. The Inquiry step results only in the location and mapping of Qwest facilities and does not indicate whether space is available. This information is provided with Attachment 1.B.

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In the case of ROW, Qwest will prepare and return a ROW information matrix and a copy of agreements listed in the ROW Matrix, within ten (10) days. The ROW Matrix will identify (a) the owner of the ROW as reflected in Qwest's records, and (b) the nature of each ROW (i.e., publicly recorded and non-recorded). The ROW information matrix will also indicate whether or not Qwest has a copy of the ROW agreement in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and CLEC acknowledges that, to the extent that real property rights run with the land, the original granting party may not be the current owner of the property.

In the case of MDUs, Qwest will prepare and return an MDU information matrix, within ten (10) days, which will identify (a) the owner of the MDU as reflected in Qwest's records, and (b) whether or not Qwest has a copy of the agreement between Qwest and the owner of a specific multi-dwelling unit that grants Qwest access to the multi-dwelling unit in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and CLEC acknowledges that the original landowner may not be the current owner of the property.

Qwest will provide to CLEC a copy of agreements listed in the Matrices that have not been publicly recorded pursuant to the following options: (i) if the agreement CLEC requests does not contain a confidentiality provision that prevents Qwest's disclosure, Qwest will provide the agreement to CLEC with proprietary financial terms redacted within ten (10) days of CLECs request for the agreement; (ii) if the agreement CLEC requests contains a confidentiality provision that prevents Qwest's disclosure, CLEC may request that Qwest attempt to obtain the consent of the property owner to disclosure of the agreement. CLEC shall pay Qwest's reasonable costs of obtaining such consent; (iii) in lieu of requesting that Qwest obtain the consent of the property owner to disclosure of the agreement, CLEC may elect to obtain authorization for such disclosure from the third party owner(s) of the real property at issue by presenting to Qwest an executed version of the Consent to Disclosure form that is included in Attachment 4 to Exhibit D of this Agreement; (iv) in lieu of submission of the Consent to Disclosure form, CLEC may elect to comply with the indemnification requirements in Section 10.8.4.1.3; (v) in lieu of the preceding options, CLEC may elect to be bound by the terms and conditions of the Form Protective Agreement set forth in Attachment 5 to Exhibit D of this Agreement. As a condition of its limited waiver of its right to confidentiality in an agreement that provides Qwest access to a multi-dwelling unit that Qwest provides to CLEC or that CLEC obtains from the multi-dwelling unit owner or operator, Qwest shall redact all dollar figures from copies of agreements that have not been publicly recorded that Qwest provides to CLEC and shall require that the multi-dwelling unit owner or operator make similar redaction's prior to disclosure of the agreement. In all instances, CLEC will use agreements only for the following purposes: (a) to determine whether Qwest has ownership or control over duct, conduits, or rights-of-way within the property described in the agreement and the scope of such ownership or control; (b) to determine the ownership of wire within the property described in the agreement; or (c) to determine the demarcation point between Qwest facilities and the Owner's facilities in the property described in the agreement; (d) to determine the legal description of any property interest of a third-party owner, including any metes and bounds of the property; (e) to determine the term of the agreement; and (f) to determine the parties to the agreement. CLEC further agrees that CLEC shall not disclose the contents, terms, or conditions of any agreement provided pursuant to this section to any CLEC agents or employees engaged in sales, marketing, or product management efforts on behalf of CLEC.

If there is no other effective agreement (i.e., an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

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2.2 Attachment 1.B (Verification) & Attachment 4 (Access Agreement Preparation). With respect to Poles and Innerduct, upon review and acceptance of signed Attachment 1.B and payment of the estimated verification costs by the CLEC, Qwest will conduct facilities verification and provide the requested information which may or may not include the following: a review of public and/or internal Qwest right-of-ways records for restrictions, identification of additional rights-of-way required; a field survey and site investigation of the Innerduct, including the preparation of distances and drawings, to determine availability on existing Innerduct; identification of any make-ready costs required to be paid by the CLEC, if applicable, prior to installing its facilities. In the case of Poles, Attachment 1.B orders the field verification which may be done jointly. A copy of the signed Attachment 1.B should be emailed to [wsst@qwest.com](mailto:wsst@qwest.com) while the appropriate fees should be sent to the Qwest-CLEC Joint Use Manager with the original signed Attachment 1.B. Upon completion of the verification, Attachment 2 will be sent to the CLEC by Qwest.

With respect to ROW, upon review and acceptance of signed Attachment 1.B and payment of the ROW conveyance consideration, Qwest will deliver to the CLEC an executed and acknowledged Access Agreement to the CLEC in the form attached hereto as Attachment 4 (the "Access Agreement"). In the event that the ROW in question was created by a publicly recorded document and Qwest has a copy of such document in its files, a copy of the Right-of-Way Agreement, as defined in the Access Agreement, will be attached to the Access Agreement and provided to the CLEC at the time of delivery of the Access Agreement. If the ROW was created by a document that is not publicly recorded, or if Qwest does not have a copy of the Right-of-Way Agreement in its possession, the Access Agreement will not have a copy of the Right-of-Way Agreement attached. If the ROW was created by a non-publicly recorded document, but Qwest does not have a copy of the Right-of-Way Agreement in its possession, the CLEC must obtain a copy of the Right-of-Way Agreement or other suitable documentation reasonably satisfactory to Qwest to describe the real property involved and the underlying rights giving rise to the Access Agreement.

Although Qwest will provide the identity of the original grantor of the ROW, as reflected in Qwest's records, the CLEC is responsible for determining the current owner of the property and obtaining the proper signature and acknowledgement to the Access Agreement. If Qwest does not have a copy of the Right-of-Way Agreement in its records, it is the responsibility of the CLEC to obtain a copy of the Right-of-Way Agreement. If the ROW was created by a publicly recorded document, the CLEC must record the Access Agreement (with the Right-of-Way Agreement attached) in the real property records of the county in which the property is located. If the ROW was created by a grant or agreement that is not publicly recorded, CLEC may obtain such agreements pursuant to the terms in section 2.1, above.

Qwest is required to respond to each Attachment 1.B. submitted by CLEC within 35 days of receiving the Attachment 1.B.

2.3 Poles/Duct Order Attachment 2 (Access). In the case of Poles and Innerduct, upon completion of the inquiry and verification work described in Section 2.2 above, Qwest will provide the CLEC a Poles/Innerduct Order (Attachment 2) containing annual recurring charges, estimated Make-ready costs. Upon receipt of the executed Attachment 2 Order form from the CLEC and applicable payment for the Make-Ready Fees identified, Qwest will assign the CLEC's requested space; Qwest will also commence the Make-ready work within 30 days following payment of the Make-Ready Fees. Qwest will notify CLEC when Poles/Innerduct are ready for attachment or placement of Facilities. A copy of the signed Attachment 2 form should be emailed to [wsst@qwest.com](mailto:wsst@qwest.com) while the payment should go to the Joint Use Manager along with the original signed Attachment 2.

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NOTE: Make-ready work performed by Qwest concerns labor only. For Poles it involves rearrangement to accommodate the new attachment. For Innerduct, it involves placing the standard three innerducts in the conduit to accommodate fiber cable where spare conduit exists. Segments without conduit space are considered "blocked". Qwest will consider repair or clearing damaged facilities, but may not construct new facilities as part of Make-ready work.

Construction work to place conduit or replace poles may be required where facilities are blocked. The CLEC may contract separately with a Qwest-approved contractor to complete the construction provided a Qwest inspector inspects the work during and after construction. If other parties benefit from construction, the costs may be divided among the beneficiaries. Construction costs are not included in Attachment 2. The CLEC is not encouraged to sign the Poles/Innerduct Order (Attachment 2) until provisions have been made for construction.

2.4 Provision of ROW/Poles/Innerduct. Qwest agrees to issue to CLEC for any lawful telecommunications purpose, a nonexclusive, revocable Order authorizing CLEC to install, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct to the extent owned or controlled by Qwest. Qwest provides access to Poles/Innerduct/ROW in accordance with the applicable federal, state, or local law, rule, or regulation, incorporated herein by this reference, and said body of law, which governs this Agreement in the state in which Poles/Innerduct is provided. Any and all rights granted to CLEC shall be subject to and subordinate to any future federal, state, and/or local requirements. Nothing in this General Information shall be construed to require or compel Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by the CLEC.

The costs included in the Poles/Innerduct Verification Fee are used to cover the costs incurred by Qwest in determining if Poles/Innerduct space is available to meet the CLEC's request; however, the CLEC must agree and will be responsible for payment of the actual costs incurred if such costs exceed the estimate. If the actual costs are less than the estimate, an appropriate credit can be provided upon request. If Qwest denies access, Qwest shall do so in writing, specifying the reasons for denial within 45 days of the initial inquiry.

Likewise, the fees included in the ROW processing costs quotation are used to cover the costs incurred by Qwest in searching its databases and preparing the Access Agreement. In the event that complications arise with respect to preparing the Access Agreement or any other aspect of conveying access to Qwest's ROW, the CLEC agrees to be responsible for payment of the actual costs incurred if such costs exceed the standard fees; actual costs shall include, without limitation, personnel time, including attorney time.

### 3. DISPUTE RESOLUTION

3.1. Other than those claims over which a federal or state regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.

3.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

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3.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.

3.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

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**ATTACHMENT 1. A  
Poles/Innerduct/ or ROW Inquiry Preparation Fee**

General Agreement \_\_\_\_\_

BAN Number (one for each route must be assigned before processing): \_\_\_\_\_

Date Submitted: \_\_\_\_\_ Date Replied to CLEC: \_\_\_\_\_

CLEC Name \_\_\_\_\_ Contact name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ e-mail address: \_\_\_\_\_

State and city of inquiry: \_\_\_\_\_

**Poles/Innerduct Permit Database Search Costs Quotation  
(One Mile Minimum)**

	<u>Costs</u>	<u>Est. Miles</u>	<u>Total</u>
1. Pole Inquiry Fee	(see attached pricing chart) X _____	=	\$ _____
2. Innerduct Inquiry Fee	(see attached pricing chart) X _____	=	\$ _____
3. ROW Records Inquiry	(see attached pricing chart) X _____	=	\$ _____
4. Estimated Interval for Completion of Items 1, 2 or 3:	10	Days	
5. Additional requirements of CLEC:	_____		

This Inquiry will result in (a) for Poles and Innerduct: a drawing of the duct or innerduct structure fitting the requested route, if available, and a quote of the charges for field verification, and/or (b) in the case of ROW, a ROW identification matrix, a quote of the charges for preparation of and consideration for, the necessary Access Agreements, and copies of ROW documents in Qwest's Possession. (c) For Poles, the name and telephone number of the Field Engineer are provided so that the CLEC may contact the Qwest Field engineer and discuss attachment plans. If a field verification of poles is required, Attachment 1.B must be completed and the appropriate charges paid. Innerduct verification is always needed.

By signing below and providing payment of the Estimated Costs identified above, the CLEC desires Qwest to proceed with the processing of its database/records search and acknowledges receipt of this General Information, including the General Terms and Conditions under which Qwest offers such Poles/Innerduct. Quotes expire in 30 days.

	Qwest Corporation
Signature	Signature
Name Typed or Printed	Name Typed or Printed
Title	Title
Date	Date

This signed form (original) must be sent with a check for the Inquiry amount (to "Qwest") to:  
**Manager, Qwest Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112 303-784-0387**  
 A copy of this form must be sent with two acceptably-detailed maps showing the requested route to:

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**Qwest Service Representative at: [wsst@qwest.com](mailto:wsst@qwest.com). Put "Agree" on signature line.**

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**ATTACHMENT 1.B**

General Agreement \_\_\_\_\_  
 BAN Number: \_\_\_\_\_

**Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation**

Date Nonrefundable Received: \_\_\_\_\_ Date Replied to CLEC: \_\_\_\_\_

**\*\*NOTE: THIS ATTACHMENT WILL BE COMPLETED BY QWEST AND SENT TO THE CLEC FOR SIGNATURE AFTER THE DATABASE INQUIRY IS COMPLETE.\*\***

	Estimated Costs	Number	Total Charge
1. Pole Field Verification Fee (10 pole minimum)	_____	_____	\$ _____
2. Innerduct Field Verification Fee	_____	_____	\$ _____
3. Preparation of private ROW documents	_____	_____	\$ _____
4. Access Agreement Prep. and Consideration \$10/ Access Agreement	_____	_____	\$ _____
5. Estimated Interval to Complete Items 1 or 2 or 3 and/or 4:	_____	_____	Working Days

Comments: \_\_\_\_\_

By signing below and providing payment of the Total Estimated Costs identified above, the CLEC desires Qwest to proceed with the processing of its field survey/preparation of Access Agreements, and acknowledges receipt of this General Information, including the General Terms and Conditions under which Qwest offers such ROW/Poles/Innerduct. The CLEC acknowledges the above costs are estimates only and CLEC may be financially responsible for final actual costs which exceed this estimate, or receive credit if requested. Quotes expire in 30 days.

	Qwest Corporation
Signature	Signature
Name Typed or Printed	Name Typed or Printed
Title	Title
Date	Date

The original signed form must be sent with a check for the verification amount to:  
**Manager, Qwest CLEC Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112**  
 An email copy of this form must be sent to: [wsst@qwest.com](mailto:wsst@qwest.com), with "Agree" on the signature line.

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**ATTACHMENT 2  
Poles/Innerduct Order**

General Agreement \_\_\_\_\_

BAN Number: \_\_\_\_\_

**\*\*NOTE: THIS FORM WILL BE COMPLETED BY QWEST AND SENT TO CLEC FOR SIGNATURE\*\***

Make-ready Work required: Yes (      ) No (      )

Date Received \_\_\_\_\_

If Yes is checked, estimated Make-ready costs: \$ \_\_\_\_\_

The following Attachments are hereby incorporated by reference into this Order:

1. Term - Effective Date - \_\_\_\_\_.
2. Summary of Field Results (including Make-Ready work if required).
3. When placing fiber, CLEC must:

- a. provide Qwest representative, a final design of splice, racking and slack locations in Qwest utility holes.
- b. tag all equipment located in/on Qwest's facilities from beginning of the route to the end, and at the entrance and exit of each utility hole with the following information: (1) CLEC's Name and Contact Number, (2) Contract Number and Date of Contract, (3) Number of Fibers in the Innerduct and Color of Occupied Innerduct.

Annual Recurring Charges for this Permit:

	Annual Charge	Quantity	Total Annual Charge
1. Pole Attachment, Per Pole	\$ _____ /	_____	\$ _____
2. Innerduct Occupancy, Per Foot	\$ _____	_____	\$ _____
3. Request conf. call for Construction?	_____ YES _____ NO		

Please check YES if construction by Qwest is needed for access to Qwest manholes (e.g. core drills, stubouts, not innerduct placement) For Poles, quantity is based on the number of vertical feet used (One cable attachment = one foot). If you do not place an order at this time, these Poles/Innerduct will be assigned on a first come-first served basis.

Additional Comments: THE ESTIMATED COSTS ARE FOR THE INSTALLATION OF INNERDUCT OR REARRANGEMENT PER THE WORK SHEETS. THE ANNUAL RECURRING CHARGE FOR YEAR 2001 HAS BEEN PRORATED TO \_\_\_\_\_ ( /DAY \* DAYS). PLEASE PROVIDE PAYMENT FOR THE MAKE-READY COSTS AND THE PRORATED 2001 RECURRING FEE ALONG WITH THIS SIGNED ORDER \_\_\_\_\_

By signing below and providing payment of the Make-ready costs and the first year's prorated Annual Recurring Charge (or, if CLEC requests Semiannual billing, then the first half-year's prorated Semiannual Recurring Charge), the CLEC desires Qwest to proceed with the Make-ready Work identified herein and acknowledges receipt of the General Terms and Conditions under which Qwest offers such Poles/Innerduct. By signing this document you are agreeing to the access described herein. Quotes expire in 90 days.

Return this signed form and check to: **Manager, Joint Use Supervisor, Suite 101, 6912 S. Quentin, Englewood, CO 80112.** Send a copy to: **wsst@qwest.com.**

	Qwest Corporation
Signature	Signature
Name Typed or Printed	Name Typed or Printed
Title	Title
Date	Date

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### ATTACHMENT 3

General Agreement: \_\_\_\_\_

#### QWEST RIGHT OF WAY ACCESS, POLE ATTACHMENT AND/OR INNERDUCT OCCUPANCY GENERAL TERMS AND CONDITIONS

This is an Agreement between \_\_\_\_\_ ("CLEC") and Qwest Corporation ("Qwest"), for one or more Orders for the CLEC to obtain access to Qwest's Right-of-Way ("ROW") and/or to install/attach and maintain their communications facilities ("Facilities") to Qwest's Poles and/or placement of Facilities on or within Qwest's Innerduct (collectively "Poles/Innerduct") described in the General Information and CLEC Map, which are incorporated herein by this reference (singularly "Order" or collectively, "Orders"). If there is no other effective agreement (*i.e.*, an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then this Agreement/Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

#### 1. SCOPE.

- 1.1 Subject to the provisions of this Agreement, Qwest agrees to issue to CLEC for any lawful telecommunications purpose, (a) one or more nonexclusive, revocable Orders authorizing CLEC to attach, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct owned or controlled by Qwest, and/or (b) access to Qwest's ROW to the extent that (i) such ROW exists, and (ii) Qwest has the right to grant access to the CLEC. Any and all rights granted to CLEC shall be subject to and subordinate to any future local, state and/or federal requirements, and in the case of ROW, to the original document granting the ROW to Qwest or its predecessors.
- 1.2 Except as expressly provided herein, nothing in this Agreement shall be construed to require or compel Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by CLEC or to obtain any ROW for CLEC's use.
- 1.3 Qwest agrees to provide access to ROW/Poles/Innerduct in accordance with the applicable local, state or federal law, rule, or regulation, incorporated herein by this reference, which governs this Agreement in the state in which Poles/Innerduct is provided.

2. **TERM.** Any Order issued under this Agreement for Pole attachments or Innerduct occupancy shall continue in effect for the term specified in the Order. Any access to ROW shall be non-exclusive and perpetual, subject to the terms and conditions of the Access Agreement (as hereinafter defined) and the original instrument granting the ROW to Qwest. This Agreement shall continue during such time CLEC is providing Poles/Innerduct attachments under any Order to this Agreement.

#### 3. TERMINATION WITHOUT CAUSE.

- 3.1 To the extent permitted by law, either party may terminate this Agreement (which will have the effect of terminating all Orders hereunder), or any individual Order(s) hereunder, without cause, by providing notice of such termination in writing and by certified Mail to the other party. The written notice for termination without cause shall be dated as of the day it is mailed and shall be effective no sooner than one hundred twenty (120) calendar days from the date of such notice.

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- 3.2. Termination of this Agreement or any Order hereunder does not release either party from any liability under this Agreement that may have accrued or that arises out of any claim that may have been accruing at the time of termination, including indemnity, warranties, and confidential information.
- 3.3. If Qwest terminates this Agreement for Cause, or if CLEC terminates this Agreement without Cause, CLEC shall pay termination charges equal to the amount of fees and charges remaining on the terminated Order(s) and shall remove its Facilities from the Poles/Innerduct within sixty (60) days, or cause Qwest to remove its Facilities from the Poles/Innerduct at CLEC's expense; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's Facilities are physically removed. Notwithstanding anything herein to the contrary, upon the termination of this Agreement for any reason whatsoever, all Orders hereunder shall simultaneously terminate.
- 3.4. If this Agreement or any Order is terminated for reasons other than Cause, then CLEC shall remove its Facilities from Poles/Innerduct within one hundred and eighty (180) days from the date of termination; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's Facilities are physically removed.
- 3.5. Qwest may abandon or sell any Poles/Innerduct at any time by giving written notice to the CLEC. Upon abandonment of Poles/Innerduct, and with the concurrence of the other CLEC(s), if necessary, CLEC shall, within sixty (60) days of such notice, either apply for usage with the new owner or purchase the Poles/Innerduct from Qwest, or remove its Facilities therefrom. Failure to remove its Facilities within sixty (60) days shall be deemed an election to purchase the Poles/Innerduct at the current market value.

### 4. CHARGES AND BILLING.

- 4.1. CLEC agrees to pay Qwest Poles/Innerduct usage fees ("Fees") as specified in the Order. Fees will be computed in compliance with applicable local, state and Federal law, regulations and guidelines. Such Fees will be assessed, in advance on an annual basis. Annual Fees will be assessed as of January 1st of each year. Fees are not refundable except as expressly provided herein. CLEC shall pay all applicable Fees and charges specified herein within thirty (30) days from receipt of invoice. Any outstanding invoice will be subject to applicable finance charges.
- 4.2. Qwest has the right to revise Fees, at its sole discretion, upon written notice to CLEC within at least sixty (60) days prior to the end of any annual billing period.

### 5. INSURANCE. The CLEC shall obtain and maintain at its own cost and expense the following insurance during the life of the Contract:

- 5.1. Workers' Compensation and/or Longshoremen's and Harbor Workers Compensation insurance with (1) statutory limits of coverage for all employees as required by statute; and (2) although not required by statute, coverage for any employee on the job site; and (3) Stop Gap liability or employer's liability insurance with a limit of One Hundred Thousand Dollars (\$100,000.00) for each accident.
- 5.2. General liability insurance providing coverage for underground hazard coverage (commonly referred to as "U" coverage), products/completed operations, premises operations, independent contractor's protection (required if contractor subcontracts the

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work), broad form property damage and contractual liability with respect to liability assumed by the CLEC hereunder. This insurance shall also include: (1) explosion hazard coverage (commonly referred to as "X" coverage) if the work involves blasting and (2) collapse hazard coverage (commonly referred to as "C" coverage) if the work may cause structural damage due to excavation, burrowing, tunneling, caisson work, or underpinning. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.

- 5.3 Comprehensive automobile liability insurance covering the use and maintenance of owned, non-owned and hired vehicles. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.
- 5.4 Qwest may require the CLEC from time-to-time during the life of the Contract to obtain additional insurance with coverage or limits in addition to those described above. However, the additional premium costs of any such additional insurance required by Qwest shall be borne by Qwest, and the CLEC shall arrange to have such costs billed separately and directly to Qwest by the insuring carrier(s). Qwest shall be authorized by the CLEC to confer directly with the agent(s) of the insuring carrier(s) concerning the extent and limits of the CLEC's insurance coverage in order to assure the sufficiency thereof for purposes of the work performable under the Contract and to assure that such coverage as a whole with respect to the work performable are coordinated from the standpoint of adequate coverage at the least total premium costs.
- 5.5 The insuring carrier(s) and the form of the insurance policies shall be subject to approval by Qwest. The CLEC shall forward to Qwest, certificates of such insurance issued by the insuring carrier(s). The insuring carrier(s) may use the ACORD form, which is the Insurance Industries certificate of insurance form. The insurance certificates shall provide that: (1) Qwest is named as an additional insured; (2) thirty (30) calendar days prior written notice of cancellation of, or material change or exclusions in, the policy to which the certificates relate shall be given to Qwest; (3) certification that underground hazard coverage (commonly referred to as "U" coverage) is part of the coverage; and (4) the words "pertains to all operations and projects performed on behalf of the certificate holder" are included in the description portion of the certificate. The CLEC shall not commence work hereunder until the obligations of the CLEC with respect to insurance have been fulfilled. The fulfillment of such obligations shall not relieve the CLEC of any liability hereunder or in any way modify the CLEC's obligations to indemnify Qwest.
- 5.6 Whenever any work is performed requiring the excavation of soil or use of heavy machinery within fifty (50) feet of railroad tracks or upon railroad right-of-way, a Railroad Protective Liability Insurance policy will be required. Such policy shall be issued in the name of the Railroad with standard limits of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit for bodily injury, property damage or physical damage to property with an aggregate limit of Six Million Dollars (\$6,000,000.00). In addition, said policy shall name Qwest and the CLEC/SubCLEC on the declarations page with respect to its interest in these specific job. Said insurance policy shall be in form and substance satisfactory both to the Qwest and the Railroad and shall be delivered to and approved by both parties prior to the entry upon or use of the Railroad Property.

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- 5.7 Whenever any work must be performed in the Colorado State Highway right-of-way, policies and certificates of insurance shall also name the State of Colorado as an additional insured. Like coverage shall be furnished by or on behalf of any subcontractor. Copies of said certificates must be available on site during the performance of the work.

### 6. CONSTRUCTION AND MAINTENANCE OF FACILITIES.

- 6.1 Qwest retains the right, in its sole judgment, to determine the availability of space on Poles/Innerduct. When modifications to a Qwest spare conduit include the placement of innerduct, Qwest retains the right to install the number of innerducts required to occupy the conduit structure to its full capacity. In the event Qwest determines that rearrangement of the existing facilities on Poles/Innerduct is required before CLEC's Facilities can be accommodated, the cost of such modification will be included in the CLEC's nonrecurring charges for the associated Poles/Innerduct Order.
- 6.2 CLEC shall be solely responsible for obtaining the necessary underlying legal authority to occupy Poles/Innerduct on governmental, federal, Native American, and private rights of way, as applicable, and Qwest does not warrant or represent that providing CLEC with access to the Poles/Innerduct in any way constitutes such legal right. The CLEC shall obtain any necessary permits, licenses, bonds, or other legal authority and permission, at the CLEC's sole expense, in order to perform its obligations under this Agreement. The CLEC shall contact all owners of public and private rights-of-way, as necessary, to obtain written permission required to perform the work prior to entering the property or starting any work thereon and shall provide Qwest with written documentation of such legal authority prior to placement of its facilities on or in the Poles/Innerduct. The CLEC shall comply with all conditions of rights-of-way and Orders.
- 6.3 CLEC's Facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated herein by reference, and any governing authority having jurisdiction of the subject matter of this Agreement. Where a difference in specifications exists, the more stringent shall apply. Failure to maintain Facilities in accordance with the above requirements shall be Cause as referenced in Section 3 to this Agreement for termination of the Order in question. Termination of more than two (2) Orders in any twelve-month period pursuant to the foregoing sentence shall be Cause as referenced in Section 3 for termination of this Agreement. Qwest's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate Qwest premises. CLEC's procedures governing its standards maintenance practices for Facilities shall be made available to Qwest upon written request. CLEC shall within thirty (30) days comply and provide the requested information to Qwest to bring their facilities into compliance with these terms and conditions.
- 6.4. In the event of any service outage affecting both Qwest and CLEC, repairs shall be effectuated on a priority basis as established by local, state or federal requirements, or where such requirement do not exist, repairs shall be made in the following order: electrical, telephone (local), telephone (long distance), and cable television, or as mutually agreed to by the users of the effected Poles/Innerduct.
- 6.5 In the event of an infrastructure outage, the CLEC should contact their Network Maintenance Center at 1-800-223-7881 or the CLEC may contact their Account Manager at the Interconnect Service Center.

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### 7. MODIFICATION TO EXISTING POLES/INNERDUCT.

- 7.1. If CLEC requests Qwest to replace or modify existing Poles/Innerduct to increase its strength or capacity for the benefit of the CLEC and Qwest determines in its sole discretion to provide the requested capacity, the CLEC shall pay Qwest the total replacement cost, Qwest's cost to transfer its attachments, as necessary, and the cost for removal (including destruction fees) of any replaced Poles/Innerduct, if such is necessary. Ownership of new Poles/Innerduct shall vest in Qwest. To the extent that a modification is incurred for the benefit of multiple parties, CLEC shall pay a proportionate share of the total cost as outlined above, based on the ratio of the amount of new space occupied by the Facilities to the total amount of space occupied by all parties joining the modification. Modifications that occur in order to bring Poles/Innerduct into compliance with applicable safety or other requirements shall be deemed to be for the benefit of the multiple parties and CLEC shall be responsible for its pro rata share of the modification cost. Except as set forth herein, CLEC shall have no obligation to pay any of the cost of replacement or modification of Poles/Innerduct requested solely by third parties.
- 7.2. Written notification of modification initiated by or on behalf of Qwest shall be provided to CLEC at least sixty (60) days prior to beginning modifications if such modifications are not the result of an emergency situation. Such notification shall include a brief description of the nature and scope of the modification. If CLEC does not rearrange its facilities within sixty (60) days after receipt of written notice from Qwest requesting such rearrangement, Qwest may perform or cause to have performed such rearrangement and CLEC shall pay for cost thereof. No such notice shall be required in emergency situations or for routine maintenance of Poles/Innerduct.

### 8. INSPECTION OF FACILITIES. Qwest reserves the right to make final construction, subsequent and periodic inspections of CLEC's facilities occupying the Poles/Innerduct system. CLEC shall reimburse Qwest for the cost of such inspections except as specified in Section 8 hereof.

- 8.1. CLEC shall provide written notice to Qwest, at least fifteen (15) days in advance, of the locations where CLEC's plant is to be constructed.
- 8.2. The CLEC shall forward Exhibit A, entitled "Pulling In Report" attached hereto and incorporated herein by this reference, to Qwest within five (5) business days of the date(s) of the occupancy.
- 8.3. Qwest shall provide written notification to CLEC within seven (7) days of the date of completion of a final construction inspection.
- 8.4. Where final construction inspection by Qwest has been completed, CLEC shall be obligated to correct non-complying conditions within thirty (30) days of receiving written notice from Qwest. In the event the corrections are not completed within the thirty (30)-day period, occupancy authorization for the Poles/Innerduct system where non-complying conditions remain uncorrected shall terminate immediately, regardless of whether CLEC has energized the facilities occupying said Poles/Innerduct system, unless Qwest has provided CLEC a written extension to comply. CLEC shall remove its facilities from said Poles/Innerduct in accordance with the provisions set forth in Section 10 of this Agreement. No further occupancy authorization shall be issued to CLEC until such non-complying conditions are corrected or until CLEC's facilities are removed from the Pole/Conduit system where such non-complying conditions exist. If agreed to in writing, by both parties, Qwest shall perform such corrections and CLEC shall pay Qwest the cost

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of performing such work. Subsequent inspections to determine if appropriate corrective action has been taken may be made by Qwest.

- 8.5. Once the CLECs facilities occupy Qwest Poles/Innerduct system and Exhibit A has been received by Qwest, Qwest may perform periodic inspections. The cost of such inspections shall be borne by Qwest, unless the inspection reveals any violations, hazards, or conditions indicating that CLEC has failed to comply with the provisions set forth in this Agreement, in which case the CLEC shall reimburse Qwest for full costs of inspection, and re-inspection to determine compliance as required. A CLEC representative may accompany Qwest on field inspections scheduled specifically for the purpose of inspecting CLEC's Facilities; however, CLEC's costs associated with its participation in such inspections shall be borne by CLEC. Qwest shall have no obligation to notify CLEC, and CLEC shall have no right to attend, any routine field inspections.
- 8.6. The costs of inspections made during construction and/or the final construction survey and subsequent inspection shall be billed to the CLEC within thirty (30) days upon completion of the inspection.
- 8.7. Final construction, subsequent and periodic inspections or the failure to make such inspections, shall not impose any liability of any kind upon Qwest, and shall not relieve CLEC of any responsibilities, obligations, or liability arising under this Agreement.

### 9. UNAUTHORIZED FACILITIES

- 9.1 If any facilities are found attached to Poles/Innerduct for which no Order is in effect, Qwest, without prejudice to any other rights or remedies under this Agreement, shall assess an unauthorized attachment administrative fee of Two Hundred Dollars (\$200.00) per attachment per Pole or innerduct run between manholes, and require the CLEC to submit in writing, within ten (10) day after receipt of written notification from Qwest of the unauthorized occupancy, a Poles/Innerduct application. Qwest shall waive the unauthorized attachment fee if the following conditions are both met: (1) CLEC cures such unauthorized attachment (by removing it or submitting a valid Order for attachment in the form of Attachment 2 of Exhibit D, within thirty (30) days of written notification from Qwest of the unauthorized attachment; and (2) the unauthorized attachment did not require Qwest to take curative measures itself (e.g., pulling additional innerduct) prior to the cure by CLEC. Qwest shall also waive the unauthorized attachment fee if the unauthorized attachment arose due to error by Qwest rather than by CLEC. If such application is not received by Qwest within the specified time period, the CLEC will be required to remove its unauthorized facility within ten (10) days of the final date for submitting the required application, Qwest may remove the CLEC's facilities without liability, and the cost of such removal shall be borne by the CLEC.
- 9.2 For the purpose of determining the applicable charge, the unauthorized Poles/Innerduct occupancy shall be treated as having existed for a period of five (5) years prior to its discovery, and the charges, as specified in Section 4, shall be due and payable forthwith whether or not CLEC is ordered to continue the occupancy of the Poles/Innerduct system.
- 9.3. No act or failure to act by Qwest with regard to an unauthorized occupancy shall be deemed to constitute the authorization of the occupancy; any authorization that may be granted subsequently shall not operate retroactively or constitute a waiver by Qwest of any of its rights of privileges under this Agreement or otherwise.

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**10. REMOVAL OF FACILITIES.** Should Qwest, under the provisions of this Agreement, remove CLEC's Facilities from the Poles/Innerduct covered by any Order (or otherwise), Qwest will deliver the Facilities removed upon payment by CLEC of the cost of removal, storage and delivery, and all other amounts due Qwest. If payment is not received by Qwest within thirty (30) days, CLEC will be deemed to have abandoned such facilities, and Qwest may dispose of said facilities as it determines to be appropriate. If Qwest must dispose of said facilities, such action will not relieve CLEC of any other financial responsibility associated with such removal as provided herein. If CLEC removes its Facilities from Poles/Innerduct for reasons other than repair or maintenance purposes, the CLEC shall have no right to replace such facilities on the Poles/Innerduct until such time as all outstanding charges due to Qwest for previous occupancy have been paid in full. CLEC shall submit Exhibit B, entitled "Notification of Surrender of Modification of Conduit Occupancy License by CLEC," or Exhibit C, entitled "Notification of Surrender of Modification of Pole Attachment by CLEC," each as attached hereto, advising Qwest as to the date on which the removal of Facilities from each Poles/Innerduct has been completed.

**11. INDEMNIFICATION AND LIMITATION OF LIABILITIES.** CLEC shall indemnify and hold harmless Qwest, its owners, parents, subsidiaries, affiliates, agents, directors, and employees against any and all liabilities, claims, judgments, losses, orders, awards, damages, costs, fines, penalties, costs of defense, and attorneys' fees ("Liabilities") to the extent they arise from or in connection with: (1) infringement, or alleged infringement, of any patent rights or claims caused, or alleged to have been caused, by the use of any apparatus, appliances, equipment, or parts thereof, furnished, installed or utilized by the CLEC; (2) actual or alleged fault or negligence of the CLEC, its officers, employees, agents, subcontractors and/or representatives; (3) furnishing, performance, or use of any material supplied by CLEC under this Contract or any product liability claims relating to any material supplied by CLEC under this Contract; (4) failure of CLEC, its officers, employees, agents, subcontractors and/or representatives to comply with any term of this Contract or any applicable local, state, or federal law or regulation, including but not limited to the OSH Act and environmental protection laws; (5) assertions under workers' compensation or similar employee benefit acts by CLEC or its employees, agents, subcontractors, or subcontractors' employees or agents; (6) the acts or omissions (other than the gross negligence or willful misconduct) of Qwest, its officers, employees, agents, and representatives, except as otherwise provided in paragraphs 11.3 and 11.4 below; and/or, (7) any economic damages that may rise, including damages for delay or other related economic damages that the Qwest or third parties may suffer or allegedly suffer as a result of the performance or failure to perform work by the CLEC. If both Qwest and the CLEC are sued as a result of or in connection with the performance of work arising out of this Contract, the parties hereby agree that the defense of the case (including the costs of the defense and attorneys' fees) shall be the responsibility of the CLEC, if Qwest desires. Qwest shall give the CLEC reasonable written notice of all such claims and any suits alleging such claims and shall furnish upon the CLEC's request and at the CLEC's expense all information and assistance available to the Qwest for such defense. The parties shall employ Article 13, Dispute Resolution, to resolve any dispute concerning the proportional fault and liability after the underlying case is terminated.

**11.1 IF WORK IS PERFORMED IN THE STATE OF WASHINGTON UNDER THIS GENERAL CONTRACT, THE CLEC ACKNOWLEDGES AND AGREES THAT THIS INDEMNIFICATION OBLIGATION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL CLAIMS AGAINST QWEST BY AN EMPLOYEE OR FORMER EMPLOYEE OF THE CLEC, AND THE CLEC EXPRESSLY WAIVES ALL IMMUNITY AND LIMITATION ON LIABILITY UNDER ANY INDUSTRIAL INSURANCE ACT, OTHER WORKERS' COMPENSATION ACT, DISABILITY BENEFIT ACT, OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION WHICH WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH A CLAIM.**

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- 11.2 Except as expressly provided herein, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, ANY LOSS OF USE, LOSS OF BUSINESS OR LOSS OF PROFIT; provided, however, there shall be no limitation on a party's liability to the other for any fines or penalties imposed on the other party by any court of competent jurisdiction or federal, state or local administrative agency resulting from the failure of the party to comply with any term or condition of this Contract or any valid and applicable law, rule or regulation.
- 11.3 FOR ANY WORK PERFORMED IN ARIZONA, IDAHO, SOUTH DAKOTA, UTAH OR WASHINGTON, SECTION 11(6) SHALL NOT EXTEND TO THE SOLE NEGLIGENCE OF QWEST BUT SHALL EXTEND TO THE NEGLIGENCE OF QWEST WHEN CONCURRENT WITH THAT OF THE CLEC.
- 11.4 FOR ANY WORK PERFORMED IN THE STATES OF MINNESOTA, NEBRASKA, NEW MEXICO, OR OREGON, ARTICLE 11 SHALL NOT APPLY, EXCEPT THAT SECTION 11 SHALL APPLY FOR WORK PERFORMED IN MINNESOTA FOR MAINTENANCE OR REPAIR OF MACHINERY, EQUIPMENT, OR OTHER SUCH DEVICES, USED AS PART OF A MANUFACTURING, COVERING, OR OTHER PRODUCTION PROCESS INDULGING ELECTRIC, GAS, STEAM, AND TELEPHONE UTILITY EQUIPMENT USED FOR PRODUCTION, TRANSMISSION, OR DISTRIBUTION PURPOSES.

## 12. FORCE MAJEURE

- 12.1 The CLEC shall be excused from its performance as to any Order if prevented by acts or events beyond the CLEC's reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.
- 12.2 If such contingency occurs, Qwest may elect:
- 12.2.1 To terminate this Agreement as to the Order in question; or
  - 12.2.2 To terminate already-assigned specific work assignment(s) the CLEC is unable to perform, or any part thereof, and to assign new specific work assignments to other parties for the duration of the cause of the delay; or
  - 12.2.3 To suspend already-assigned specific work assignment(s) the CLEC is unable to perform, or any part thereof, for the duration of the cause of the delay; and to assign new specific work assignments to other parties for the duration of the cause of the delay.
- 12.3 Qwest shall be deemed to have elected Section 12.2.3 above unless written notice of termination is given by Qwest after the contingency occurs. With respect to Qwest's election of Section 12.2.3 above:
- 12.3.1 Qwest shall give the CLEC written notice of the work to be performed by such other party prior to its performance and shall deduct from the CLEC's price the cost of the work or services actually performed by such other parties.

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12.3.2 The CLEC shall resume performance, and complete any work not performed or to be performed by another party, once the delaying cause ceases.

12.3.3 If appropriate, at the Qwest's discretion, the time for completion of specific work assignment(s) shall be extended up to the length of time the contingency endured.

12.4 Qwest shall be excused from its performance if prevented by acts or events beyond the Qwest's reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.

### 13. DISPUTE RESOLUTION.

13.1. Other than those claims over which a regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.

13.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

13.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.

13.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

14. **LAWFULNESS.** This Agreement and the parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. This Agreement shall be governed by the laws of the state where Poles/Innerduct is provided. Nothing contained herein shall substitute for or be deemed a waiver of the parties' respective rights and obligations under applicable federal, state and local laws, regulations and guidelines, including (without limitation) Section 224 of the Communications Act of 1934, as amended (47 U.S.C. 224). The CLEC represents that it is a certified Competitive Local Exchange Carrier or otherwise has the legal right, pursuant to 47 U.S.C. 224 to attach to Qwest's pole pursuant to the terms thereof. The CLEC acknowledges that Qwest will rely on the foregoing representation, and that if such representation is not accurate, this Agreement shall be deemed void *ab initio*, except for Article 9 hereof, for which CLEC shall remain fully liable.

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15. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.
16. **GENERAL PROVISIONS.**
  - 16.1 Failure or delay by either party to exercise any right, power, or privilege hereunder, shall not operate as a waiver hereto.
  - 16.2 This Agreement shall not be assignable by CLEC without the express written consent of Qwest, which shall not be unreasonably withheld. Assignment of this Agreement by CLEC to CLEC's subsidiary or affiliate shall be presumed to be reasonable; provided, however, that CLEC must obtain Qwest's consent in any event.
  - 16.3 This Agreement benefits CLEC and Qwest. There are no third party beneficiaries.
  - 16.4 This Agreement constitutes the entire understanding between CLEC and Qwest with respect to Service provided herein and supersedes any prior agreements or understandings.



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EXHIBIT A

PULLING IN REPORT

This report is to be completed by the CLEC when fiber cable is placed into innerduct.

\_\_\_\_\_ 20\_\_

Send to:

Manager, Qwest Corp  
700 W Mineral, Rm IAF12  
Littleton, CO 80120 (303-707-7598)

This is to advise you that pursuant to General Agreement No. \_\_\_\_\_ granted to us under the terms of the Innerduct Agreement dated \_\_\_\_\_, 20\_\_ we have completed installation of the following cable into the following ducts.

Municipality

Location		
<u>From</u>	<u>To</u>	<u>Cable and</u>
<u>Manhole at</u>	<u>Manhole at</u>	<u>Equipment Installed</u>

\_\_\_\_\_  
Name of CLEC  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

Receipt of the above report is hereby acknowledged \_\_\_\_\_, 20\_\_.

Qwest Corporation  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

1. Reports shall be submitted in duplicate.
2. A complete description of all facilities shall be given, including a print showing the locations, quantities, sizes and types of all cables and equipment.
3. Sketch to be furnished showing duct used. Must be same duct assigned to Licensee by Licensor as shown on Exhibit \_\_\_\_, unless a change has been previously authorized in writing by Licensor.



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EXHIBIT C

**NOTIFICATION OF SURRENDER OR MODIFICATION  
OF POLE ATTACHMENT ORDER BY CLEC**

CLEC: \_\_\_\_\_

Return to:

Manager, Qwest Corp  
700 W Mineral, Rm IAF12  
Littleton, CO 80120

In accordance with the terms and conditions of the Agreement between Qwest and CLEC, dated \_\_\_\_\_, 20\_\_, notice is hereby given that the licenses covering attachments to the following poles and/or anchors, and/or utilization of anchor/guy strand is surrendered (or modified as indicated in CLEC's prior notification to Qwest, dated \_\_\_\_\_, 20\_\_) effective \_\_\_\_\_.

	POLE NO.	ASSOC. POLE NO.	LIC. NO. & DATE	SURRENDER OR MODIFICATION	DATE FAC. RMVD OR MODIFIED
1.		A A/GS -			
2.		A A/GS -			
3.		A A/GS -			
4.		A A/GS -			
5.		A A/GS -			
6.		A A/GS -			
7.		A A/GS -			
8.		A A/GS -			
9.		A A/GS -			

Date Notification Received \_\_\_\_\_

Date Modification Received \_\_\_\_\_

By: \_\_\_\_\_

Name of CLEC

Discontinued:

By: \_\_\_\_\_

Poles \_\_\_\_\_

Anchors \_\_\_\_\_

Anchor/Guy Strands \_\_\_\_\_ lts: \_\_\_\_\_

\_\_\_\_\_



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with such Person, together with its and their respective members, partners, venturers, directors, officers, stockholders, agents, employees and spouses. A Person shall be presumed to have control when it possesses the power, directly or indirectly, to direct, or cause the direction of, the management or policies of another Person, whether through ownership of voting securities, by contract, or otherwise. "Person" means an individual, partnership, limited liability company, association, corporation or other entity.

2. Grantor's Reserved Rights. Grantor reserves to itself and its Authorized Users the right to use the Easement Rights for any purpose not incompatible with the rights conveyed to Grantee by this Agreement.

3. Conditions Precedent to Effectiveness of Agreement. This Agreement is expressly conditioned on the following:

a. Recordation of Agreement. If the Right-of-Way Agreement has been publicly recorded, Grantee shall be responsible for assuring that the Agreement is in appropriate form for recording in the real property records of the County, shall pay for the recording thereof, and shall provide a copy of the recorded Agreement to Grantor at the address set forth above. A legible copy of the Right of Way Agreement must be attached to the Agreement when recorded or the Agreement shall not be effective.

b. Payment of Costs and Expenses. Grantee shall pay to or reimburse Grantor for all costs and expenses, including reasonable attorneys' fees, relating to Grantor's execution and delivery of this Agreement.

4. Grantee's Representations and Warranties. Grantee represents and warrants to Grantor that:

a. Authority. Grantee is a \_\_\_\_\_, duly formed and validly existing under the laws of the State of \_\_\_\_\_. All necessary action has been taken by Grantee to execute and deliver this Agreement and to perform the obligations set forth hereunder. Grantee is a "telecommunications carrier" as that term is defined in 42 U.S.C. § 224.

b. Due Diligence. Grantee acknowledges and agrees that neither Grantor nor any agent, employee, attorney, or representative of Grantor has made any statements, agreements, promises, assurances, representations, or warranties, whether in this Agreement or otherwise and whether express or implied, regarding the Right of Way Agreement or the Easement Rights or the assignability or further granting thereof, or title to or the environmental or other condition of the Property. Grantee further acknowledges and agrees that Grantee has examined and investigated to its full satisfaction the physical nature and condition of the Property and the Easement Rights and that it is acquiring the Easement Rights in an "AS IS, WHERE IS" condition. Grantee expressly waives all claims for damages by reason of any statement, representation, warranty, assurance, promise or agreement made, if any.

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### 5. Grantee's Covenants.

a. Compliance with Right of Way Agreement. Grantee agrees that the rights granted by Grantor hereunder are expressly subject to, subordinate to, and limited by the Right of Way Agreement, and Grantee further agrees to comply in all respects with the terms and conditions of the Right of Way Agreement as they apply to the holder or user of the Easement Rights. In the event Grantee fails to observe or perform any of its obligations under the Right of Way Agreement, Grantor shall have the right, but not the obligation, to perform or observe such obligation to the extent that such obligation can be observed or performed by Grantor.

b. Compliance with Laws. Grantee agrees to use the Property and the Easement Rights in compliance with all applicable laws.

c. No Further Grant. Grantee shall not grant to any Person other than Grantee's Authorized Users the right to use the Easement Rights without the prior written consent of Grantor, which consent may be granted or withheld in Grantor's sole discretion.

d. Non-Interference. Grantee agrees that it will not interfere with Grantor's or Grantor's Authorized Users' use of the Easement Rights and will not take any action or fail to take any action that would negatively affect the Easement Rights or cause or contribute to the termination of the Right of Way Agreement.

6. Indemnification. Grantee hereby agrees to indemnify, defend and hold Owner, Grantor and their respective Affiliates harmless from and against any and all claims, judgments, damages, liabilities, penalties, fines, suits, causes of action, costs of settlement, and expenses (including, without limitation, reasonable attorneys' fees) which may be imposed upon or incurred by Grantor or its Authorized Users, or any of them, arising from, relating to or caused by Grantee's breach of this Agreement or the use, or the use by any of Grantee's Authorized Users, of the Easement Rights. In addition to the indemnity obligations described above, in the event that any act or omission of Grantee or Grantee's Authorized Users causes, directly or indirectly, and without reference to any act or omission of Owner, Grantor or their respective Authorized users, the termination or revocation of the Easement Rights, Grantee shall be liable to Grantor for all costs incurred in connection with (a) acquiring replacement Easement Rights over the Property or over other suitable Property, as determined in Grantor's sole judgment (the "Replacement Easement"), (b) the fully-loaded cost of constructing replacement facilities over the Replacement Easement, (c) the cost of removing its facilities and personal property from the Property, if required by the Right of Way Agreement, and (d) any other costs of complying with the Right of Way Agreement, including, without limitation, reasonable attorneys' fees. Grantee shall pay all such amounts within ten (10) days of receipt of any invoice for such costs delivered to Grantee by Owner, Grantor or their respective Authorized Users.

7. Condemnation. If any action is taken whereby the Right of Way Agreement or any part of the Easement Rights are terminated, relocated or otherwise affected, by any taking or partial taking by a governmental authority or otherwise, then such any compensation due or to be paid to the holder of the Easement Rights due to such occurrence shall belong solely to Grantor.

8. Severable Provisions. If any term of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

9. Default; Remedies. (a) If Grantee files a petition in bankruptcy, or a petition in bankruptcy is filed against Grantee, which is not dismissed on or before fifteen (15) days after such filing, or (b) in the event of Grantee's breach or threatened breach of any term, covenant or condition of this Agreement, then Grantor shall have, in addition to all other legal and equitable remedies, the right to (x) terminate this Agreement, (y) enforce the provisions hereof by the equitable remedy of specific performance, or (z)

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enjoin such breach or threatened breach by injunctive action, all without the necessity of proof of actual damages or inadequacy of any legal remedy. Grantee agrees to pay all costs of enforcement of the obligations of Grantee hereunder, including reasonable attorneys' fees and all costs of suit, in case it becomes necessary for Grantor to enforce the obligations of Grantee hereunder, whether suit be brought or not, and whether through courts of original jurisdiction, as well as in courts of appellate jurisdiction, or through a bankruptcy court or other legal proceedings.

10. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be assigned at any time in whole or in part by Grantor.

11. No Dedication. Nothing contained in this Agreement shall constitute a gift or dedication of any portion of the Easement Rights to the general public or for any public purpose whatsoever. There are no intended third-party beneficiaries to this Agreement.

12. Grantor's Waiver of Confidentiality. If the Right of Way Agreement is not publicly recorded, Grantor hereby grants a limited waiver of any right to keep the terms and conditions of the Right of Way Agreement confidential, except for any dollar amounts in the Right of Way Agreement, which rights Grantor expressly reserves, and subject to Grantee's and Owner's compliance with the terms and conditions in this paragraph. In all instances, Grantee will use the Right of Way Agreement only for the following purposes: (a) to determine whether Grantor has ownership or control over duct, conduits, or rights-of-way within the property described in the Right of Way Agreement; (b) to determine the ownership of wire within the property described in the Right of Way agreement; (c) to determine the demarcation point between Grantor facilities and the Owner's facilities in the property described in the agreement; (d) to determine the legal description of any property interest of a third-party owner, including any metes and bounds of the property; (e) to determine the term of the agreement; and (f) to determine the parties to the agreement. Grantee further agrees that Grantee shall not disclose the contents, terms, or conditions of any agreement provided pursuant to Section 10.8 of the SGAT or Section 2.1 of the General Information Document applicable to Grantee's request for access to any Grantee agents or employees engaged in sales, marketing, or product management efforts on behalf of Grantee. Grantor's waiver of rights, subject to the limitations set forth above, is intended to be effective whether or not such right to confidentiality is expressly set forth in the Right of Way Agreement or elsewhere or may have been agreed to orally, and so long as Grantee and Owner comply with the conditions set forth above, Grantor further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Owner or Grantee, based upon or arising out of Grantor's alleged right to confidentiality relating to the Right of Way Agreement, except in the event of disclosure of dollar amounts in the Right of Way Agreement. Grantor's waiver is expressly conditioned on compliance with the terms and conditions in Section 2.1 of the General Information Document applicable to Grantee's request for access or Section 10.8.2.27 of the SGAT. If under the terms of Section 2.1 of the General Information Document or 10.8.2.27.2 of the SGAT, CLEC elects to obtain the consent of Owner to disclosure of the Right of Way Agreement, and the person executing the Consent to Disclosure form does not have the legal right to bind the Owner, Grantor reserves the right to maintain an action for damages, including, without limitation, consequential damages, arising from such improper execution against any Person improperly executing the Consent to Disclosure form. In any event, Grantor reserves its right to (a) to enforce the confidentiality provisions of the Right of Way Agreement as to any dollar amounts set forth in such Right of Way Agreements, and/or (b) to maintain an action for damages, including, without limitation, consequential damages, arising from the disclosure of the dollar amounts in any Right of Way Agreement, against any party, including, without limitation, against Grantee or against any Person improperly executing the Consent to Disclosure form.

13. Notices. All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an

## SGAT Exhibit D

overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.

14. Modification; Counterparts. This Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by an instrument in writing and signed by the party against whom enforcement of any amendment, modification, change or waiver is sought. This Agreement may be executed in any number of counterparts, all of which shall constitute but one and the same document.

15. Controlling Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

16. Waiver of Jury Trial. **THE PARTIES HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT OF APPLICABLE LAW, ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

**[Signature pages follow]**

**SGAT Exhibit D**

**EXECUTED** as of the date first written above.

**GRANTOR:**

Witnessed by: \_\_\_\_\_

QWEST CORPORATION, a Colorado corporation,  
successor in interest to  
U S WEST COMMUNICATIONS, INC.,  
a Colorado corporation

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss:

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_ as  
\_\_\_\_\_ of QWEST CORPORATION, a Colorado  
corporation.

Witness my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**SGAT Exhibit D**

**EXECUTED** as of the date first written above.

**GRANTEE:**

Witnessed by: \_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

STATE OF \_\_\_\_\_ )

) ss:

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_,  
20\_\_\_, by \_\_\_\_\_ as  
\_\_\_\_\_ of \_\_\_\_\_,  
a \_\_\_\_\_.

Witness my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## SGAT Exhibit D

### CONSENT TO DISCLOSURE

THE UNDERSIGNED, \_\_\_\_\_, a \_\_\_\_\_ ("Owner"), whose address is \_\_\_\_\_, hereby consents to the terms of the following paragraphs regarding the agreement described or entitled as \_\_\_\_\_ between Qwest Corporation, formerly U S WEST Communications, Inc. ("Qwest") and Owner for the property located at \_\_\_\_\_ ("Property") that provides Qwest with access to Owner's Property (the "Agreement").

**FOR TEN DOLLARS (\$10)** and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner agrees as follows:

1. Title to Property. Owner represents and warrants either (a) that Owner is the owner of fee title to the Property described in the Agreement or, if no description of the Property is given in the Agreement, then (b) that Owner is the grantor, or the successor to or assignee of the grantor, of the easement rights, if any, under the Agreement. Owner further represents and warrants that Owner has the legal right to execute this Consent to Disclosure, including, without limitation, the right to waive the confidentiality of the Agreement as set forth in paragraph 3 of this Consent to Disclosure.
2. Owner's Acknowledgments. Owner expressly acknowledges that (a) this is a legal document that may affect Owner's rights and Owner was given the opportunity to have the Agreement and this Consent to Disclosure reviewed by Owner's attorney; and (b) Owner, by signing this Consent to Disclosure, waives any rights it may have to keep the terms and provisions of the Agreement confidential.
3. Owner's Waiver of Confidentiality. Owner hereby waives any right it may have to keep the terms and conditions of the Agreement confidential, whether or not such right to confidentiality is expressly set forth in the Agreement or elsewhere or may have been agreed to orally, subject to the compliance of the competitive local exchange carrier ("CLEC") with the requirements of paragraph 5. Owner further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Qwest or CLEC presenting this Consent to Disclosure, based upon or arising out of Owner's alleged right to confidentiality relating to the Agreement. Owner's consent to disclosure applies only to the Agreement that is described in this Consent to Disclosure form and only to the undersigned CLEC.
4. Qwest's Waiver of Confidentiality. Qwest represents and warrants that it is granting a limited waiver of its confidentiality rights that permits CLEC to review the Agreement subject to CLEC's compliance with the requirements of paragraph 5 and Qwest's right to redact all dollar amounts set forth in the Agreement. Qwest's consent to disclosure applies only to the Agreement that is described in this Consent to Disclosure form and only to the undersigned CLEC.
5. CLEC's Obligations. CLEC shall use the Agreement exclusively for the following purposes and for no other purpose whatsoever:
  - (a) to determine whether Qwest has ownership or control over duct, conduits, or rights-of-way within the Property described in the Agreement; or
  - (b) to determine the ownership of wire within the Property described in the Agreement; or
  - (c) to determine the demarcation point between Qwest facilities and the Owner's facilities in the Property described in the Agreement; or

**SGAT Exhibit D**

- (d) to determine the legal description of any property interest of a third-party owner, including any metes and bounds of the property; or
- (e) to determine the term of the Agreement; or
- (f) to determine the parties to the Agreement.

CLEC further agrees that CLEC shall not disclose the contents, terms, or conditions of the Agreement to any CLEC agents or employees engaged in sales, marketing, or product management efforts on behalf of CLEC.

**6. Acknowledgement of Limitation on Waivers. Owner understands that Qwest does not agree to waive the confidentiality of the dollar amounts set forth in any Agreement, and acknowledges that Owner has no right to provide copies of such Agreements to any party unless Owner has completely deleted the dollar amounts. Owner shall not provide a copy of the Agreement unless Owner has completely deleted all dollar amounts. Whether provided by Owner or Qwest, CLEC shall comply with the conditions set forth in paragraph 5.**

**7. Notices. All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.**

**EXECUTED** as of the date first written above.

**OWNER:**

\_\_\_\_\_

**CLEC:**

\_\_\_\_\_

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**ATTACHMENT 5**

**FORM PROTECTIVE AGREEMENT**

WHEREAS, Qwest Corporation ("Qwest") and \_\_\_\_\_ agree that the execution of a protective agreement will expedite and facilitate competitive local exchange carrier ("CLEC") access to provisions of non-recorded right-of-way agreements (as that term is defined in the Statement of Generally Available Terms and Conditions), including agreements relating to multiple tenant environments ("MTEs"), between Qwest and third-party property owners in \_\_\_\_\_;

AND, WHEREAS, this Protective Agreement does not affect the access to publicly recorded landowner agreements, which Qwest has agreed to provide to CLECs.

NOW, THEREFORE, IT IS HEREBY AGREED, that:

1. (a) Confidential Information. All documents, data, information, studies, and other materials relating to non-recorded MTE right-of-way agreements between Qwest and third-party property owners in \_\_\_\_\_ furnished or made available pursuant to a CLEC's request shall be furnished pursuant to the terms of this Agreement, and shall be treated by all persons accorded access thereto pursuant to this Agreement as constituting trade secret, confidential commercial, and financial information (hereinafter referred to as "Confidential Information"), and shall neither be used nor disclosed except for the purposes of:

- (a) the ownership or control over ducts, conduits, or rights-of-way within the property described in the agreement, including provisions which define the scope of Qwest's ownership or control of the ducts, conduits or rights-of-way;
- (b) the ownership of wire within the property described in the agreement;
- (c) the demarcation point between Qwest facilities and the property owner's facilities in the property described in the agreement;
- (d) to the extent the agreement affects any property interest of a third-party owner, any provision(s) that describe the property, including any metes and bound or other legal description of the property;
- (e) the term of the agreement; and
- (f) the parties to the agreement.

All material claimed to be Confidential Information shall be so marked by the party or its affiliates by stamping each individual page with the designation, "CONFIDENTIAL – SUBJECT TO PROTECTIVE AGREEMENT." All copies of documents so marked will be made on yellow paper. For purposes hereof, notes made pertaining to or as the result of a review of Confidential Information shall be considered Confidential Information and subject to the terms of this Agreement. Parties filing electronically should file both a confidential and non-confidential version clearly marked as such.

(b) Use of Confidential Information and Persons Entitled to Review. All Confidential Information made available pursuant to this Agreement shall be given solely to CLEC employees with responsibility for network planning, engineering, and construction and shall not be used or disclosed except for the purposes set forth above. In no event shall the Confidential Information be made available to persons

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employed by the parties who could use the information in their normal job functions to the competitive disadvantage of the party providing the Confidential Information.

(c) Nondisclosure Agreement. Prior to giving access to Confidential Information as contemplated in paragraph 1(b) above, counsel for the party seeking review of the Confidential Information shall deliver a copy of this Agreement to such person, and prior to disclosure such person shall agree in writing to comply with and be bound by this Agreement. Confidential Information shall not be disclosed to any person who has not signed a Nondisclosure Agreement in the form which is attached hereto and incorporated herein as Appendix A. The Nondisclosure Agreement (Appendix A) shall require the person to whom disclosure is to be made to read a copy of this Protective Agreement and to certify in writing that he or she has reviewed the same and has consented to be bound by its terms. The agreement shall contain the signatory's full name, permanent address and employer, and the name of the party with whom the signatory is associated. Such agreement shall be delivered to counsel for the providing party prior to the person gaining access to the Confidential Information.

2. (a) Use in Pleadings. Where reference to Confidential Information is required in pleadings, examinations, cross-examinations, briefs, arguments, or motions, it shall be by citation of title or some other nonconfidential description. Any further use of or substantive references to Confidential Information shall be placed in a separate section of the pleading or brief and submitted to a state commission, any court, or in arbitration or mediation proceedings under seal. This sealed section shall be served only on counsel of record (one copy each), who have signed a Nondisclosure Agreement. All the protections afforded in this Agreement apply to materials prepared and distributed under this paragraph.

(b) Receipt into Evidence. At least ten (10) days prior to the use of or substantive reference to any Confidential Information as evidence in any proceeding, the party intending to use such Confidential Information shall make that intention known to the providing party. The requesting party and the providing party shall make a good faith effort to reach an agreement so the information can be used in a manner which will not reveal its trade secret, confidential, or proprietary nature. If such efforts fail, the providing party shall separately identify, within five (5) business days, which portions, if any, of the documents to be offered or referenced on the record containing Confidential Information shall be placed in the sealed record. Only one (1) copy of documents designated by the providing party to be placed in the sealed record shall be made and only for that purpose. Otherwise, parties shall make only general references to Confidential Information.

(c) Seal. While in the custody of a state commission, any court, or in arbitration or mediation, these materials shall be marked "CONFIDENTIAL – SUBJECT TO PROTECTIVE AGREEMENT," and due to their trade secret nature they shall not be considered as records in the possession of or retained by a state commission, any court, or in arbitration or mediation proceedings within the meaning of any open meetings or public records statutes.

(d) In Camera Hearing. Any Confidential Information which must be orally disclosed to be placed in the sealed record in a proceeding shall be offered in an *in camera* hearing, attended only by persons authorized to have access to the Confidential Information under this Agreement. Similarly, cross-examination on or making substantive reference to Confidential Information, as well as that portion of the record containing references thereto, shall be marked and treated as provided herein.

(e) Appeal. Sealed portions of the record in any proceeding may be forwarded to any court of competent jurisdiction on appeal in accordance with applicable rules and regulations, but under seal as designated herein for the information and use of the court.

(f) Return. Unless otherwise ordered, Confidential Information, including transcripts of any depositions to which a claim of confidentiality is made, shall remain under seal, shall continue to be

**SGAT Exhibit D**

subject to the protective requirements of this Agreement, and shall be returned to counsel for the providing party within 90 days of receipt of the Confidential Information.

3. Segregation of Files. Those parts of any writing, depositions reduced to writing, written examination, interrogatories, and answers thereto, or other written references to Confidential Information in the course of discovery, if filed with a state commission, any court, or in arbitration or mediation proceedings will be sealed, segregated in the files, and withheld from inspection by any person not bound by the terms of this Agreement, unless such Confidential Information is released from the restrictions of this Agreement either through agreement of the parties or, after notice to the parties and hearing, pursuant to an order of a state commission and/or final order of a court having jurisdiction.

4. Preservation of Confidentiality. All persons who may be entitled to receive, or who are afforded access to any Confidential Information by reason of this Agreement, shall neither use nor disclose the Confidential Information for purposes of business or competition, or any other purpose other than the purposes of preparation for and conduct of this proceeding, and then solely as contemplated herein, and shall take reasonable precautions to keep the Confidential Information secure and in accordance with the purposes and intent of this Agreement.

5. Reservation of Rights. The parties affected by the terms of this Protective Agreement retain the right to question, challenge, and object to the admissibility of any and all data, information, studies, and other matters furnished under the terms of this Protective Agreement in response to interrogatories, requests for information or cross-examination on the grounds of relevancy or materiality. This Agreement shall in no way constitute any waiver of the rights of any party to contest any assertion by a party or finding by a state commission, any court, or in arbitration or mediation proceedings that any information is a trade secret, confidential, or privileged, and to appeal any assertion or finding.

EXECUTED this \_\_\_ day of \_\_\_, \_\_\_\_\_.

***[Signature pages follow]***

**APPENDIX A TO PROTECTIVE AGREEMENT**

I have reviewed the foregoing Protective Agreement with respect to the review and use of Confidential Information (as defined therein) and agree to comply with the terms and conditions of the Protective Agreement.

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

Name (type or print): \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**SGAT Exhibit D**

Employer or Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Party Represented: \_\_\_\_\_

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

**SGAT Exhibit D**

**EXHIBIT 1**

**Right of Way Agreement**

(This represents the ROW agreement between the Co-Provider and the property owner)

**EXHIBIT E**

**VERTICAL SWITCH FEATURES FOR UNE-SWITCHING**

**USOC FOR  
FEATURE**

**Feature Description**

<b>3BL</b>	3-Way Call Block
<b>3CW</b>	Call Transfer – Trunk Side
<b>53W</b>	Open Switch Interval Protection
<b>69B1X</b>	Call Forwarding - Busy Line
<b>69D</b>	Call Pick-up Directed
<b>69H</b>	Call Forwarding - Don't Answer
<b>69J</b>	Call Forwarding - Busy Line
<b>6APPK</b>	Call Hold
<b>6MD</b>	Barge-In
<b>6SY</b>	Call Waiting Terminating
<b>6SZ</b>	Call Waiting Originating
<b>9FK</b>	Secretarial Listing
<b>A6PPK</b>	Additional Primary Directory Number, Per PDN
<b>A6QPN</b>	Additional Secondary Directory Number*
<b>ACS</b>	Additional Call Appearances, Per Appearance
<b>AR5</b>	ARS Patterns Per Facility Terminating In Patterns
<b>ARS-B</b>	Automatic Route Selection, Common Equip
<b>AS9</b>	Additional Shared Call Appearance, Per Appearance
<b>AYK</b>	Class Anonymous Call Rejection
<b>B2DPK</b>	Automatic Dial
<b>BOV</b>	Executive Busy Override
<b>C4Z</b>	Call Park
<b>CLT</b>	Additional Directory Listing
<b>CMD</b>	Customer Dialed Account Recording
<b>CTP</b>	Call Transfer - All Calls
<b>CV9</b>	Call Forwarding – Variable
<b>CXT</b>	Remote Access Service
<b>D06</b>	Secondary DN
<b>D08</b>	Multiple Shared Call Appearances Of A DN
<b>DAL</b>	Foreign Listing
<b>DHA</b>	Distinctive Alert
<b>DMA</b>	Directed Call Pick-up - Per Line, Barge-In
<b>DO6</b>	Secondary Directory Number
<b>DO8</b>	Shared Directory Number
<b>DPB</b>	Directed Call Pick-up - Per System
<b>E1N</b>	Intracall
<b>E3D</b>	Speed Call
<b>E3F</b>	Speed Calling – 30 Per Line Accessing List
<b>E3P</b>	Call Pick-up
<b>E3PPK</b>	Call Pick-up

**EXHIBIT E**

**VERTICAL SWITCH FEATURES FOR UNE-SWITCHING**

<b>E62</b>	Call Waiting Dial Originating
<b>E6D</b>	Directed Call Pick-up - Per Line, Non Barge-In
<b>E6G</b>	Call Forwarding – Busy Restricted
<b>E6GUR</b>	Call Forwarding – Busy Unrestricted
<b>E6N</b>	Call Waiting – Intragroup, Per Line Equipped
<b>E8C</b>	Speed Calling 8#
<b>E9G</b>	Call Forwarding - Don't Answer Restricted
<b>E9GUR</b>	Call Forwarding - Don't Answer Unrestricted
<b>EAB</b>	Call Hold
<b>EAT</b>	Call Forwarding - Variable
<b>EBR</b>	Attendant Camp-On And Indication Of Camp-On
<b>EGR</b>	Group Use Service
<b>EH6</b>	Multiline Hunt Group - Circular Hunt
<b>EH8</b>	Multiline Hunt Group - Preferential List Hunt - First Line – Equipped
<b>EH9</b>	Multiline Hunt Group - Preferential List Hunt Additional Line – Equipped
<b>EO3</b>	Call Transfer
<b>ERB</b>	Call Forward Busy - Cust Activate
<b>ERD</b>	Call Forward Don't Answer - Cust Activate
<b>ESC</b>	3-Way
<b>ESH</b>	Convenience Dialing - Shared User
<b>ESHT3</b>	Speed Calling - 30 Per List
<b>ESHT6</b>	Speed Calling - 6 Per List
<b>ESM</b>	Call Forward Variable
<b>EST</b>	Speed Calling - 6 Per Line Accessing List
<b>ESX</b>	Call Waiting
<b>ESZ</b>	Call Waiting – Originating
<b>ETD</b>	Call Diversion
<b>ETG</b>	Call Restriction
<b>ETQP/BLF</b>	Direct Station Selection/Busy Lamp Field
<b>ETQP/GIC</b>	Group Intercom All Calls
<b>ETQP/MWI</b>	Message Center Bus Set
<b>EVB</b>	Call Forward Busy – Programmed
<b>EVBHG</b>	Call Forward Busy - Per Hunt Group
<b>EVD</b>	Call Forward Don't Answer – Programmed
<b>EVDHG</b>	Call Forward Don't Answer - Per Hunt Group
<b>EVF</b>	Call Forward Busy Line Don't Answer, Forward To Outside Number
<b>EVFHG</b>	Call Forward Busy Line Don't Answer, Forward To Outside Number, Per Hunt Group
<b>EVK</b>	Call Forward Busy Line Don't Answer, Overflow

**EXHIBIT E**

**VERTICAL SWITCH FEATURES FOR UNE-SWITCHING**

<b>EVKHG</b>	Call Forward Busy Line Don't Answer, Overflow, Per Hunt Group
<b>EVO</b>	Call Forward Busy Line, Overflow
<b>EVOHG</b>	Call Forward Busy Line, Overflow - Per Hunt Group
<b>EY3PS</b>	Network Speed Call
<b>FAL</b>	Additional Listing In Another Directory
<b>FBJ</b>	Call Forward, Busy Line – Expanded
<b>FBJHG</b>	Call Forward, Busy Line – Expanded - Per Hunt Group
<b>FCU/FCY</b>	Call Forwarding-Programmable
<b>FDJ</b>	Call Forward, Don't Answer – Expanded
<b>FDJHG</b>	Call Forward, Don't Answer – Expanded - Per Hunt Group
<b>FGDPN</b>	Secondary Directory Number, Per SDN
<b>FID LNR after line USOC</b>	Last Number Redial
<b>FID MSB after line USOC</b>	Make Set Busy
<b>FID NDT after line USOC</b>	Data Call Protection
<b>FID PRK after line USOC</b>	Call Park
<b>FKAPN</b>	Continuous Redial, Per PDN
<b>FKDPN</b>	Last Call Return, Per PDN
<b>FKEPN</b>	Selective Call Forwarding, Per PDN
<b>FKQPN</b>	Call Rejection, Per PDN
<b>FNA</b>	Alternate Call Listing
<b>FOQ</b>	Call Forwarding Without Call Completion
<b>FVJ</b>	Call Forwarding Busy Line/Don't Answer Interoffice
<b>FVJHG</b>	Call Forwarding Busy Line/Don't Answer Interoffice - Per Hunt Group
<b>G5BPN</b>	X.25 Reverse Charge Acceptance, Per Number
<b>GFDPN</b>	Packet Switched Data Including One X.25 Logical Channel
<b>GSVPK</b>	X.25 Throughput Class Negotiation
<b>GVJ</b>	Speed Calling - 1 & 2 Digit List
<b>GVT</b>	6-Way
<b>GVV</b>	Speed Calling - 1 & 2 Digit List
<b>GVZ</b>	Speed Calling - 1 & 2 Digit List
<b>GXEPN</b>	X.25 Fast Select Acceptance, Per Number
<b>GXGPK</b>	X.25 Flow Control Parameter Negotiation
<b>H6U</b>	Hunting – UCD - Data
<b>H6UPG</b>	Hunting – UCD - Data - Per Group
<b>HBS</b>	Last Call Return Block
<b>HCKPG</b>	Circular Hunting - Per Group
<b>HDT</b>	Hunting - Circular – Data
<b>HDTPG</b>	Hunting - Circular - Data - Per Group
<b>HLA</b>	Hot Line
<b>HSHP</b>	Preferential Hunting
<b>HSO</b>	Series Completion Per Each TN Hunted To

**EXHIBIT E**

**VERTICAL SWITCH FEATURES FOR UNE-SWITCHING**

<b>HTG</b>	Hunting Feature
<b>HX2</b>	Call Waiting Terminating
<b>JUL</b>	Joint User Listing
<b>KX9</b>	Toll Restriction
<b>LBN</b>	Caller Id LIDB Listing
<b>M1W</b>	Message Waiting Indicator Audible/Visible
<b>MAZ</b>	Analog Call Appearance
<b>MGN</b>	Audible Message Waiting Service
<b>MJJPk</b>	Conference Calling Meet Me
<b>MO9PK</b>	Conference Calling Preset
<b>MUMHT</b>	Centrex Billing; Network Access Register Sharing Capability
<b>MV5</b>	Visual Message Waiting Service
<b>N13</b>	Call Transfer/Three Way
<b>N2D</b>	Hunting - Sequential - Data
<b>N2DPG</b>	Hunting - Sequential - Data - Per Group
<b>N3CPB</b>	Non-Standard Configuration Group, Per Button
<b>NAE</b>	Shared Call Appearance, Per Appearance
<b>NBWPn</b>	Message Waiting Indication, Per PDN
<b>NC8PN</b>	Priority Call, Per PDN
<b>NCE</b>	Class Selective Call Forwarding
<b>NDD</b>	Caller ID Blocking-All Calls, Per PDN
<b>NDK</b>	Automatic Identified Outward Dialing
<b>NF4VC</b>	Calling Number Id Feature Package
<b>NF4VF</b>	Flexible Calling Feature Package
<b>NGQ</b>	Did Sequential Number Block
<b>NGS</b>	20 Sequential DID Numbers
<b>NHGPG</b>	Key Short Hunt, Per Group
<b>NHGPN</b>	Key Short Hunt, Per Number
<b>NHN</b>	Each DID Number
<b>NHNRN</b>	Each DID Reserved
<b>NJEPN</b>	Call Forwarding Variable-All Calls-Voice, Per DN
<b>NJGPN</b>	Call Forwarding Busy Line-All Calls-Voice, Per DN
<b>NJKPN</b>	Call Forwarding Don't Answer-All Calls-Voice, Per DN
<b>NKM</b>	Class Calling Number Delivery Blocking
<b>NKM</b>	Caller-ID Block Per Line
<b>NLT</b>	Non-Listed Service
<b>NM1PP</b>	Isdn Calling Name Delivery
<b>NMCPN</b>	Call Name Id, Per Number
<b>NN8PK</b>	Speed Calling (8), Per Terminal
<b>NNK</b>	CLASS Name /#
<b>NPU</b>	Non-Published Service
<b>NQ1PN</b>	Call Exclusion, Per DN

**EXHIBIT E**

**VERTICAL SWITCH FEATURES FOR UNE-SWITCHING**

<b>NQ2PN</b>	Call Forwarding Busy Line For Circuit-Switched Data
<b>NQMPN</b>	Call Forwarding Don't Answer For Circuit-Switched Data
<b>NRCJ1</b>	Call Forwarding - Outside
<b>NRCJ6</b>	Call Waiting – Intragroup, Per System
<b>NSD</b>	Caller Identification Number
<b>NSH</b>	Alternate Listing
<b>NSK</b>	Class Priority Call
<b>NSQ</b>	Class Last Call Return
<b>NSS</b>	Class Continuous Redial
<b>NSW</b>	No Solicitation Calls Directory Listing
<b>NSY</b>	Class Selective Call Rejection
<b>NTU</b>	Night Service (Trunk Answer Any Station)
<b>NU4PN</b>	Call Forwarding Variable-All Calls For Circuit Switched Data
<b>NW9AL</b>	Additional X.25 Logical Channel, Per Logical Channel
<b>NWT</b>	Flexible Calling Feature Package
<b>NXJPK</b>	Speed Calling (30), Per Terminal
<b>NZ6PK</b>	Six Way Conference, Per Terminal
<b>NZHPN</b>	Call Pick-up, Per Number
<b>NZQ</b>	Hunting – Sequential
<b>NZQPG</b>	Hunting – Sequential - Per Group
<b>NZS</b>	Hunting – Circular
<b>NZSPG</b>	Hunting – Circular - Per Group
<b>NZT</b>	Hunting – UCD
<b>NZTPG</b>	Hunting – UCD - Per Group
<b>NZVPG</b>	Intercom, Per Group
<b>OBK5X</b>	Optional Calling Plans*
<b>OTQ</b>	Outgoing Trunk Queuing
<b>PLC</b>	Code Calling
<b>PLS</b>	Advanced Private Line Termination
<b>RBVXC</b>	International Toll Block
<b>RD7PN</b>	Redirecting Number Delivery, Per Number
<b>REAGF</b>	Block Compromise Charge-Removal Of A TN From A Sequential Number Block
<b>REAGG</b>	Block Compromise Charge-Temporary Removal Of A TN From A Sequential Number Block
<b>REAGM</b>	Changing Number Of Digits Outpulsed, Per Change
<b>REAGN</b>	Changing Signaling, Per Change
<b>RGE</b>	Automatic Callback
<b>RGG1A</b>	Custom Ringing
<b>RGG1B</b>	Custom Ringing
<b>RGG1C</b>	Custom Ringing
<b>RGG2A</b>	Custom Ringing
<b>RGG2B</b>	Custom Ringing

**EXHIBIT E**

**VERTICAL SWITCH FEATURES FOR UNE-SWITCHING**

<b>RGG2C</b>	Custom Ringing
<b>RGG3A</b>	Custom Ringing
<b>RGG3B</b>	Custom Ringing
<b>RGG3C</b>	Custom Ringing
<b>RN4PP</b>	Isdn Redirecting Name Delivery
<b>RNCEP</b>	Easy Number
<b>RNN</b>	Distinctive Call Waiting Tone
<b>RTV1Q</b>	Toll Restriction – Billed Number Screening
<b>RTV1X</b>	Toll Restriction – Billed Number Screening
<b>RTV2Q</b>	Toll Restriction – Billed Number Screening
<b>RTV3Q</b>	Toll Restriction – Billed Number Screening
<b>RTV4Q</b>	Toll Restriction – Billed Number Screening
<b>RTVXN</b>	Restriction Of 976 Calls
<b>RTVXQ</b>	Toll Restriction – Billed Number Screening
<b>RTVXY</b>	10xxx Direct Dialed Blocking
<b>RTY</b>	Toll Restriction Service Individual & Key Lines
<b>SE3PG</b>	Hunting - Series Completion - Per Group
<b>SE3PG</b>	Series Completion Hunt, Per Group
<b>SE3PN</b>	Hunting - Series Completion - Per #
<b>SEA</b>	Selective Class Of Call Screening Per Access Line
<b>SRG</b>	Selective Class Of Call Screening Per Line Or Trunk
<b>TW1</b>	Talking Call Waiting
<b>U1E</b>	Loop Extension Technology
<b>XLL</b>	Directory Line Of Information
<b>XRW,XRS</b>	2B+D (Circuit Switched Data)*
<b>ZNBHX</b>	Zone 2 - With Hunting; In Central (EAS)
<b>ZPTMX</b>	Isdn Call Transfer Per T-1 Facility

**EXHIBIT E**

**VERTICAL SWITCH FEATURES FOR UNE-SWITCHING**

**PACKAGES**

<b>UVKBX</b>	Call Waiting/Cancel, Speed Call 30, 3-Way Automatic Call Back, and Call Forward Variable
<b>UVKEX</b>	Basic Vertical Feature Package & Class Features, Call Waiting ID, Call Name & Number Delivery, Continuous Redial, Selective Call Forwarding, Selective Call Rejection, and Anonymous Call Rejection

## EXHIBIT F – Special Request Process

1. The Special Request Process shall be used for the following requests:
  - 1.1 Requesting specific product feature(s) be made available by Qwest that are currently available in a switch, but which are not activated.
  - 1.2 Requesting specific product feature(s) be made available by Qwest that are not currently available in a switch, but which are available from the switch vendor
  - 1.3 Requesting a combination of Unbundled Network Elements that is a combination not currently offered by Qwest as a standard product and:
    - 1.3.1 that is made up of UNEs that are defined by the FCC or the Commission as a network element to which Qwest is obligated to provide unbundled access, and;
    - 1.3.2 that is made up of UNEs that are ordinarily combined in the Qwest network.
  - 1.4 Requesting an Unbundled Network Element that does not require a technical feasibility analysis and has been defined by the FCC or the State Commission as a network element to which Qwest is obligated to provide unbundled access, but for which Qwest has not created a standard product, including, but not limited to, OC-192 (and such higher bandwidths that may exist) UDIT, EEL between OC-3 and OC-192 and new varieties of subloops.
2. Any request that requires an analysis of Technical Feasibility shall be treated as a Bona Fide Request (BFR), and will follow the BFR Process set forth in this Agreement. If it is determined that a request should have been submitted through the BFR process, Qwest will consider the BFR time frame to have started upon receipt of the original Special Request application form.
3. A Special Request shall be submitted in writing and on the appropriate Qwest form, which is located on Qwest's website.
4. Qwest shall acknowledge receipt of the Special Request within two (2) business days of receipt.
5. Qwest shall respond with an analysis, including costs and timeframes, within fifteen (15) business days of receipt of the Special Request. In the case of UNE Combinations, the analysis shall include whether the requested combination is a combination of network elements that are ordinarily combined in the Qwest network. If the request is for a combination of network elements that are not ordinarily combined in the Qwest network, the analysis shall indicate to CLEC that it should use the BFR process if CLEC elects to pursue its request.
6. Upon request, Qwest shall provide CLEC with Qwest's supporting cost data and/or studies for Unbundled Network Elements that CLEC wishes to order within seven (7) business days, except where Qwest cannot obtain a release from its vendors within seven (7) business days, in which case Qwest will make the data available as soon as Qwest receives the vendor release. Such cost data shall be treated as Confidential Information, if requested by Qwest under the non-disclosure sections of this Agreement.

**EXHIBIT G**

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**EXHIBIT H**

**RESERVED FOR FUTURE USE**

## Exhibit I – Individual Case Basis

1. This Agreement contains references to both ICB rates and ICB intervals. The purpose of this exhibit is to identify how CLEC's ICB requests – whether they be for rates or intervals – are processed through and by Qwest.
2. ICB Rate Intervals
  - 2.1 For those products and services identified in the SGAT that contain a provision for ICB rates, Qwest will provide CLEC with a written quote of the ICB rate within twenty (20) business days unless a specific interval for providing the quote is either contained in the SGAT or this Exhibit.
  - 2.2 The purpose of this subsection is to identify those circumstances when the generic twenty (20) business day interval in the aforementioned subsection to this Exhibit does not apply. In these specified circumstances, Qwest shall provide CLEC with an ICB quote within the stated specific intervals:
    - 2.2.1 Quotes for all Bona Fide Requests (BFR) shall be provided in accord with Section 17.
    - 2.2.2 Quotes for all Special Request Processes (SRP) shall be provided in accord with Exhibit F.
    - 2.2.3 Quotes for all collocation requests, regardless of the type of collocation, shall be provided in accord with the Section 8 interval.
    - 2.2.4 Quotes for all Field Connection Point requests shall be provided in accord with Section 9.3.
    - 2.2.5 Quotes for all Advanced Intelligent Network (AIN) requests shall be provided in accord with Section 9.
  - 2.3 Upon request, Qwest shall provide CLEC with Qwest's supporting cost data and/or cost studies for the Unbundled Network Element or service that CLEC wishes to order within seven (7) business days, except where Qwest cannot obtain a release from its vendors within seven (7) business days, in which case Qwest will make the data available as soon as Qwest receives the vendor release. Consistent with the terms and conditions of any applicable vendor contract or agreement, Qwest shall diligently pursue obtaining the release of cost information as soon as reasonably possible. To the extent consistent with the terms and obligations of any applicable vendor contract or agreement, Qwest shall request the release of

### **Exhibit I – Individual Case Basis**

vendor cost information when Qwest communicates with the vendor(s) when Qwest seeks a quote for the costs of the ICB project. Such cost data shall be treated as confidential information if requested by Qwest under the non-disclosure sections of this Agreement.

#### **3. ICB Provisioning Intervals**

- 3.1** For those products and services provided pursuant to this SGAT that contain a provision for ICB interval but do not contain a specific provision for when the ICB interval shall be provided, the ICB interval shall be provided within twenty (20) business days of receipt of the order, request or application.
  
- 3.2** For fiber and OCn Loops described in Section 9.2.2.3.1 of this SGAT Qwest shall provide CLEC information regarding the location, availability and performance of fiber and OCn Loop within five (5) business days for a records based answer and seven (7) business days for a field based answer, after receiving a request from the CLEC. Within such time periods, Qwest shall send to CLEC written confirmation of the availability Loop . The Qwest representative authorized to commit to intervals, shall meet with CLEC's representative within seven (7) business days of receipt of the request from CLEC to negotiate intervals. Qwest shall provide its proposed provisioning intervals in all cases within 20 days.

**Exhibit J**  
**Election of Reciprocal Compensation Option**

Pursuant to the election in this Exhibit J of this Agreement, the Parties agree to exchange (§251(b)(5)) Traffic, per section 7.3.4.4 at:

CLEC must select either 1. OR 2.

1. The rates applicable to §251(b)(5) Traffic between Qwest and CLEC shall be the same as the rates established in ISP-bound traffic pursuant to Section 7.3.6.2.3. Such rate for ISP-bound traffic will apply to §251(b)(5) Traffic in lieu of End Office Call Termination rates, and Tandem Switched Transport rates.

Signature \_\_\_\_\_

2. Compensation rate for §251(b)(5) Traffic shall be as established by the Commission. The Parties shall cooperate in establishing a process by which §251(b)(5) Traffic and ISP-bound traffic will be identified in order to compensation one another at the appropriate rates and in an prompt manner (See §7.3.6).

Signature \_\_\_\_\_

When the FCC ordered rate for ISP-bound traffic is applied to (§251(b)(5)) Traffic, the FCC Ordered ISP rate is used in lieu of End Office call termination and Tandem Switched Transport rate elements.

## Exhibit K

# THE QWEST ARIZONA PERFORMANCE ASSURANCE PLAN

## 1.0 Introduction

1.1 In conjunction with its application to the Arizona Corporation Commission and the Federal Communications Commission ("FCC") under Section 271 of the Telecommunications Act of 1996 (the "Act") to offer in-region long distance service, Qwest Corporation ("Qwest") has agreed to offer this Performance Assurance Plan ("PAP"). Qwest is committed to continued compliance with its Section 271 obligations. Qwest has entered into this post-271 approval monitoring and enforcement mechanism, as a demonstration of its commitment to continue to satisfy Section 271 of the Act.

## 2.0 Plan Structure

2.1 The Qwest PAP is a two-tiered, self-executing remedy plan. The plan is developed to provide individual CLECs with Tier-1 payments if Qwest does not provide parity between the service it provides to the CLEC and that which it provides to its retail customers, or if Qwest fails to meet applicable benchmarks. In addition, the PAP provides Qwest with additional incentives to satisfy parity and benchmark standards by requiring Qwest to make Tier-2 payments-- in accordance with section 7.5 herein --if Qwest fails to meet parity and benchmark standards on an aggregate CLEC basis. Tier-2 payments are over and above the Tier-1 payments made to individual CLECs.

2.2 In the Qwest PAP, performance measurements are given different weightings to reflect relative importance by the designations of High, Medium, and Low. Payment is generally on a per occurrence basis, i.e., a set dollar payment times the number of non-conforming service events. For the performance measurements which do not lend themselves to per occurrence payment, payment is on a per measurement basis, i.e., a set dollar payment. The level of payment also depends upon the number of consecutive months of non-conforming performance, i.e., an escalating payment the longer the duration of non-conforming performance.

2.3 The parity standard is met when the service Qwest provides to CLECs is equivalent to that which it provides to its retail customers. Statistically, parity exists when performance results for the CLEC and for the Qwest retail analogue result in a Z-value that is no greater than the critical z-values listed in the Critical Z-Statistical Table in section 5.0. Tier-2 calculations will use a 1.645 critical z-value. The Qwest PAP relies upon statistical calculations to determine whether any difference between CLEC and Qwest performance results is significant, that is, not attributable to simple random variation.

## Exhibit K

2.4 For performance measurements that have no Qwest retail analogue, agreed upon benchmarks are used. Benchmarks are evaluated using a "stare and compare" method. For example, if the benchmark is 95% or better, Qwest performance results must be at least 95% to meet the benchmark. Percentage benchmarks will be adjusted to round the allowable number of misses up or down to the closest integer. In circumstances where the combination of a benchmark and a small sample size is such that it would require Qwest to meet a 100% standard, Qwest will be allowed to round up to the nearest integer. For example, for a 90% benchmark, the number of allowable misses is 10% times the sample size, rounded to the nearest integer. If the sample size is eight observations,  $(10\% * 8 = 0.8)$  is rounded to 1, one miss would be permitted, and the effective benchmark would be 88% (1-1/8).

### 3.0 Performance Measurements

3.1 The performance measurements included in the Qwest PAP are shown in Attachment 1 and section 7.4. Each performance measurement identified is defined in the Performance Indicator Definitions ("PIDs") developed in the Arizona Operating Support System ("OSS") collaborative, and which are included in the SGAT at Exhibit B. The measurements in Attachment 1 are designated as Tier-1, Tier-2, or both Tier-1 and Tier-2. The measurements are also given a High, Medium, or Low designation, reflective of relative importance.

### 4.0 Statistical Measurement

4.1 Qwest uses a statistical test, namely the modified "Z-test," for evaluating the difference between two means (i.e., Qwest and CLEC service or repair intervals) or two percentages (e.g., Qwest and CLEC proportions), to determine whether a parity condition exists between the results for Qwest and the CLEC(s). The modified Z-tests are applicable if the number of data points are greater than 30 for a given measurement. For testing measurements for which the number of data points are 30 or less, Qwest may use a permutation test to determine the statistical significance of the difference between Qwest and CLEC(s).

4.2 Qwest will be in conformance when the monthly performance results for parity measurements (whether in the form of means, percents, or proportions and at the equivalent level of disaggregation) are such that the calculated z-test statistics are not greater than the critical z-values. Critical z-values are listed in Table 1, section 5.0.

4.3 Qwest will be in conformance with benchmark measurements when the monthly performance result equals or exceeds the benchmark if a higher value means better performance, and when the monthly performance result equals or is less than the benchmark if a lower value means better performance.

The following is the formula for determining parity using the Z test:

## Exhibit K

$$z = \text{DIFF} / \sigma_{\text{DIFF}}$$

Where:

$$\text{DIFF} = M_{\text{Qwest}} - M_{\text{CLEC}}$$

$M_{\text{QWEST}}$  = Qwest average or proportion

$M_{\text{CLEC}}$  = CLEC average or proportion

$$\sigma_{\text{DIFF}} = \text{SQRT} [\sigma^2_{\text{Qwest}} (1/n_{\text{CLEC}} + 1/n_{\text{Qwest}})]$$

$\sigma^2_{\text{Qwest}}$  = Calculated variance for Qwest

$n_{\text{Qwest}}$  = number of observations or samples used in Qwest measurement

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

The Z tests will be applied to reported parity measurements that contain more than 30 data points.

In calculating the difference between Qwest and CLEC performance, the above formulae apply when a larger Qwest value indicates a better level of performance. In cases where a smaller Qwest value indicates a higher level of performance, the order is reversed, i.e.,  $M_{\text{CLEC}} - M_{\text{QWEST}}$ .

4.3.1 For parity measurements where the performance delivered to CLEC(s) is compared to Qwest performance and for which the number of data points is 30 or less, Qwest will apply a permutation test to test for statistical significance. Permutation analysis will be applied to calculate the z statistic using the following logic:

Calculate the z statistic for the actual arrangement of the data

Pool and mix the CLEC and Qwest data sets

Perform the following 1000 times:

Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set ( $n_{\text{CLEC}}$ ) and one reflecting the remaining data points, (which is equal to the size of the original Qwest data set or  $n_{\text{QWEST}}$ ).

Compute and store the Z-test score ( $Z_S$ ) for this sample.

Count the number of times the Z statistic for a permutation of the data is greater than the actual Z statistic

Compute the fraction of permutations for which the statistic for the rearranged data is greater than the statistic for the actual samples

## Exhibit K

If the fraction is greater than  $\alpha$ , the significance level of the test, the hypothesis of no difference is not rejected, and the test is passed.

### 5.0 Critical z-value

5.1 The critical z-value seeks to account for statistical error arising from the natural variation in the performance results and is an adjustment for these statistical errors. The following table will be used to determine the Critical Z-value that is referred to in section 6.0. In each instance, it is based on the monthly business of the CLEC for the particular performance measurements for which statistical testing is being performed.

**TABLE 1: TIER-1 CRITICAL Z-VALUE**

CLEC volume (Sample size)	LIS Trunks, Resale, UBL-DS1 and DS- 3	UDITs, All Other
1-10	1.04*	1.645
11-150	1.645	1.645
151-300	2.0	2.0
301-600	2.0	2.0
601-3000	2.0	2.0
3001 and above	2.0	2.0

\* The 1.04 applies for individual month testing for performance measurements involving LIS trunks and DS1 and DS3 that are UDITs, Resale, or Unbundled Loops. The performance measurements are OP-3d/e, OP-4d/e, OP-5, OP-6-4/5, MR-5a/b, MR-7d/e, and MR-8. For purposes of determining consecutive month misses, 1.645 shall be used. Where performance measurements disaggregate to zone 1 and zone 2, the zones shall be combined for purposes of statistical testing.

### 6.0 Tier-1 Payments to CLECs

6.1 Tier-1 payments to CLECs relate solely to the performance measurements designated as Tier-1 on Attachment 1. The payment amount for non-conforming service varies depending upon the designation of performance measurements as High, Medium, and Low and the duration of the non-conforming service condition as described below. "Non-conforming" service is determined in accordance with section 4.0.

6.1.1 Determination of Non-conforming Measurements: The number of performance measurements, subject to parity standards that are determined to be "non-conforming" and, therefore, eligible for Tier-1 payments, are limited according to the critical z-value shown in Table 1, section 5.0. The critical z-values are the

## Exhibit K

statistical standard that determines for each CLEC performance measurement whether Qwest has met parity. The critical z-value is selected from Table 1 according to the monthly CLEC volume for performance measurement. For instance, if the CLEC sample size for that month is 100, the critical z-value is 1.645 for the statistical testing of that parity performance measurement.

6.2 Determination of the Amount of Payment: Tier-1 payments to CLECs, except as provided for in section 10.0, are calculated and paid monthly based on the number of performance measurements exceeding the critical z-value for parity measurements and the benchmark threshold for benchmark measurements. Payments will be made on either a per occurrence or per measurement basis, depending upon the performance measurement, using the dollar amounts specified in Table 2. The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low and escalate depending upon the number of consecutive months for which Qwest has not met the standard for the particular measurement.

6.2.1 The escalation of payments for consecutive months of non-compliant service will be matched month for month with de-escalation of payments for compliant service. For example, if Qwest has 4 consecutive monthly "misses" it will make payments that escalate from month 1 to month 4 as shown in Table 2. If, in the next month, service meets the standard, Qwest makes no payment. A payment "indicator" de-escalates down from month 4 to month 3. If Qwest misses the following month, it will make payment at the month 3 level of Table 2 because that is where the payment "indicator" presently sits. If Qwest misses again the following month, it will make a payment that escalates back to the month 4 level. The payment level will de-escalate back to the original month 1 level only upon compliant service sufficient to move the payment "indicator" back to the month 1 level.

6.2.2 For those performance measurements listed on Attachment 2 as "Performance Measurements Subject to Per Occurrence Payments With a Cap," payment to a CLEC in a single month shall not exceed the amount listed in Table 2 below for the "Per Measure Cap" category. For any Tier 1 measurements identified as "Performance Measurements Subject to Per Measurement Payment with a Cap," if any should be added at a later time, payments to a CLEC in a single month shall not exceed the amount listed in Table 2 below for the section labeled "Per Measure/Cap."

**TABLE 2: TIER-1 PAYMENTS TO CLECs**

Per occurrence Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month
High	\$150	\$250	\$500	\$600	\$700	\$800
Medium	\$ 75	\$150	\$300	\$400	\$500	\$600
Low	\$ 25	\$ 50	\$100	\$200	\$300	\$400

## Exhibit K

Per Measure/Cap Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000
Medium	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000	\$60,000
Low	\$5,000	\$10,000	\$15,000	\$20,000	\$25,000	\$30,000

6.3 For each CLEC with annual order volumes of no more than 1,200, Qwest shall multiply the number of months in which at least one payment would be required to be made to such CLEC by \$2,000. To the extent that the actual CLEC payments for the year is less than the product of the preceding calculation, Qwest shall make annual payments equal to the difference.

### 7.0 Tier-2 Payments

7.1 Payments under Tier-2 are limited to the performance measurements designated in section 7.4 for Tier-2 per measure payments and on Attachment 1 for per occurrence measurements and which have at least 10 data points each month for the period payments are being calculated. Similar to the Tier-1 structure, Tier-2 measurements are categorized as High, Medium, and Low and the amount of payments for non-conformance varies according to this categorization.

7.2 Determination of Non-conforming Measurements: The determination of non-conformance will be based upon the aggregate of all CLEC data for each Tier-2 performance measurement. Non-conforming service is determined in accordance with section 4.0. The number of performance measurements determined to be "non-conforming" and, therefore, eligible for Tier-2 payments, is limited according to a 1.645 critical z-value. The critical z-value becomes the statistical standard that determines for each performance measurement whether Qwest has met parity.

7.3 Determination of the Amount of Payment: Except as provided in section 7.4, Tier-2 payments are calculated and paid monthly based on the number of performance measurements exceeding the critical z-value for three consecutive months. Payment will be made on either a per occurrence or per measurement basis, whichever is applicable to the performance measurement, using the dollar amounts specified in Table 3 or Table 4. Except as provided in section 7.4, the dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low.

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The escalation of payments for consecutive months of non-compliant service will be matched month for month with de-escalation of payments for compliant service. For example, if Qwest has 4 consecutive monthly "misses" it will make payments that escalate from month 3 to month 4 as shown in Table 3. If, in the next month, service meets the standard, Qwest makes no payment. A payment "indicator" de-escalates down from month 4 to month 3. If Qwest misses the following month, it will make payment at the month 3 level of Table 3 because that is where the payment "indicator" presently sits. If Qwest misses again the following month, it will make a payment that escalates back to the month 4 level. The payment level will de-escalate back to the original month 1 level only upon compliant service sufficient to move the payment "indicator" back to the month 1 level.

7.3.1 For those Tier-2 measurements listed on Attachment 2 as "Performance Measurements Subject to Per Occurrence Payments With a Cap," payment in a single month shall not exceed the amount listed in Table 3 for the "Per Measurement" category. For any Tier 2 measurements identified as "Performance Measurements Subject to Per Measurement Payment with a Cap," if any should be added at a later time, payments in a single month shall not exceed the amount set forth in Table 3 under the section labeled "Per Measurement/Cap."

## Exhibit K

**TABLE 3: TIER-2 PAYMENTS**

Per occurrence

Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month
High	\$0	\$0	\$500	\$600	\$700	\$800
Medium	\$0	\$0	\$300	\$400	\$500	\$600
Low	\$0	\$0	\$200	\$300	\$400	\$500

Per Measurement/Cap

Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 & each following month
High	\$0	\$0	\$75,000	\$100,000	\$125,000	\$150,000
Medium	\$0	\$0	\$30,000	\$40,000	\$50,000	\$60,000
Low	\$0	\$0	\$20,000	\$30,000	\$30,000	\$40,000

7.4 Performance Measurements Subject to Per Measurement Payment: The following Tier-2 performance measurements have their performance results measured on a region wide (14 state) basis. Failure to meet the performance standard, therefore, will result in a per measure payment in each of the Qwest in-region 14 states adopting this PAP. The performance measurements are:

- GA-1: Gateway Availability - IMA-GUI
- GA-2: Gateway Availability - IMA-EDI
- GA-3: Gateway Availability – EB-TA
- GA-4: System Availability – EXACT
- GA-6: Gateway Availability – GUI-Repair
- PO-1: Pre-Order/Order Response Times
- OP-2: Call Answered within Twenty Seconds – Interconnect Provisioning Center
- MR-2: Calls Answered within Twenty Seconds – Interconnect Repair Center

GA-1 has three sub-measurements: GA-1A, GA-1B, and GA-1C. PO-1 shall have two sub-measurements: PO-1A and PO-1B. PO-1A and PO-1B shall have their transaction types aggregated together.

For these measures, Qwest will make a Tier-2 payment based upon monthly performance results according to Table 4: Tier-2 Per Measure Payments..

## Exhibit K

**TABLE 4: TIER-2 PER MEASURE PAYMENTS**

Measure	Performance	State Payment	14 State Payment
GA-1,2,3,4,6	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$10,000	\$140,000
	>3% to 5%	\$20,000	\$280,000
	>5%	\$30,000	\$420,000
PO-1	2 sec. or less	\$1,000	\$14,000
	>2 sec. to 5 sec.	\$5,000	\$70,000
	>5 sec. to 10 sec.	\$10,000	\$140,000
	>10 sec.	\$15,000	\$210,000
OP-2/MR-2	1% or lower	\$1,000	\$14,000
	>1% to 3%	\$5,000	\$70,000
	>3% to 5%	\$10,000	\$140,000
	>5%	\$15,000	\$210,000

7.5 Qwest Tier-2 payments will be used to offset the Commission's costs associated with: 1) administering the PAP including long-term PID administration; 2) monitoring post-entry compliance; 3) dispute resolution; 4) auditing costs, excluding those for which Qwest or a CLEC is responsible; and 5) assessing proposals reviewed in any Qwest federal and state wholesale service quality proceeding. If Tier-2 payments exceed what is necessary to cover the above costs, Qwest shall deposit the balance to the Arizona State Government's general fund. Qwest and Staff shall work cooperatively to develop an auditing/accounting mechanism to ensure the proper use of Tier-2 payments as herein set forth.

### 8.0 Step by Step Calculation of Tier-1 Parity Measurement Payments to CLECs

The following describes step-by-step the calculation of Tier-1 payments. The calculation will be performed monthly for each CLEC.

#### 8.1 Application of the critical z-values:

For each CLEC, identify the Tier-1 parity performance measurements that measure the service provided by Qwest for the month in question and the critical z-value from Table 1 in section 5.0 that shall be used for purposes of statistical testing for each particular performance measurement. For the purpose of determining the critical z-values, each disaggregated category of a performance measurement is treated as a separate sub-measurement. The critical z-value to be applied is determined by the

## Exhibit K

CLEC volume at each level of disaggregation or sub-measurement. Apply the statistical testing procedures described in section 4.0.

### 8.2 Performance Measurements for which Payment is Per Occurrence:

The following describes the calculation of Tier-1 payments to CLECs in which payment is based upon a per occurrence dollar amount.

#### 8.2.1 Performance Measurements that are Averages or Means:

8.2.1.1 Step 1: For each performance measurement, calculate the average or the mean that would yield the critical z-value. Use the same denominator as the one used in calculating the z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

8.2.1.2 Step 2: Calculate the percentage differences between the actual averages and the calculated averages. The calculation is  $\% \text{ diff} = ((\text{CLEC result} - \text{Calculated Value}) / \text{Calculated Value}) \times 100$ . The percent difference will be capped at a maximum of 100%. In all calculations of percent differences in sections 8.0 and 9.0, the calculated percent differences is capped at 100%.

8.2.1.3 Step 3: For each performance measurement, multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amounts taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

#### 8.2.2 Performance Measurements that are Percentages:

8.2.2.1 Step 1: For each performance measurement, calculate the percentage that would yield the critical z-value. Use the same denominator as the one used in calculating the z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

8.2.2.2 Step 2: Calculate the difference between the actual percentages for the CLEC and the calculated percentages.

8.2.2.3 Step 3: For each performance measurement, multiply the total number of data points by the difference in percentage calculated in the previous step and the per occurrence dollar amount taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

#### 8.2.3 Performance Measurements that are Ratios or Proportions:

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8.2.3.1 Step 1: For each performance measurement, calculate the ratio that would yield the critical z-value. Use the same denominator as the one used in calculating the z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

8.2.3.2 Step 2: Calculate the difference between the actual rate for the CLEC and the calculated rate.

8.2.3.3 Step 3: For each performance measurement, multiply the total number of data points by the difference calculated in the previous step and the per occurrence dollar amount taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

### 8.3 Performance Measurements for which Payment is Per Measure

8.3.1 For each performance measurement that Qwest fails to meet the standard, the payment to the CLEC is the dollar amount shown on the "per measure" portion of the Tier-1 Payment Table.

## 9.0 Step by Step Calculation of Tier-2 Parity Measurement Payments

9.1 The following describes step by step the calculation of Tier-2 payments. The calculation will be performed monthly using the aggregate CLEC performance results. All Tier-2 payments will be used as set forth in section 7.5.

9.1.1 Identify the Tier-2 parity performance measurement for which Qwest's service performance is non-conforming for the month in question, using the 1.645 critical z-value.

9.1.2 For each performance measurement that is identified as non-conforming, determine if the non-conformance has continued for three consecutive months and if there are at least 10 data points each month. If it has, a Tier-2 payment will be calculated as described below and will continue in each succeeding month until Qwest's performance meets the applicable standard. For example, Tier-2 payments will continue on a "rolling three month" basis, one payment for the average number of occurrences for months 1-3, one payment for the average number of occurrences for months 2-4, one payment for the average number of occurrences for months 3-5, and so forth, until satisfactory performance is established.

### 9.2 Performance Measurements for which Payment is Per Occurrence:

The following describes the calculation of Tier-2 payments in which payment is based upon a per occurrence dollar amount.

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### 9.2.1 Performance Measurements that are Averages or Means:

9.2.1.1 Step 1: Calculate the monthly average or the mean for each performance measurement that would yield the critical z-value for each month. Use the same denominator as the one used in calculating the z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

9.2.1.2 Step 2: Calculate the percentage difference between the actual averages and the calculated averages for each month. The calculation for parity measurements is  $\% \text{ diff} = ((\text{actual average} - \text{calculated average}) / \text{calculated average}) \times 100$ . The percent difference will be capped at a maximum of 100%.

9.2.1.3 Step 3: For each performance measurement, multiply the total number of data points each month by the percentage calculated in the previous step. Calculate the average for three months (rounded to the nearest integer) and multiply the result by the per occurrence dollar amount taken from the Tier-2 Payment Table to determine the payment for each non-conforming performance measurement.

### 9.2.2 Performance Measurements that are Percentages:

9.2.2.1 Step 1: For each performance measurement, calculate the monthly percentage that would yield the critical z-value for each month. Use the same denominator as the one used in calculating the z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

9.2.2.2 Step 2: Calculate the difference between the actual percentages and the calculated percentages for each of the three non-conforming months. The calculation for parity measurement is  $\text{diff} = \text{CLEC result} - \text{calculated percentage}$ . This formula is applicable where a high value is indicative of poor performance. The formula is reversed where high performance is indicative of good performance.

9.2.2.3 Step 3: For each performance measurement, 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 (rounded to the nearest integer) and multiply the result by the per occurrence dollar amounts taken from the Tier-2 Payment Table to determine the payment for each non-conforming performance measurement.

### 9.2.3 Performance Measurements that are Ratios or Proportions:

9.2.3.1 Step 1: For each performance measurement, calculate the ratio that would yield the critical z-value for each month. Use the same denominator as the one used in calculating the z-statistic for the measure. (For benchmark measurements, use the benchmark value.)

## Exhibit K

9.2.3.2 Step 2: Calculate the difference between the actual rate for the CLEC and the calculated rate for each month of the non-conforming three-month period. The calculation is  $\text{diff} = (\text{CLEC rate} - \text{calculated rate})$ . This formula is applicable where a high value is indicative of poor performance. The formula is reversed where high performance is indicative of good performance.

9.2.3.3 Step 3: For each performance measurement, multiply the total number of data points by the difference calculated in the previous step for each month. Calculate the average for three months (rounded to the nearest integer) and multiply the result by the per occurrence dollar amounts taken from the Tier-2 Payment Table to determine the payment for each non-conforming performance measurement.

### 9.3 Performance Measurements that Payment is Per Measure:

For each performance measurement that Qwest fails to meet the standard, the payment is the dollar amount shown on the "per measure" portion of the Tier-2 Payment Table.

## 10.0 Low Volume, Developing Markets

10.1 In the event aggregate monthly volumes of CLECs participating in the PAP are more than 10, but less than 100, Qwest will make Tier-1 payments to CLECs if during a month Qwest fails to meet the parity or benchmark standard for the qualifying performance sub-measurements listed below. The qualifying sub-measurements are the UNE-P (POTS), megabit resale, and ADSL qualified loop product disaggregation of OP-3, OP-4, OP-5, MR-3, MR-5, MR-7, and MR-8.

10.2 The determination of whether Qwest has met the parity or benchmark standards will be made using aggregate volumes of CLECs participating in the PAP. In the event Qwest does not meet the applicable performance standards, a total payment to affected CLECs will be determined in accordance with the high, medium, low designation for each performance measurement (see Attachment 1) and as described in section 8.0, except that CLEC aggregate volumes will be used. In the event the calculated total payment amount to CLECs is less than \$5,000, a minimum payment of \$5,000 shall be made. The resulting total payment amount to CLECs will be apportioned to the individual affected CLECs based upon each CLEC's relative share of the number of total service misses.

10.3 At the 6-month reviews, Qwest will consider adding to the above list of performance sub-measurements new product disaggregation that represents new modes of CLEC entry into developing markets.

10.4 If the aggregate monthly CLEC volume is greater than 100, the provisions of this section shall not apply to the qualifying performance sub-measurement.

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### 11.0 Payment

11.1 Payments to CLECs or payments made under Tier-2 shall be made one month following the due date of the performance measurement report for the month for which payment is being made. Qwest will pay interest on any late payment and underpayment at twice the one-year treasury rate, if the credit or other remittance exceeds the five-day grace period.

11.2 Payment to CLECs will be made via bill credits. To the extent that a monthly payment owed to a CLEC under this PAP exceeds the amount owed to Qwest by the CLEC on a monthly bill, Qwest will issue a check to the CLEC in the amount of the overage. Payments under Tier-2 will be made via check or wire transfer. Qwest will provide a comprehensive statement to the Commission detailing how penalties are calculated when Qwest makes Tier 2 payments, and a comprehensive statement to each CLEC detailing how Tier 1 penalties are calculated for that CLEC.

### 12.0 Cap on Tier-1 and Tier-2 Payments

12.1 There shall be a cap on the total payments by Qwest during a calendar year. The cap amount for Arizona shall be 44% of Qwest's "net revenues" as that term is defined in the FCC's December 22, 1999 Memorandum Opinion and Order in CC Docket No. 99-295 in ¶ 436 footnote 1332. The annual cap shall be recalculated on the first day of the month following the annual anniversary of Commission approval of the Arizona 271 Agreement, using the most recent publicly available ARMIS data. Qwest shall submit to the Commission the calculation of each year's cap no later than 30 days after submission of ARMIS results to the FCC. For purposes of applying the cap, the relevant calendar year shall be treated pro rata with Qwest's ARMIS financial statement.

12.2 The cap applies to the aggregate of Tier-1 payments to CLECs, including payments made pursuant to any other alternative performance obligations pursuant to an interconnection agreement with a CLEC and Tier-2 payments under the plan.

12.3 If the cap is reached within any twelve-month period, the Commission reserves the right to conduct a hearing to determine if the cap should be adjusted upward and if other action should be taken. The hearing will proceed only after proper notice has been given to the parties.

### 13.0 Limitations

13.1 Qwest's PAP shall not become available in Arizona unless and until Qwest receives effective section 271 authority from the FCC for the State of Arizona.

13.2 Qwest will not be liable for Tier-1 payments to a specific CLEC in Arizona until the Commission has approved an interconnection agreement between the CLEC and

## Exhibit K

Qwest and the CLEC opts into the PAP. A CLEC with a Commission-approved interconnection agreement may opt into the terms of the approved Performance Assurance Plan by filing written notice of its intent to do so.

13.3 Qwest shall not be obligated to make Tier-1 or Tier-2 payments for any benchmark measurement if and to the extent that non-conformance for that measurement was the result of any of the following: 1) with respect to performance measurements with a benchmark standard, a Force Majeure event as defined in section 5.7 of the SGAT; 2) an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with Qwest or under the Act or State law; an act or omission by a CLEC that is in bad faith (Examples of bad faith conduct include, but are not limited to: unreasonably holding service orders and/or applications, "dumping" orders or applications in unreasonable large batches, "dumping" orders or applications at or near the close of a business day, on a Friday evening or prior to a holiday, and failing to provide timely forecasts to Qwest for services or facilities when such forecasts are required to reasonably provide services or facilities); or 3) non-Qwest problems associated with third-party systems or equipment, which could not have been avoided by Qwest in the exercise of reasonable diligence, provided, however, that this third party exclusion will not be raised more than three times within a calendar year. Force Majeure events do not excuse parity failures. Qwest will not be excused from Tier-1 or Tier-2 payments on any other grounds, except as described in paragraphs 13.6 and 13.7. Qwest will have the burden to demonstrate that its non-conformance with the performance measurement was excused on one of the grounds described in this PAP.

13.4 Qwest's agreement to implement these enforcement terms, and specifically its agreement to make payments 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. QWEST and CLEC agree that CLEC may not use: 1) the existence of this enforcement plan; or 2) Qwest's Tier -1 or Tier-2 payments or assessments as evidence that Qwest 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. Qwest's conduct underlying its performance measures, however are not made inadmissible by its terms. Any CLEC accepting this performance remedy plan agrees that Qwest's 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 payment by Qwest under these provisions is not hereby made inadmissible in any proceeding relating to the same conduct where Qwest seeks to offset the payment against any other damages a CLEC might recover. The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether Qwest has met or continues to meet the requirements of section 271 of the Act.

13.5 The application of the assessments and damages provided for herein is not intended to foreclose other noncontractual legal and non-contractual regulatory claims and remedies that may be available to a CLEC.

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13.6 If an existing interconnection agreement requires payments for damages for a performance miss, and the CLEC opts into the PAP, Qwest shall not have to pay twice for the same performance miss—once under the pre-existing interconnection agreement and again under the PAP. Qwest shall have the burden of proof demonstrating that it is paying twice for the same performance miss, and may use the dispute resolution procedure in Section 5.18 or the SGAT to address such an issue.

13.6.1 Any Tier-1 payments made by Qwest under this PAP are not made inadmissible in any proceeding relating to the same conduct that resulted in a performance miss where Qwest 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.

13.7 Whenever a Qwest Tier-1 payment to an individual CLEC exceeds \$3 million in a month, or when all CLEC Tier-1 payments in any given month exceed one-twelfth of the annual cap identified in section 12.0, Qwest may commence a show cause proceeding. Upon timely commencement of the show cause proceeding, Qwest must pay the balance of payments owed in excess of the threshold amount into escrow, to be held by a third-party pending the outcome of the show cause proceeding. To invoke these escrow provisions, Qwest must file with the Commission, not later than the due date of the Tier-1 payments, an application to show cause why it should not be required to pay any amount in excess of the procedural threshold. Qwest will have the burden of proof to demonstrate why, under the circumstances, it would be unjust to require it to make the payments in excess of the applicable threshold amount. If Qwest reports non-conforming performance to a CLEC for three consecutive months on 20% or more of the measurements reported to the CLEC and has incurred no more than \$1 million in liability to the CLEC, the CLEC may commence a similar show cause proceeding. In any such proceeding the CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires Qwest to make payments in excess of the amount calculated pursuant to the terms of the PAP.

### 14.0 Reporting

14.1 Upon FCC 271 approval for a state, Qwest will provide CLECs which have approved interconnection agreements with Qwest a monthly report of Qwest's performance for the measurements identified in the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Qwest will collect, analyze, and report performance data for the measurements listed on Attachment 1 in accordance with the most

## Exhibit K

recent version of the Service Performance Indicator Definitions (PID). Upon a CLEC's request, data files of the CLEC's raw data, or any subset thereof, will be transmitted, without charge, to the CLEC in a mutually acceptable format, protocol, and transmission medium.

14.2 Qwest will also provide the Commission a monthly report of aggregate CLEC performance results pursuant to the PAP by the last day of the month following the month for which performance results are being reported. However, Qwest shall have a grace period of five business days, so that Qwest shall not be deemed out of compliance with its reporting obligations before the expiration of the five business day grace period. Individual CLEC reports will also be available to the Commission upon request. Upon the Commission's request, data files of the CLEC raw data, or any subject thereof, will be transmitted marked confidential, without charge, to the Commission in a mutually acceptable format, protocol, and transmission form. By accepting this PAP, each CLEC consents to Qwest providing that CLEC's report and raw data to State Commissions upon the Commission's request.

14.3 In the event Qwest does not provide CLEC and the Commission with a monthly report by the last day of the month following the month for which performance results are being reported, Qwest will pay under Tier-2 a total of \$5,000 for each business day for which performance reports are due after a five business day grace period. This amount represents the total payment for missing any deadline, rather than a payment per report. In addition, Qwest will pay under Tier-2 for incomplete reports, a total of \$1,000 per day for each missing performance result. Prior to the date of a payment for late or incomplete reports, Qwest may file a request for a waiver of the payment, which states the reasons for the waiver. The Commission may grant the waiver, deny the waiver, or provide any other relief that may be appropriate.

14.4 Qwest may not make changes to the Performance Indicator Definitions ("PIDs") contained in the PAP, the statistical methodology for calculating the PID results, or the content of reports unless it first obtains approval from the Commission.

### **15.0 Audits/Investigations of Performance Results**

15.1 Qwest will create a separate financial system which will take performance results as inputs and calculate payments according to the terms of the PAP. An independent audit of this financial system shall be initiated one year after the effective date of the PAP and a second audit shall be started no later than 18 months thereafter. The auditor will be chosen subject to Arizona Commission approval and paid for by Qwest. Additionally, the Arizona Commission reserves the right to conduct its own audit or engage the services of a third party auditor if Staff determines that it would be in the public interest. The necessity of any subsequent audits of the financial system shall be considered in the six-month PAP reviews, based upon the experience of the first two audits.

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If as a result of the audit, it is determined that Qwest underpaid, Qwest will add bill credits to CLECs and/or make additional payments under Tier-2 to the extent that it underpaid. In the event Qwest overpaid, future bill credits to CLECs and/or future payments under Tier-2 will be offset by the amount of the overage. All under and over payments will be credited with interest at the one year U. S. Treasury rate.

15.2 In the event of a disagreement between Qwest and the CLEC participating in this PAP as to any issue regarding the accuracy or integrity of data collected, generated, and reported pursuant to the PAP, Qwest and the CLEC shall first consult with one another and attempt in good faith to resolve the issue. If an issue is not resolved within 45 days after a request for consultation, the CLEC and Qwest may upon a demonstration of good cause (e.g., evidence of material errors or discrepancies) request an independent audit to be conducted, at the initiating party's expense. The scope of the audit will be limited to performance measurement data collection, data reporting processes, and calculation of performance results and payments for a specific performance measurement. An audit may not be commenced more than 12 months following the month in which the alleged inaccurate results were first reported.

15.3 If an audit identifies a material deficiency affecting results, the responsible party shall reimburse the other party for the expense of the third party auditor, assuming the responsible party was not the party initiating the audit. In the event the CLEC is found to be responsible for the deficiency, any overpayment made to the CLEC as a result of the deficiency shall be refunded to Qwest with interest and any affected portion of future payments will be suspended until the CLEC corrects the deficiency. In the event that Qwest is found to be responsible for the deficiency, Qwest will pay the CLEC the amount that would have been due under the PAP if not for the deficiency, including interest.

15.4 Neither CLEC nor Qwest may request more than two audits per calendar year for the entire Qwest in-region states. Each audit request shall be limited to no more than two performance measurements per audit. For purposes of these provisions, a performance measurement is a Performance Indicator Definition (PID), e.g., OP-3, Installation Commitments Met. CLEC agrees that Qwest shall not be required to conduct more than 3 audits at one time for its 14 in-region states, notwithstanding who has initiated the audit, and notwithstanding the provisions in this paragraph. This provision shall exclusively govern audits regarding performance measurements. Qwest agrees to inform Commission Staff and all CLECs of the results of an audit.

15.5 Qwest will investigate any second consecutive Tier-1 Aggregate failures of a performance measure and will investigate consecutive two-month failures for measures at the Tier-2 level and when a CLEC requests it to determine the cause of the miss and to identify the action needed in order to meet the standard set forth in the performance measurements. The Commission may order root cause analysis at any time it deems necessary. Qwest will not be required to disclose confidential or proprietary information in its root cause conclusions and such reports will be issued in

## **Exhibit K**

a redacted format where appropriate. Qwest will disseminate its root cause analysis results to the Commission and CLECs by posting any non-confidential results to a public website. To the extent an investigation determines that a CLEC was responsible in whole or in part for the Tier-2 misses, Qwest shall receive credit against future Tier-2 payments in an amount equal to the Tier-2 payments that should not have been made. The relevant portion of subsequent Tier-2 payments will not be owed until any responsible CLEC problems are corrected. For the purposes of this sub-section, Tier-1 performance measurements that have not been designated as Tier-2 will be aggregated and the aggregate results will be investigated pursuant to the terms of this Agreement.

15.6 Qwest will store performance data used to calculate monthly performance reports in an easy to access electronic form for review by the Commission and parties who have a legal right to obtain the information, for three years after they have been produced and for an additional three years in an archived format.

### **16.0 Reviews**

16.1 Every six (6) months, Qwest, CLECs, and the Commission shall review the performance measurements to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measure to High, Medium, or Low or Tier-1 to Tier-2. Criteria for review of performance measurements, 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. The first six-month period will begin upon the FCC's approval of Qwest's 271 application for the state of Arizona. Staff shall seek the mutual consent of the parties to any proposed changes. Notwithstanding the limitations set forth above, Qwest acknowledges that the Commission reserves the right to modify the PAP including, but not limited to performance measurements, penalty amounts, escalation factors, audit procedures and reevaluation of confidence levels, at any time as it sees fit and deems necessary upon Commission Order after notice and hearing.

### **17.0 Termination**

17.1 Qwest acknowledges that the PAP will be in full force and effect until further order of the Commission.

### **18.0 Severability**

18.1 In the event that any one or more of the provisions contained herein shall for any reason be held unenforceable or invalid in any respect under law or regulation, the parties will negotiate in good faith for replacement language as set forth herein. If any part of this performance assurance plan is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will affect only the portion of this performance assurance plan which is invalid or unenforceable. In all other respects,

## Exhibit K

this performance assurance plan will stand as if such invalid or unenforceable provision had not been a part hereof, and the remainder of the plan shall remain in full force and effect.

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### Attachment 1: Tier-1 and Tier-2 Performance Measurements Subject to Per Occurrence Payment

Performance Measurement		Tier-1 Payments			Tier-2 Payments		
		Low	Med	High	Low	Med	High
<b>GATEWAY</b>							
Timely Outage Resolution	GA-7						X
<b>PRE-ORDER/ORDERS</b>							
LSR Rejection Notice Interval	PO-3 <sup>a</sup>	X					
Firm Order Confirmations On Time	PO-5	X				X	
Work Completion Notification Timeliness	PO-6 <sup>b</sup>	X					
Billing Completion Notification Timeliness	PO-7 <sup>b</sup>	X					
Jeopardy Notice Interval	PO-8	X					
Timely Jeopardy Notices	PO-9	X					
Timely Release Notifications	PO-16						X
Stand Alone Test Environment	PO-19						X
<b>ORDERING AND PROVISIONING</b>							
Installation Commitments Met	OP-3 <sup>c</sup>			X			X
Installation Intervals	OP-4 <sup>d</sup>			X			X
New Service Installation Quality	OP-5			X			X
Delayed Days	OP-6 <sup>e</sup>			X			X
Number Portability Timeliness	OP-8			X		X	
Coordinated Cuts On Time – Unbundled Loops	OP-13a			X		X	
Timeliness of LNP Disconnects	OP-17			X		X	
<b>MAINTENANCE AND REPAIR</b>							
Out of Service Cleared within 24 hours	MR-3			X			
All Troubles Cleared within 4 hours	MR-5			X			
Mean time to Restore	MR-6a,b,c			X			
Repair Repeat Report Rate	MR-7			X			X
Trouble Rate	MR-8			X			X
LNP Trouble Reports Cleared within 24 hours	MR-11			X		X	
<b>BILLING</b>							
Time to Provide Recorded Usage Records	BI-1	X					X
Billing Accuracy-Adjustments for Errors	BI-3	X					
Billing Completeness	BI-4	X				X	
<b>NETWORK PERFORMANCE</b>							
Trunk Blocking	NI-1			X			X
NXX Code Activation	NP-1			X			X
<b>COLLOCATION</b>							
Installation Interval	CP-1	X					
Installation Commitments	CP-2			X			X
Feasibility Study Interval	CP-3	X					
Feasibility Study Commitment Met	CP-4	X					

a. PO-3 is limited to PO-3a-1, PO-3b-1, and PO-3c.

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- b. PO-6 is included with PO-7 as two "families:" PO-6a/PO-7a and PO-6b/PO-7b. Measurements within each family share a single payment opportunity with only the measurements with the highest payment being paid.
- c. OP-3 is included as three "families:" OP-3a/3b, OP-3c, and OP-3d/e. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.
- d. OP-4 is included with OP-6 as five "families:" OP-4a/OP-6-1, OP-4b/OP-6-2, OP-4c/OP-6-3, OP-4d/OP-6-4, and OP-4e/OP-6-5. Measurements within each family share a single payment opportunity with only the measurement with the highest payment being paid.
- e. For purposes of the PAP, OP-6a and OP-6b will be combined and treated as one. The combined OP-6 breaks down to OP-6-1 (within MSA), OP-6-2 (outside MSA), OP-6-3 (no dispatch), OP-6-4 (zone 1), and OP-6-5 (zone 2).

## Exhibit K

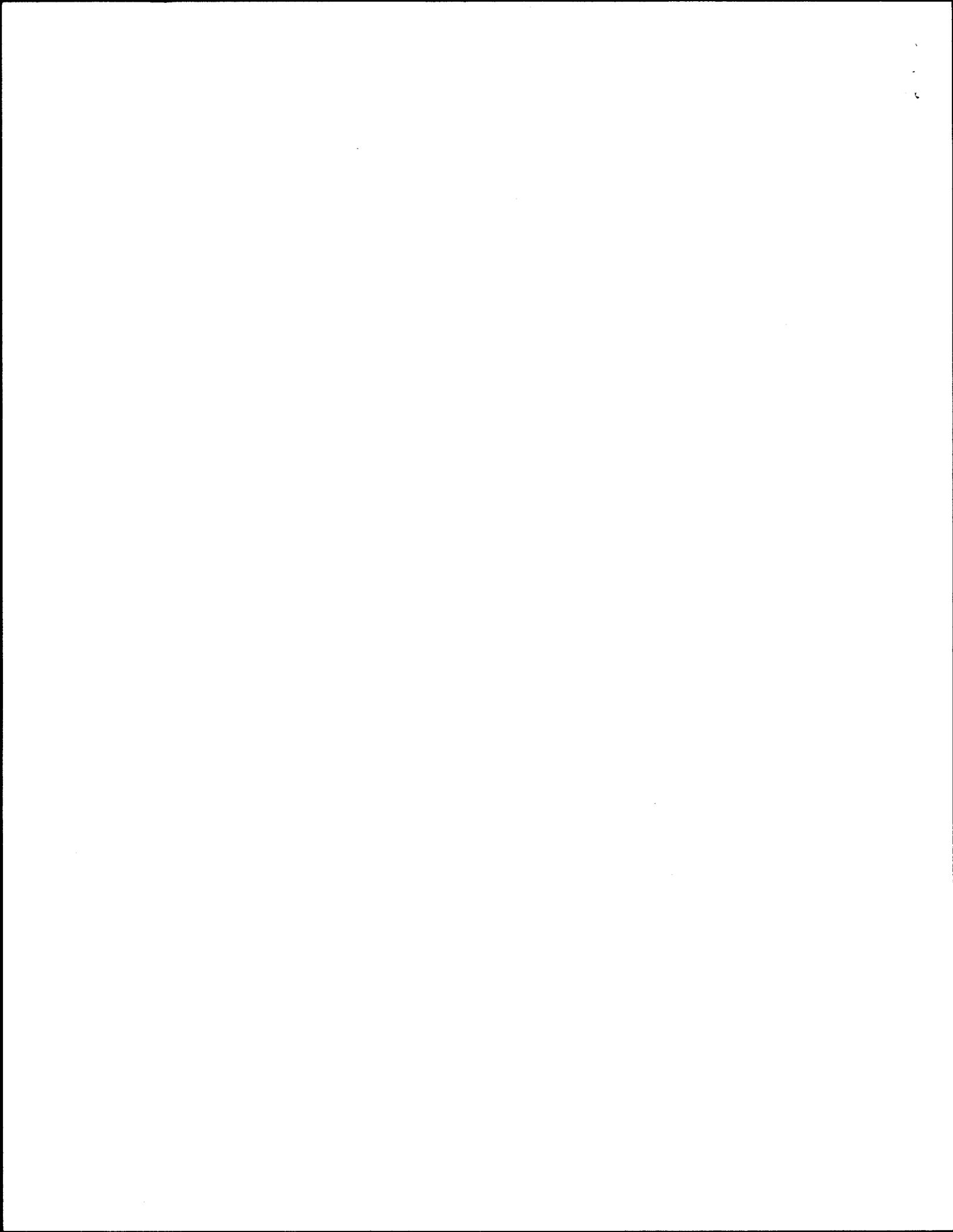
### Attachment 2: Performance Measurements Subject to Per Occurrence Payments With a Cap

#### Billing

Time to Provide Recorded Usage Records – BI-1 (Tier-1/Tier-2)

Billing Accuracy – Adjustments for Errors – BI-3 (Tier-1)

Billing Completeness – BI-4 (Tier-1/Tier-2)



**EXHIBIT L**

**ADVICE ADOPTION LETTER**

Director of Interconnection Compliance  
C/O Heidi Higer  
Qwest  
1801 California, Room 2410  
Denver, CO 80202

Re: Qwest Corporation ("Qwest") New Product: \_\_\_\_\_

---

Dear Sir or Madam:

By its signature below, \_\_\_\_\_ ("CLEC") hereby agrees to be bound by the rates, terms and conditions that Qwest has offered and provided on its Web Site for the New Qwest Product identified above as an amendment to its Interconnection Agreement with Qwest for the state(s) of \_\_\_\_\_.

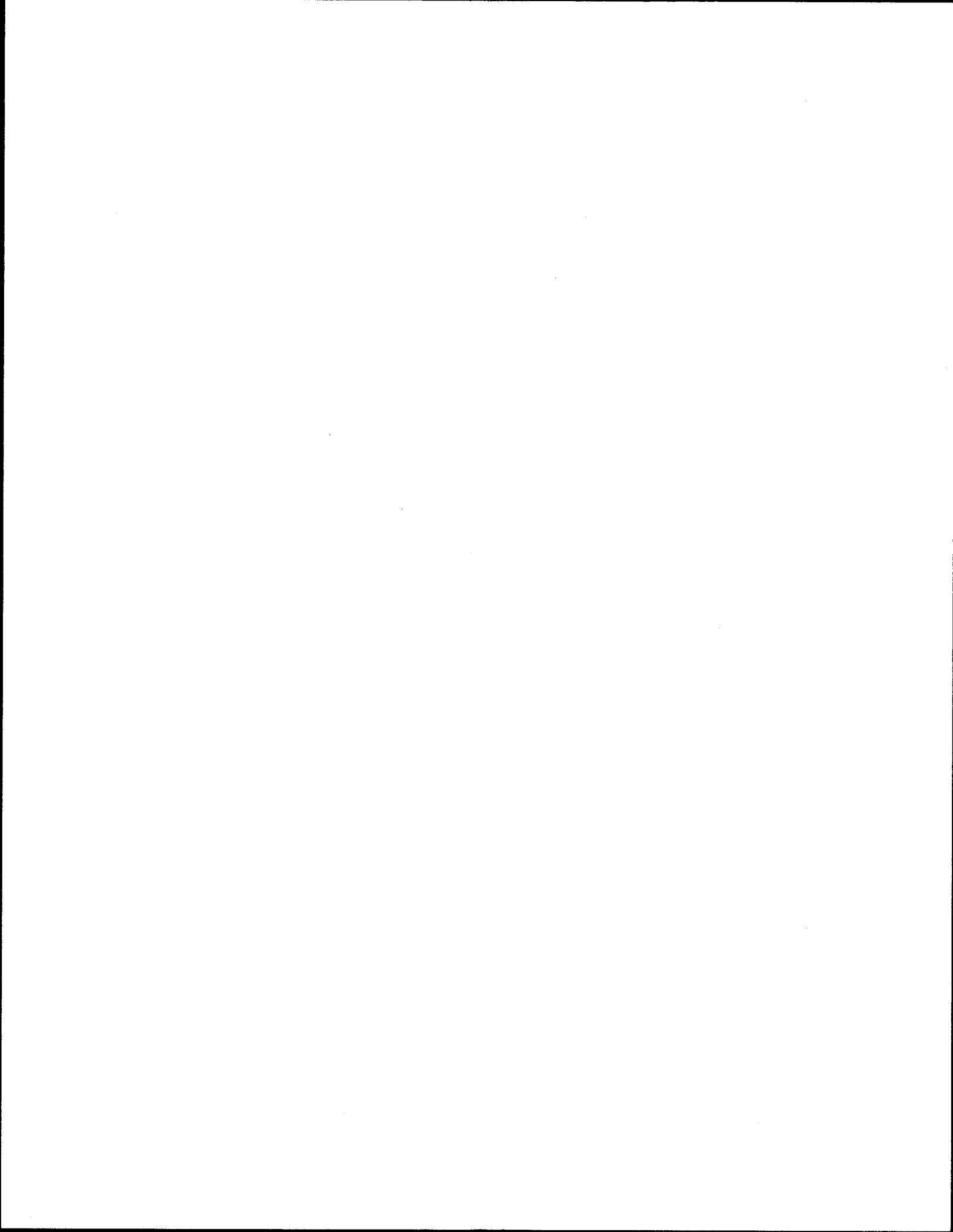
CLEC certifies that the rates, terms, and conditions contained on Attachment A (attached hereto) are the rates, terms and conditions contained on Qwest's web site that have been provided for the New Product identified above. Rates for new products are interim and subject to true-up, upon approval by the Commission.

CLEC

By: \_\_\_\_\_

Title: \_\_\_\_\_

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



**EXHIBIT M**

**INTERIM ADVICE ADOPTION LETTER**

Director of Interconnection Compliance  
C/O Heidi Higer  
Qwest  
1801 California, Room 2410  
Denver, CO 80202

Re: Qwest Corporation ("Qwest") New Product: \_\_\_\_\_

Dear Sir or Madam:

By its signature below, \_\_\_\_\_ ("CLEC") hereby agrees to be bound by the rates, terms and conditions that Qwest has offered and provided on its Web Site for the New Qwest Product identified above as an interim amendment to its Interconnection Agreement with Qwest for the state(s) of \_\_\_\_\_.

CLEC certifies that the rates, terms, and conditions contained on Attachment A (attached hereto) are the rates, terms and conditions contained on Qwest's web site that have been provided for the New Product identified above.

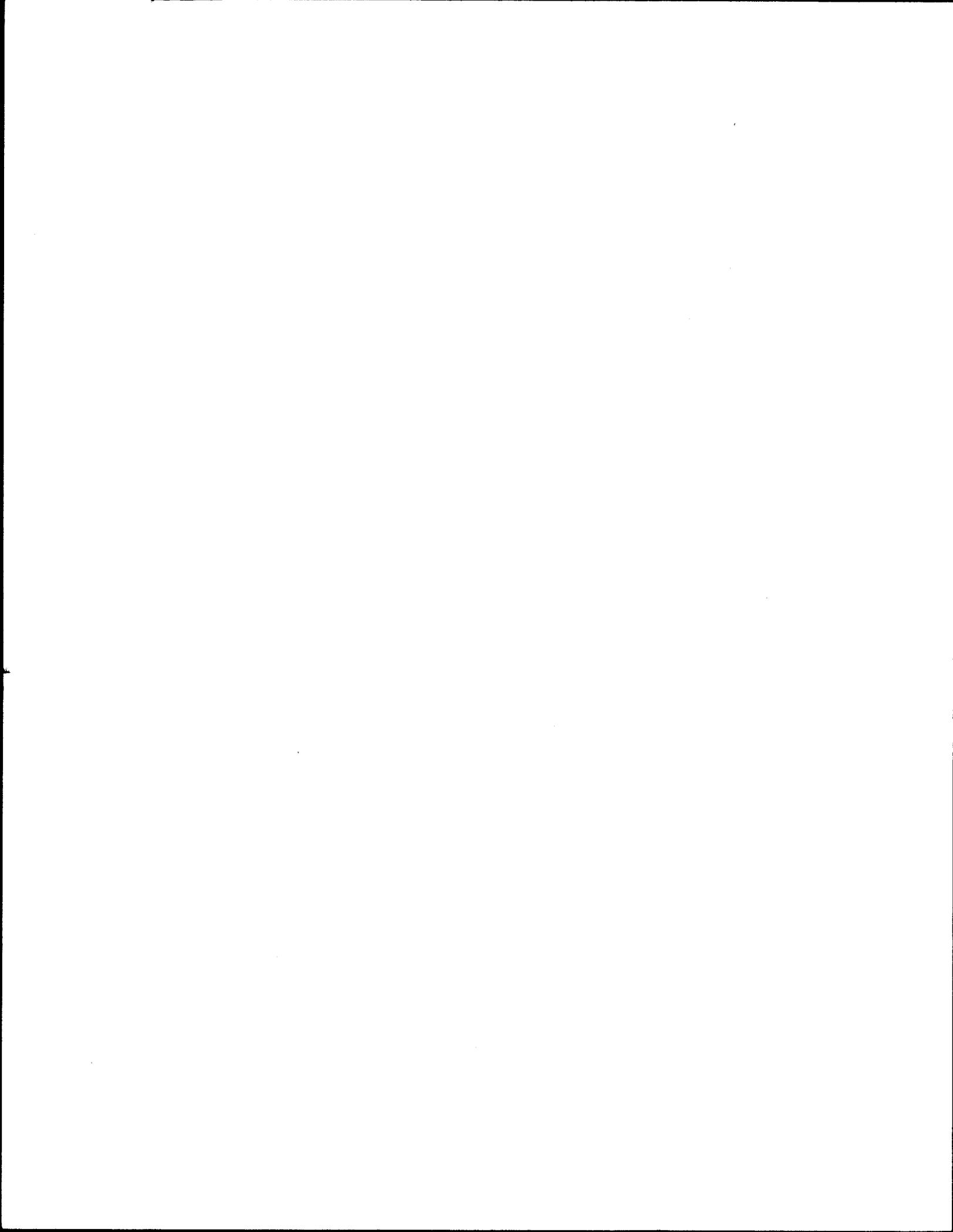
Qwest acknowledges that CLEC believes that the rates, terms and conditions for the Qwest New Product should be altered and that CLEC enters into this Interim Advice Adoption Letter with the express intention to renegotiate the rates, terms and conditions associated with the Qwest New Product pursuant to the terms of Section 1.7.1.2 of the SGAT. CLEC enters into this Interim Advice Adoption Letter without prejudice to or waiver of any of its rights to challenge the terms and conditions of this Interim Advice Adoption Letter under the Interconnection Agreement, the Act, FCC or state Commission rules.

CLEC

By: \_\_\_\_\_

Title: \_\_\_\_\_

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



**STATEMENT OF GENERALLY AVAILABLE  
TERMS AND CONDITIONS FOR INTERCONNECTION,  
UNBUNDLED NETWORK ELEMENTS, ANCILLARY SERVICES,  
AND RESALE OF TELECOMMUNICATIONS SERVICES  
PROVIDED**

**BY  
QWEST CORPORATION  
IN THE STATE OF**

**ARIZONA**

**FIFTEENTH~~FOURTEENTH~~ REVISION**

**~~August 29, 2003~~ February 27, 2004**

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<sup>1</sup> Section 12.2.6 discusses the change management process. In the past, Qwest has included a copy of the Change Management Document as Attachment G of the SGAT. But, the Change Management Document is the subject of ongoing discussions at through the Change Management Process. As such, the Change Management Document is a constantly evolving document. Rather than include a copy of the current version of the Change Management Document as an attachment to the SGAT, and, thus, either constantly updating the document or having an outdated Change Management Document in the SGAT, Qwest has proposed removing the Change Management Document from the SGAT, and, instead, relying on the publicly posted, most up-to-date version of the Document.

## Section 1.0 - GENERAL TERMS

1.1 This Statement of Generally Available Terms and Conditions (SGAT) for Interconnection, Unbundled Network Elements, ancillary services, and resale of Telecommunications Services is filed by Qwest Corporation (Qwest), a Colorado Corporation with offices at 1801 California Street, Denver, Colorado 80202, pursuant to Section 252(f) of the Telecommunications Act of 1996, for purposes of fulfilling Qwest's obligations under Sections 222, 251(a), (b), and (c), 252, 271, and other relevant provisions of the Act and the rules and regulations promulgated thereunder.<sup>2</sup>

1.2 Intentionally Left Blank.

1.3 This SGAT sets forth the terms, conditions and pricing under which Qwest will offer and provide to any requesting CLEC network Interconnection, access to Unbundled Network Elements, ancillary services, and Telecommunications Services available for resale within the geographical areas in which Qwest is providing local Exchange Service at that time, and for which Qwest is the incumbent Local Exchange Carrier within the State of Arizona for purposes of providing local Telecommunications Services. This SGAT is available for the term set forth herein.

1.4 Individual CLECs may adopt this SGAT, in lieu of entering into an individually negotiated Interconnection Agreement, by signing the Signature Page in Section 22 of this SGAT and by delivering a signed copy of this SGAT to Qwest, pursuant to the notice provision of this SGAT contained in Section 5.21. The date on which Qwest receives an executed copy of this SGAT shall hereafter be referred to as the "Effective Date" of the Agreement between Qwest and CLEC. Qwest shall notify CLEC of the Effective Date pursuant to the notice provision. The Parties shall satisfy all state Interconnection Agreement filing requirements.

1.5 This SGAT, once it is approved or permitted to go into effect by the Commission, offers CLECs an alternative to negotiating an individual Interconnection Agreement with Qwest, or adopting an existing approved Interconnection Agreement between Qwest and another CLEC pursuant to Section 252(i) of the Act. In this respect, neither the submission nor approval of this SGAT nor any provision herein shall affect Qwest's willingness to negotiate an individual

<sup>2</sup> Throughout this revised SGAT, Qwest has made several types of revisions that are identified in revision mark format, but are not footnoted. Those changes that are not footnoted are non-substantive, and fall into one of the following categories. First, the term "End User" is changed to the defined term "End User Customer". Second, the term "SGAT" is generally changed to the term "Agreement", to conform with the remainder of this document, and to reflect that this document is intended to become an agreement between a CLEC and Qwest. Third, because the term "CLEC" is a defined term (which means the particular CLEC who is a party to the agreement), the term "a CLEC" is changed to "CLEC". Fourth, because the convention in the SGAT is to capitalize those terms defined in Section 4, defined terms are capitalized, and undefined terms are reduced to lower case. Fifth, all numbers are expressed in a consistent format, such as "ten (10)". Sixth, in Section 8, Collocation, the term "application" has been changed to "Collocation Application" where appropriate to avoid confusion with the other types of applications used in Section 8 (e.g., "Joint Testing Application" or Collocation Space Reservation Application." Seventh, because the title of Section 12 of the SGAT is "Operational Support Systems Section", instances where Section 12 is referred to as "Support Functions Section" have been corrected. Eighth, changed the term "POTS Splitter" to "Splitter" to use the defined term throughout. Finally, Qwest has corrected punctuation, spelling and grammar throughout. All such changes are identified in revision mark format, but are not footnoted.

Agreement with any requesting Carrier pursuant to Section 252 of the Telecommunications Act of 1996.

1.6 Intentionally Left Blank.

1.7 Once this SGAT is approved or permitted to go into effect, any amendment to the SGAT by Qwest will be accomplished through Section 252 of the Act. When Qwest files an amendment to the SGAT with the Commission, Qwest shall provide notice of such filing through the Change Management Process (CMP). Qwest shall also request that the Commission notify all interested parties of the filing. In addition, any amendment to the SGAT filed by Qwest shall have no effect on the SGAT (either to withdraw or replace effective provisions or to add provisions) until such amendment is approved by the Commission or goes into effect by operation of law. Once CLEC executes Section 22 and delivers a signed copy to Qwest pursuant to the notice provisions of this SGAT, the currently effective SGAT will become the Interconnection Agreement between CLEC and Qwest (this Agreement), and shall be subject to the same rules and laws as other Interconnection Agreements in effect in this state. Once this SGAT becomes the Interconnection Agreement between CLEC and Qwest, this Agreement can only be amended in writing, executed by the duly authorized representatives of the Parties.

1.7.1 Notwithstanding the above, if the Commission orders, or Qwest chooses to offer and CLEC desires to purchase, new Interconnection services, access to additional Unbundled Network Elements, additional ancillary services or Telecommunications Services available for resale which are not contained in this SGAT or a Tariff, Qwest will notify CLEC of the availability of these new services through the product notification process through the Change Management Process (CMP). CLEC must first complete the relevant section(s) of the New Product Questionnaire to establish ordering and Billing processes. In addition, the Parties shall amend this Agreement under one (1) of the following two (2) options:

1.7.1.1 If CLEC is prepared to accept Qwest's terms and conditions for such new product, CLEC shall execute a form Advice Adoption Letter (the form of which is attached hereto as Exhibit L), to be furnished by Qwest, and include as an attachment, the discreet terms and conditions available on Qwest's wholesale website, that Qwest has identified as pertaining to the new product. Rates for new products are interim and subject to true-up, upon approval by the Commission. CLEC shall submit the Advice Adoption Letter to the Commission for its approval. CLEC shall also provide the Advice Adoption Letter to Qwest pursuant to the notice provisions in this Agreement and may begin ordering the new product pursuant to the terms of this Agreement as amended by such Advice Adoption Letter.

1.7.1.2 If CLEC wishes to negotiate an amendment with different terms and conditions than defined by Qwest for such new product, CLEC agrees to abide by those terms and conditions on an interim basis by executing the Interim Advice Adoption Letter (the form of which is attached hereto as Exhibit M) based upon the terms and conditions available on Qwest's wholesale website that Qwest has identified as pertaining to the new product. The Interim Advice Adoption Letter will terminate when the final amendment is approved. The rates, and to the extent practicable, other terms and conditions contained in the final amendment will relate back to the date the Interim Advice Adoption Letter was executed. No new product offering or accompanying Interim Advice Adoption

Letter will be construed to limit or add to any rates, terms or conditions existing in this Agreement.

1.8 Because this SGAT is Qwest's standard contract offer, CLECs with a current Interconnection Agreement may opt into, through Section 252(i) of the Act, any provision of the SGAT<sub>-</sub>by executing an appropriate amendment to its current Interconnection Agreement.

1.8.1 When opting into a provision, Qwest may require CLEC to accept Legitimately Related provisions to ensure that the provision retains the context set forth in the SGAT. At all times, Qwest bears the burden of establishing that an SGAT provision is Legitimately Related.<sup>3</sup>

1.8.2 To opt into a provision of the SGAT through Section 252(i), CLEC must provide Qwest with written notice of such intention specifying in detail the provisions of the SGAT selected in the form of a proposed amendment to the Interconnection Agreement which has been signed by CLEC. Qwest shall make a form or sample amendment as well as the currently effective SGAT, available in electronic form for use by CLEC to prepare the written notice. Once Qwest receives such written notice, it shall have a reasonable period of time to submit a formal written response either accepting the change and signing the amendment or identifying those additional provisions that Qwest believes are Legitimately Related and must also be included as part of the amendment. If Qwest identifies additional provisions that Qwest believes are Legitimately Related, Qwest shall specify the provisions in the proposed amendment, if any, to which the additional provisions are ~~not~~ Legitimately Related and which could be included in a revised proposed amendment that would be acceptable to Qwest. Under ordinary circumstances, a reasonable period of time shall be deemed to be fifteen (15) business days. In addition, Qwest shall provide to CLEC in writing an explanation of why Qwest considers the provisions Legitimately Related, including legal, technical, or other considerations. In extraordinary circumstances, where CLEC's requested modification is complex, Qwest shall have additional time to perform its review. When such extraordinary circumstances exist, Qwest will notify CLEC in writing within fifteen (15) business days from the notice and advise CLEC that additional time is necessary. In no event shall a reasonable period of time be deemed to be greater than twenty (20) business days from the time of CLEC's notice.<sup>4</sup>

1.8.2.1 Nothing in this SGAT shall preclude CLEC from opting into specific provisions of an agreement or of an entire agreement, solely because such provision or agreement itself resulted from an opting in by CLEC that is a party to it.

1.8.3 If Qwest has identified additional provisions that Qwest believes are Legitimately Related and has specified provisions in the proposed amendment to which those provisions are not Legitimately Related, CLEC may provide Qwest with a revised proposed amendment that deletes the disputed provisions, which Qwest shall accept and sign. Regardless of whether CLEC provides Qwest with a revised proposed amendment, if CLEC disputes Qwest's written response that additional SGAT provisions are Legitimately Related, then CLEC may immediately demand that the dispute be

<sup>3</sup> This minor grammatical change conforms with other SGATs in Qwest's region.

<sup>4</sup> Correction of typographical error.

submitted to dispute resolution and CLEC shall submit such dispute to dispute resolution within fifteen (15) Days from such receipt of Qwest's response. CLEC may, at its sole option, elect to have the dispute resolution conducted through one of the following methods of dispute resolution:

1.8.3.1 The dispute may be settled by the Commission. Such dispute resolution shall be conducted pursuant to Commission rules or regulations specifying a procedure for submission, hearing and resolving issues pursuant to Section 252(i) of the Act or rules and regulations specifying procedures for submission of a dispute arising under an Interconnection Agreement, as appropriate. If the Commission shall not have established any such rules or regulations, CLEC may file a complaint with the Commission. The Commission may elect to hear the complaint under expedited procedures.

1.8.3.2 The dispute may be settled by arbitration. Such an arbitration proceeding shall be conducted by a single arbitrator. The arbitration proceedings shall be conducted under the then-current rules of the American Arbitration Association (AAA). The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the dispute. All expedited procedures prescribed by AAA rules shall apply. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Except for a finding of bad faith as set forth in 1.8.3.3, each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Denver, Colorado metropolitan area or in another mutually agreed upon location.

1.8.3.3 Each Party to the dispute shall bear the responsibility of paying its own attorneys' fees and costs in prosecuting/defending the action. However, if either Party is found to have brought or defended the action in "bad faith", then that Party shall be responsible for reimbursing the other Party for its reasonable attorneys' fees and costs in prosecuting or defending the action.

1.8.4 If Qwest accepts a CLEC proposed change to adopt certain SGAT language and signs the amendment, the Parties shall begin abiding by the terms of the amendment immediately upon CLEC's receipt of the signed amendment. Qwest shall be responsible for submitting the proposed change to the Commission for its approval within ten (10) business days from receipt of the signed amendment. The amendment shall be deemed effective upon approval of the amendment by the Arizona Commission.

## Section 2.0 - INTERPRETATION AND CONSTRUCTION

2.1 This Agreement includes this Agreement and all Exhibits appended hereto, each of which is hereby incorporated by reference in this Agreement and made a part hereof. All references to Sections and Exhibits shall be deemed to be references to Sections of, and Exhibits to, this Agreement unless the context shall otherwise require. The headings and numbering of Sections and Exhibits used in this Agreement are for convenience only and will not be construed to define or limit any of the terms in this Agreement or affect the meaning and interpretation of this Agreement. Unless the context shall otherwise require, any reference to any statute, regulation, rule, Tariff, technical reference, technical publication, or any publication of Telecommunications industry administrative or technical standards, shall be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of that statute, regulation, rule, Tariff, technical reference, technical publication, or any publication of Telecommunications industry administrative or technical standards that is in effect. Provided, however, that nothing in this Section 2.1 shall be deemed or considered to limit or amend the provisions of Section 2.2. In the event a change in a law, rule, regulation or interpretation thereof would materially change this Agreement, the terms of Section 2.2 shall prevail over the terms of this Section 2.1. In the case of any material change, any reference in this Agreement to such law, rule, regulation or interpretation thereof will be to such law, rule, regulation or interpretation thereof in effect immediately prior to such change until the processes set forth in Section 2.2 are implemented. The existing configuration of either Party's network may not be in compliance with the latest release of technical references, technical publications, or publications of Telecommunications industry administrative or technical standards. Qwest will provide a notice to those CLECs included on the CMP email distribution list of all Tariff filings on the date filed, which contains a description of the filing including the section of the Tariff being amended or newly included, and a brief description of the subject matter of the Tariff as well as the effective date.

2.2 The provisions in this Agreement are intended to be in compliance with and based on the existing state of the law, rules, regulations and interpretations thereof, including but not limited to state rules, regulations, and laws, as of October 2, 2003 ~~the date hereof~~ (the "Existing Rules"). Nothing in this Agreement shall be deemed an admission by Qwest or CLEC concerning the interpretation or effect of the Existing Rules or an admission by Qwest or CLEC that the Existing Rules should not be changed, vacated, dismissed, stayed or modified. Nothing in this Agreement shall preclude or estop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of the Existing Rules or concerning whether the Existing Rules should be changed, vacated, dismissed, stayed or modified. To the extent that the Existing Rules are vacated, dismissed, stayed, or materially changed or modified, then this Agreement shall be amended to reflect such legally binding modification or change of the Existing Rules. Where the Parties fail to agree upon such an amendment within sixty (60) Days after notification from a Party seeking amendment due to a modification or change of the Existing Rules or if any time during such sixty (60) Day period the Parties shall have ceased to negotiate such new terms for a continuous period of fifteen (15) Days, it shall be resolved in accordance with the Dispute Resolution provision of this Agreement. It is expressly understood that this Agreement will be corrected, or if requested by CLEC, amended as set forth in this Section 2.2, to reflect the outcome of generic proceedings by the Commission for pricing, service standards, or other matters covered by this Agreement. Rates in Exhibit A will reflect legally binding decisions of the Commission and shall be applied on a prospective basis from the effective date of the legally binding Commission decision, unless otherwise ordered by the Commission. Any amendment shall be deemed effective on the effective date of the legally binding change or modification of the Existing Rules for rates, and to the extent practicable for

other terms and conditions, unless otherwise ordered. During the pendency of any negotiation for an amendment pursuant to this Section 2.2, the Parties shall continue to perform their obligations in accordance with the terms and conditions of this Agreement. For purposes of this section, "legally binding" means that the legal ruling has not been stayed; no request for a stay is pending, and any deadline for requesting a stay designated by statute or regulation, has passed.<sup>5</sup>

2.2.1 In addition to, but not in limitation of, 2.2 above, nothing in this Agreement shall be deemed an admission by Qwest or CLEC concerning the interpretation or effect of the FCC's decision and rules adopted in *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 and 98-147, nor rules, regulations and interpretations thereof, including but not limited to state rules, regulations, and laws as they may be issued or promulgated regarding the same (Decision(s)). Nothing in this Agreement shall preclude or estop Qwest or CLEC from taking any position in any forum concerning the proper interpretation or effect of Decisions or concerning whether the Decision should be changed, vacated, dismissed, stayed or modified.<sup>6</sup>

2.3 Unless otherwise specifically determined by the Commission, in cases of conflict between ~~the SGAT~~this Agreement and Qwest's Tariffs, PCAT, methods and procedures, technical publications, policies, product notifications or other Qwest documentation relating to Qwest's or CLEC's rights or obligations under this ~~SGAT~~Agreement, then the rates, terms, and conditions of this ~~SGAT~~Agreement shall prevail. To the extent another document abridges or expands the rights or obligations of either Party under this Agreement, the rates, terms and conditions of this Agreement shall prevail.

2.3.1 Intentionally Left Blank.

<sup>5</sup> The inclusion of the October 2, 2003 date provides greater clarity on the period covered by "Existing Rules". The addition of the sentence in the middle of Section 2.2 is intended to clarify that Commission decisions on pricing are to be effective at the effective date of the legally binding Commission decision, unless otherwise ordered by the Commission. The definition of "legally binding" for the purposes of this section is contained in the last sentence of Section 2.2.

<sup>6</sup> The inclusion of new Section 2.2.1 is to clarify that while Qwest believes that the changes to the SGAT proposed herein are in conformance with the TRO, the Parties are not precluded from participating in proceedings before the Courts or regulators to modify or interpret the TRO.

### **Section 3.0 - CLEC INFORMATION**

3.1 Except as otherwise required by law, Qwest will not provide or establish Interconnection, Unbundled Network Elements, ancillary services and/or resale of Telecommunications Services in accordance with the terms and conditions of this Agreement prior to CLEC's execution of this Agreement. The Parties shall complete Qwest's "New Customer Questionnaire," as it applies to CLEC's obtaining of Interconnection, Unbundled Network Elements, ancillary services, and/or resale of Telecommunications Services hereunder.

3.2 Prior to placing any orders for services under this Agreement, the Parties will jointly complete the following sections of Qwest's "New Customer Questionnaire;":

General Information

Billing and Collection (Section 1)

Credit Information

Billing Information

Summary Billing

OSS and Network Outage Notification Contact Information

System Administration Contact Information

Ordering Information for LIS Trunks, Collocation, and Associated Products (if CLEC plans to order these services)

Design Layout Request – LIS Trunking and Unbundled Loop (if CLEC plans to order these services)

3.2.1 The remainder of this questionnaire must be completed within two (2) weeks of completing the initial portion of the questionnaire. This questionnaire will be used to:

Determine geographical requirements;

Identify CLEC identification codes;

Determine Qwest system requirements to support CLEC's specific activity;

Collect credit information;

Obtain Billing information;

Create summary bills;

Establish input and output requirements;

Create and distribute Qwest and CLEC contact lists; and

Identify CLEC hours and holidays.

3.2.2 CLECs that have previously completed a Questionnaire need not fill out a New Customer Questionnaire; —however, CLEC will update its New Customer Questionnaire with any changes in the required information that have occurred and communicate those changes to Qwest. Before placing an order for a new product, CLEC will need to complete the relevant New Product Questionnaire and amend this Agreement, which may include an amendment pursuant to Section 1.7.1.

3.3 Intentionally Left Blank.

3.4 Intentionally Left Blank.

## Section 4.0 – DEFINITIONS

- 4.1 "Access Service Request" or "ASR" means the industry guideline forms and supporting documentation used for ordering Access Services. The ASR will be used to order trunking and facilities between CLEC and Qwest for Local Interconnection Service.
- 4.2 "Access Services" refers to the interstate and intrastate switched access and private line transport services offered for the origination and/or termination of interexchange traffic.
- 4.3 "Access Tandem Switch" is a Switch used to connect End Office Switches to interexchange Carrier Switches. Qwest's Access Tandem Switches are also used to connect and switch traffic between and among Central Office Switches within the same LATA and may be used for the exchange of local traffic.
- 4.4 "Act" means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or the Commission.
- 4.5 "Advanced Intelligent Network" or "AIN" is a Telecommunications network architecture in which call processing, call routing and network management are provided by means of centralized databases.
- 4.6 "Advanced Services" refers to high speed, switched, broadband, wireline Telecommunications capability that enables users to originate and receive high-quality, voice, data, graphics or video Telecommunications using any technology.
- 4.7 "Affiliate" means a Person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.
- 4.8 "AMI T1" is a transmission system sometimes used on loops to transmit DS1 signals (1.544 Mbps) using Alternate Mark Inversion (AMI) line code.
- 4.9 "Applicable Law" means all laws, statutes, common law, ordinances, codes, rules, guidelines, orders, permits and approval of any governmental regulations, including, but not limited to, the Act, the regulations, rules, and final orders of the FCC and the Commission, and any final orders and decisions of a court of competent jurisdiction reviewing the regulations, rules, or orders of the FCC or the Commission.
- 4.10 "Application Date" or "APP" means the date CLEC provides Qwest an application for service containing required information as set forth in this Agreement.
- 4.11 "ATIS" or "Alliance for Telecommunications Industry Solutions" is a North American telecommunication industry standards forum which, through its committees and working groups, creates, and publishes standards and guidelines designed to enable interoperability and interconnection for Telecommunications products and services. ATIS Standards and Guidelines, as well as the standards of other industry fora, are referenced herein.

4.12 "Automated Message Accounting" or "AMA" is the structure inherent in Switch technology that initially records telecommunication message information. AMA format is contained in the AMA document, published by Telcordia Technologies, or its successors, as GR-1100-CORE which defines the industry standard for message recording.

4.13 "Automatic Location Identification" or "ALI" is the automatic display at the Public Safety Answering Point (PSAP) of the caller's telephone number, the address/location of the telephone and supplementary emergency services information for Enhanced 911 (E911).

4.14 "Automatic Location Identification/Database Management System" or "ALI/DBMS" is an Enhanced 911/(E911) database containing End User Customer location information (including name, service address, telephone number, and sometimes special information from the local service provider) used to determine to which Public Safety Answering Point (PSAP) to route the call and used by the PSAP for emergency call handling (i.e., dispatch of emergency aid).

4.15 "Automatic Location Identification Gateway" or "ALI Gateway" is a computer facility into which CLEC delivers Automatic Location Identification ("ALI") data for CLEC Customers. Access to the ALI Gateway will be via a dial-up modem using a common protocol.

4.16 "Automatic Number Identification" or "ANI" is the ~~h~~Billing telephone number associated with the access line from which a call originates. ANI and Calling Party Number (CPN) usually are the same number.

4.17 "Automatic Route Selection" or "ARS" is a service feature that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into a circuit Switch routing table or system.

4.18 "Basic Exchange Telecommunications Service" means, unless otherwise defined in Commission rules and then it shall have the meaning set forth therein, a service offered to End User Customers which provides the End User Customer with a telephonic connection to, and a unique local telephone number address on, the public switched ~~t~~Telecommunications network, and which enables such End User Customer to generally place calls to, or receive calls from, other stations on the public switched ~~T~~telecommunications network. Basic residence and business line services are Basic Exchange Telecommunications Services. As used solely in the context of this Agreement and unless otherwise agreed, Basic Exchange Telecommunications Service includes access to ancillary services such as 911, directory assistance and operator services.

4.19 "Bill Date" means the date on which a Billing period ends, as identified on the bill.

~~4.19-120~~ "Billable Record" means a record that is not more than 90 (ninety) days old, contains accurate information in each field and is populated consistent with OBF standards."

4.20~~1~~ "Billing" involves the provision of appropriate usage data by one Telecommunications Carrier to another to facilitate Customer Billing with attendant acknowledgments and status reports. It also involves the exchange of information between Telecommunications Carriers to process claims and adjustments.

4.24~~2~~ "Binder Groups" means the sub-units of a cable, usually in groups of 25, 50 or

100 color-coded twisted pairs wrapped in colored tape within a cable.

4.223 "Bona Fide Request" or "BFR" shall have the meaning set forth in Section 17.

4.234 "Bridged Tap" means the unused sections of a twisted pair subtending the loop between the End User Customer and the Serving Wire Center or extending beyond the End User Customer's location.

4.254 "Busy Line Verify/Busy Line Interrupt" or "BLV/BLI Traffic" means a call to an operator service in which the caller inquires as to the busy status of or requests an interruption of a call on another End User Customer's Basic Exchange Telecommunications Service line.

4.265 "Calling Party Number" or "CPN" is a Common Channel Signaling (CCS) parameter which refers to the ten digit number transmitted through a network identifying the calling party. Reference Qwest Technical Publication 77342.

4.276 "Carrier" or "Common Carrier" See Telecommunications Carrier.

4.287 "Carrier Liaison Committee" or "CLC" is under the auspices of ATIS and is the executive oversight committee that provides direction as well as an appeals process to its subtending fora, the Network Interconnection Interoperability Forum (NIIF), the Ordering and Billing Forum (OBF), the Industry Numbering Committee (INC), and the Toll Fraud Prevention Committee (TFPC). On occasion, the CLC commissions ad hoc committees when issues do not have a logical home in one of the subtending forums. OBF and NIMC publish business process rules for their respective areas of concern.

4.298 "Central Office" means a building or a space within a building where transmission facilities or circuits are connected or switched.

4.3029 "Central Office Switch" means a Switch used to provide Telecommunications Services, including, but not limited to:

4.2930.1 "End Office Switches" which are used to terminate End User Customer station Loops, or equivalent, for the purpose of interconnecting to each other and to trunks; and

4.2930.2 "Tandem Office Switches" (or "Tandem Switches") which are used to connect and switch trunk circuits between and among other End Office Switches. CLEC Switch(es) shall be considered Tandem Office Switch(es) to the extent such Switch(es) serve(s) a comparable geographic area as Qwest's Tandem Office Switch. A fact-based consideration by the Commission of geography should be used to classify any Switch on a prospective basis.

4.310 "Centralized Automatic Message Accounting" or "CAMA" trunks are trunks using MF signaling protocol used to record Billing data.

4.324 "Centralized Message Distribution System" or "CMDS" means the operation system that Local Exchange Carriers use to exchange outcollect and IABS access messages among each other and other parties connected to CMDS.

4.332 "Centrex" shall have the meaning set forth in Section 6.2.2.9.

~~4.343~~ "Charge Number" is a Common Channel Signaling parameter, which refers to the number, transmitted through the network identifying the Billing number of the calling party. Charge Number frequently is not the Calling Party Number (CPN).

~~4.354~~ "Collocation" is an arrangement where Qwest provides space in Qwest Premises for the placement of CLEC's equipment to be used for the purpose of Interconnection or access to Qwest Unbundled Network Elements.

~~4.365~~ "Collocation – Point of Interconnection" or "C-POI" is the point outside Qwest's Wire Center where CLEC's fiber facility meets Qwest's Fiber Entrance Facility, except where CLEC uses an Express Fiber Entrance Facility. In either case, Qwest will extend or run the Fiber Entrance Facility to CLEC's Collocation Space.

~~4.37~~ "Commercial Mobile Radio Service" or "CMRS" is defined in 47 U.S.C. Section 332 and FCC rules and orders interpreting that statute.<sup>7</sup>

~~"Commission" means the Arizona Corporation Commission.~~<sup>8</sup>

4.38 "Commingling" means the connecting, attaching, or otherwise linking of an Unbundled Network Element, or a Combination of Unbundled Network Elements, to one or more facilities or services that a requesting Telecommunications Carrier has obtained at wholesale from Qwest, or the combination of an Unbundled Network Element, or a Combination of Unbundled Network Elements, with one or more such facilities or services.<sup>9</sup>

~~"Commercial Mobile Radio Service" or "CMRS" is defined in 47 U.S.C. Section 332 and FCC rules and orders interpreting that statute.~~<sup>10</sup>

4.39 "Commingle" means the act of Commingling.<sup>11</sup>

4.40 "Commission" means the Arizona Corporation Commission.<sup>12</sup>

~~4.4138~~ "Common Channel Signaling" or "CCS" means a method of exchanging call set-up and network control data over a digital signaling network fully separate from the Public Switched Network that carries the actual call. Signaling System 7 ("SS7") is currently the preferred CCS method.

~~4.4239~~ "Communications Assistance for Law Enforcement Act" or "CALEA" refers to the duties and obligations of Carriers to assist law enforcement agencies by intercepting communications and records, and installing pen registers and trap and trace devices.

<sup>7</sup> This definition has been moved alphabetical alignment.

<sup>8</sup> This definition has been moved alphabetical alignment.

<sup>9</sup> See, 47 CFR 51.5

<sup>10</sup> This definition has been moved alphabetical alignment.

<sup>11</sup> See, 47 CFR 51.5

<sup>12</sup> This definition has been moved alphabetical alignment.

4.430 "Competitive Local Exchange Carrier" or "CLEC" refers to a Party that has submitted a request, pursuant to this Agreement, to obtain Interconnection, access to Unbundled Network Elements, ancillary services, or resale of Telecommunications Services. A CLEC is an entity authorized to provide Local Exchange Service that does not otherwise qualify as an Incumbent Local Exchange Carrier (ILEC).

4.444 "Confidential Information" shall have the meaning set forth in Section 5.16.

4.452 "Cross Connection" is a cabling scheme between cabling runs, subsystems, and equipment using patch cords or jumper wires that attach to connection hardware on each end.

4.463 "Current Service Provider" means the Party from which an End User Customer is planning to switch its local exchange service or the Party from which an End User Customer is planning to port its telephone number(s).~~"Custom Calling Features" comprise a group of features provided via a Central Office Switch without the need for special Customer Premises Equipment. Features include, but are not limited to, call waiting, 3 way calling, abbreviated dialing (speed calling), call forwarding, and series completing (busy or no answer).<sup>13</sup>~~

4.474 "Custom Calling Features" comprise a group of features provided via a Central Office Switch without the need for special Customer Premises Equipment. Features include, but are not limited to, call waiting, 3-way calling, abbreviated dialing (speed calling), call forwarding, and series completing (busy or no answer)

4.485 "Custom Local Area Signaling Service" or "CLASS" is a set of call-management service features consisting of number translation services, such as call forwarding and caller identification, available within a Local Access and Transport Area ("LATA"). Features include, but are not limited to, automatic callback, automatic recall, calling number delivery, Customer originated trace, distinctive ringing/call waiting, selective call forwarding and selective call rejection.~~"Current Service Provider" means the Party from which an End User Customer is planning to switch its local exchange service or the Party from which an End User Customer is planning to port its telephone number(s).~~

4.496 "Customer" is a Person to whom a Party provides or has agreed to provide a specific service or set of services, whether directly or indirectly. Customer includes Telecommunication Carriers. See also, End User Customer.

4.5047 "Customer Premises Equipment" or "CPE" means equipment employed on the premises of a Person other than a Carrier to originate, route or terminate Telecommunications (e.g., a telephone, PBX, modem pool, etc.).

4.5148 "Customer Usage Data" means the Telecommunications Service usage data of a CLEC Customer, measured in minutes, sub-minute increments, message units or otherwise, that is recorded by Qwest AMA equipment and forwarded to CLEC.

4.5249 "Dark Fiber" shall have the meaning set forth in Section 9.7.1.

4.53 "Data Local Exchange Carrier" or "DLEC" is a CLEC interconnecting primarily for

<sup>13</sup> Custom Calling Features moved to 4.47 for alphabetical alignment, Current Service Provider moved from 4.48 for alphabetical alignment.

purposes of transporting data.<sup>14</sup>

4.540 "Day" means calendar days unless otherwise specified.

4.554 "Dedicated Transport" is a Qwest provided digital transmission path between ~~Qwest Wire Centers, Qwest End Office Switches, and Qwest Tandem Switches~~ locations designated by CLEC to which CLEC is granted exclusive use. ~~Such locations may include, but not be limited to, Qwest Wire Centers, Qwest End Office Switches, and Qwest Tandem Switches.~~ The path may operate at DS-1 or DS3 higher transmission speeds. Dedicated Transport is also described in Section 9.<sup>15</sup>

4.562 "Demarcation Point" means the point where Qwest owned or controlled facilities cease, and CLEC, End User Customer, premises owner or landlord ownership or control of facilities begin.

4.573 "Designed, Verified and Assigned Date" or "DVA" means the date on which implementation groups are to report that all documents and materials have been received and are complete.

4.584 "Desired Due Date" means the desired service activation date as requested by CLEC on a service order.

4.595 "Dialing Parity" shall have the meaning set forth in Section 14.1.

4.6056 "Digital Cross-Connect System" or "DCS" is a function which provides automated Cross Connection of Digital Signal Level 0 (DS0) or higher transmission bit rate digital channels within physical interface facilities. Types of DCS include but are not limited to DCS 1/0s, DCS 3/1s, and DCS 3/3s, where the nomenclature 1/0 denotes interfaces typically at the DS1 rate or greater with Cross Connection typically at the DS0 rate. This same nomenclature, at the appropriate rate substitution, extends to the other types of DCS specifically cited as 3/1 and 3/3. Types of DCS that cross-connect Synchronous Transport Signal level 1 (STS-1 s) or other Synchronous Optical Network (SONET) signals (e.g., STS-3) are also DCS, although not denoted by this same type of nomenclature. DCS may provide the functionality of more than one of the aforementioned DCS types (e.g., DCS 3/3/1 which combines functionality of DCS 3/3 and DCS 3/1). For such DCS, the requirements will be, at least, the aggregation of requirements on the "component" DCS. In locations where automated Cross Connection capability does not exist, DCS will be defined as the combination of the functionality provided by a Digital Signal Cross-Connect (DSX) or Light Guide Cross-Connect (LGX) patch panels and D4 channel banks or other DS0 and above multiplexing equipment used to provide the function of a manual Cross Connection. Interconnection is between a DSX or LGX to a Switch, another Cross Connection, or other service platform device.

4.6157 "Digital Signal Level" means one of several transmission rates in the time-division multiplex hierarchy.

<sup>14</sup> In 2002, Qwest agreed with Contact Communications to add this definition of Data Local Exchange Carrier to the Wyoming SGAT. Because the term is used in Section 9.21, it is being added in all fourteen state SGATs for consistency.

<sup>15</sup> The TRO limited Qwest's obligation to provide Dedicated Transport to DS1 and DS3 transmission speeds. See, 47 CFR 51.319(e)(1)-(2).

4.6258 "Digital Signal Level 0" or "DS0" is the 64 Kbps standard speed for digitizing one voice conversation using pulse code modulation. There are 24 DS0 channels in a DS1.

4.6359 "Digital Signal Level 1" or "DS1" means the 1.544 Mbps first-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS1 is the initial level of multiplexing. There are 28 DS1s in a DS3.

4.640 "Digital Signal Level 3" or "DS3" means the 44.736 Mbps third-level signal in the time-division multiplex hierarchy. In the time-division multiplexing hierarchy of the telephone network, DS3 is defined as the third level of multiplexing.

4.654 "Digital Subscriber Line Access Multiplexer" or "DSLAM" is a network device that: (i) aggregates lower bit rate DSL signals to higher bit-rate or bandwidth signals (multiplexing) and (ii) disaggregates higher bit-rate or bandwidth signals to lower bit-rate DSL signals (demultiplexing). DSLAMs can connect DSL loops with some combination of CLEC ATM, Frame Relay, or IP networks. The DSLAM must be located at the end of a copper loop nearest the Serving Wire Center (e.g., in a Remote Terminal, Central Office, or a Customer's premises).

4.662 "Digital Subscriber Loop" or "DSL" refers to a set of service-enhancing copper technologies that are designed to provide digital communications services over copper Loops either in addition to or instead of normal analog voice service, sometimes referred to herein as xDSL, including, but not limited to, the following:

4.626.1 "ADSL" or "Asymmetric Digital Subscriber Line" is a Passband digital loop transmission technology that typically permits the transmission of up to 8 Mbps downstream (from the Central Office to the End User Customer) and up to 1 Mbps digital signal upstream (from the End User Customer to the Central Office) over one (1) copper pair.

4.662.2 "HDSL" or "High-Data Rate Digital Subscriber Line" is a synchronous baseband DSL technology operating over one or more copper pairs. HDSL can offer 784 Kbps circuits over a single copper pair, T1 service over two (2) copper pairs, or future E1 service over three (3) copper pairs.

4.662.3 "HDSL2" or "High-Data Rate Digital Subscriber Line 2" is a synchronous baseband DSL technology operating over a single pair capable of transporting a bit rate of 1.544 Mbps.

4.662.4 "IDSL" or "ISDN Digital Subscriber Line" or "Integrated Services Digital Network Digital Subscriber Line" is a symmetrical, baseband DSL technology that permits the bi-directional transmission of up to 128 Kbps using ISDN CPE but not circuit switching.

4.662.5 "RADSL" or "Rate Adaptive Digital Subscriber Line" is a form of ADSL that can automatically assess the condition of the loop and optimize the line rate for a given line quality.

4.662.6 "SDSL" or "Symmetric Digital Subscriber Line" is a baseband DSL transmission technology that permits the bi-directional transmission from up to 160 kbps to 2.048 Mbps on a single pair.

4.662.7 "VDSL" or "Very High Speed Digital Subscriber Line" is a baseband DSL transmission technology that permits the transmission of up to 52 Mbps downstream (from the Central Office to the End User Customer) and up to 2.3 Mbps digital signal upstream (from the End User Customer to the Central Office). VDSL can also be 26 Mbps symmetrical, or other combination.

4.673 "Directory Assistance Database" shall have the meaning set forth in Sections 10.5.2.2, 10.5.2.8, and 10.5.2.9.

4.684 "Directory Assistance Lists" shall have the meaning set forth in Section 10.6.1.1.

4.695 "Directory Assistance Service" includes, but is not limited to, making available to callers, upon request, information contained in the Directory Assistance Database. Directory Assistance Service includes, where available, the option to complete the call at the caller's direction.

4.7066 "Directory Listings" or "Listings" are any information: (1) identifying the listed names of subscribers' of a Telecommunications Carrier and such subscriber's telephone numbers, addressees, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses or classifications; and (2) that the Telecommunications Carrier or an Affiliate has published, caused to be published, or accepted for publication in any directory format.

4.7167 "Disturber" is defined as a technology recognized by industry standards bodies that significantly degrades service using another technology (such as how AMI T1x affects DSL).

~~4.72 "DSX Panel" means a cross connect bay or panel used for the termination of equipment and facilities operating at digital rates.~~<sup>16</sup>

4.7368 "Due Date" means the specific date on which the requested service is to be available to the CLEC or to CLEC's End User Customer, as applicable.

~~4.69 "DSX Panel" means a cross connect bay or panel used for the termination of equipment and facilities operating at digital rates.~~<sup>17</sup>

4.740 "Effective Date" shall have the meaning set forth in Section 1.4.

4.754 "Electronic Bonding" is a real-time and secure electronic exchange of data between information systems in separate companies. Electronic Bonding allows electronic access to services which have traditionally been handled through manual means. The heart of Electronic Bonding is strict adherence to both International and National standards. These standards define the communication and data protocols allowing all organizations in the world to exchange information.

<sup>16</sup> This definition is not new. It has been moved to be placed in the correct alphabetic order in this Section.

<sup>17</sup> This definition has not been changed. It has been moved to be placed in the correct alphabetic order in this Section.

- 4.762 "Electronic File Transfer" means any system or process that utilizes an electronic format and protocol to send or receive data files.
- 4.773 "Emergency Service Number" or "ESN" is a three to five digit number representing a unique combination of Emergency Response Agencies (law enforcement, fire and emergency medical service) designed to serve a specific range of addresses within a particular geographical area. The ESN facilitates Selective Routing and transfer, if required, to the appropriate PSAP and the dispatch of proper Emergency Response Agency(ies).
- 4.784 "End User Customer" means a third party retail Customer that subscribes to a Telecommunications Service provided by either of the Parties or by another Carrier or by two (2) or more Carriers.
- 4.795 "Enhanced Services" means any service offered over Common Carrier transmission facilities that employ computer processing applications that act on the format, content, code, protocol or similar aspects of a subscriber's transmitted information; that provide the subscriber with additional, different or restructured information; or involve End User Customer interaction with stored information.
- 4.8076 "Enhanced 911" or "E911" shall have the meaning set forth in Section 10.3.1.
- 4.8177 "Environmental Hazard" means any substance the presence, use, transport, abandonment or disposal of which (i) requires investigation, remediation, compensation, fine or penalty under any Applicable Law (including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act, Superfund Amendment and Reauthorization Act, Resource Conservation Recovery Act, the Occupational Safety and Health Act and provisions with similar purposes in applicable foreign, state and local jurisdictions) or (ii) poses risks to human health, safety or the environment (including, without limitation, indoor, outdoor or orbital space environments) and is regulated under any Applicable Law.
- 4.8278 "Exchange Access (IntraLATA Toll)" as used in Section 7 is defined in accordance with Qwest's current IntraLATA toll serving areas, as determined by Qwest's state and interstate Tariffs and excludes toll provided using Switched Access purchased by an IXC. "Exchange Access" as used in the remainder of the SGAT shall have the meaning set forth in the Act.
- 4.8379 "Exchange Message Interface" or "EMI" means the format used for exchange of Telecommunications message information among Telecommunications Carriers. It is referenced in the Alliance for Telecommunications Industry Solutions (ATIS) document that defines industry guidelines for the exchange of message records.
- 4.849 "Exchange Message Record" or "EMR" is the standard used for exchange of Telecommunications message information between Telecommunications providers for billable, non-billable, sample, settlement and study data. EMR format is contained in BR-010-200-010 CRIS Exchange Message Record, a Telcordia document that defines industry standards for exchange message records.
- 4.854 "Exchange Service" or "Extended Area Service (EAS)/Local Traffic" means traffic that is originated and terminated within the Local Calling Area as determined by the Commission.
- 4.862 "FCC" means the Federal Communications Commission.

4.873 "Fiber Meet" means an Interconnection architecture method whereby the Parties physically interconnect their networks via an optical fiber interface (as opposed to an electrical interface) at a mutually-agreed-upon location.

4.884 "Finished Services" means complete end to end services offered by Qwest to wholesale or retail Customers. Finished Services do not include Unbundled Network Elements or combinations of Unbundled Network Elements. Finished Services include voice messaging, Qwest provided DSL, Access Services, private lines, retail services and resold services.

4.895 "Firm Order Confirmation" or "FOC" means the notice Qwest provides to CLEC to confirm that the CLEC Local Service Order (LSR) has been received and has been successfully processed. The FOC confirms the schedule of dates committed to by Qwest for the Provisioning of the service requested.

4.9086 "Hub Provider" means an entity that (i) provides Common Channel Signaling (SS7) connectivity between the networks of service providers that are not directly connected to each other; or (ii) provides third party database services such as LIDB. The SS7 messages received by Hub Providers are accepted or rejected by the Hub Provider depending on whether a contractual arrangement exists between the Hub Provider and the message originator (sender) and whether the message originator has contracted for the type of SS7 messages being submitted for transmission to the Hub Provider.

4.9187 "Individual Case Basis" or "ICB" shall have the meaning set forth in Exhibit I.

4.9288 "Information Service" is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via Telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a Telecommunications system or the management of a Telecommunications Service.

4.9389 "Integrated Digital Loop Carrier" means a subscriber Loop Carrier system, which integrates multiple voice channels within the Switch on a DS1 level signal.

4.940 "Integrated Services Digital Network" or "ISDN" refers to a digital circuit switched network service. Basic Rate ISDN (BRI) provides for channelized (2 bearer and 1 data) end-to-end digital connectivity for the transmission of voice or data on either or both bearer channels and packet data on the data channel. Primary Rate ISDN (PRI) provides for 23 bearer channels and 1 data channel. For BRI, the bearer channels operate at 64 Kbps and the data channel at 16 Kbps. For PRI, all 24 channels operate at 64 Kbps or 1.5 Mbps.

4.951 "Interconnection" is as described in the Act and refers to the connection between networks for the purpose of transmission and routing of telephone Exchange Service traffic, Exchange Access and Jointly Provided Switched Access traffic.

4.962 "Interconnection Agreement" or "Agreement" is an agreement entered into between Qwest and CLEC for Interconnection, Unbundled Network Elements or other services as a result of negotiations, adoption and/or arbitration or a combination thereof pursuant to Section 252 of the Act. When CLEC signs and delivers a copy of this SGAT to Qwest pursuant to the notice provision of the SGAT, it becomes the Interconnection Agreement between the Parties pursuant to Section 252(f) of the Act.

- 4.973 "Interexchange Carrier" or "IXC" means a Carrier that provides InterLATA or IntraLATA Toll services.
- 4.984 "InterLATA Traffic" describes Telecommunications between a point located in a Local Access and Transport Area ("LATA") and a point located outside such area.
- 4.995 "IntraLATA Toll Traffic" describes IntraLATA Traffic outside the Local Calling Area.
- 4.1006 "Interoperability" means the ability of a Qwest OSS Function to process seamlessly (i.e., without any manual intervention) business transactions with CLEC's OSS application, and vice versa, by means of secure exchange of transaction data models that use data fields and usage rules that can be received and processed by the other Party to achieve the intended OSS Function and related response. (See also Electronic Bonding.)
- 4.1017 "Legitimately Related" terms and conditions are those rates, terms, and conditions that relate solely to the individual ~~i~~nterconnection, service or element being requested by CLEC under Section 252(i) of the Act, and not those that specifically relate to other ~~i~~nterconnection, services or elements in the approved Interconnection Agreement. These rates, terms and conditions are those that, when taken together, are the necessary rates, terms and conditions for establishing the business relationship between the Parties to that particular ~~i~~nterconnection, service or element. The terms and conditions would not include General Terms and Conditions to the extent that the ~~the~~ LEC Interconnection ~~a~~Agreement already contains the requisite General Terms and Conditions.
- 4.1028 "LERG Reassignment" or "NXX Reassignment" means the reassignment of an entire NXX code shown in the LERG from one Carrier to another Carrier.
- 4.1039 "Line Information Database" or "LIDB" shall have the meaning as set forth in Section 9.15.1.1.
- 4.1040 "Line Side" refers to End Office Switch connections that have been programmed to treat the circuit as a local line connected to a terminating station (e.g., an End User Customer's telephone station set, a PBX, answering machine, facsimile machine or computer).
- 4.1054 "Local Access Transport Area" or "LATA" is as defined in the Act.
- 4.1062 "Local Calling Area" is as defined by the Commission.
- 4.1073 "Local Exchange Carrier" or "LEC" means any Carrier that is engaged in the provision of telephone Exchange Service or Exchange Access. Such term does not include a Carrier insofar as such Carrier is engaged in the provision of a commercial mobile service under Section 332(c) of the Act, except to the extent that the FCC finds that such service should be included in the definition of such term.
- 4.1084 "Local Exchange Routing Guide" or "LERG" means a Telcordia Technologies Reference Document used by LECs and IXCs to identify NPA-NXX routing and homing information as well as Network Element and equipment designations.
- 4.1095 "Local Interconnection Service or "LIS" Entrance Facility" is a DS1 or DS3 facility that extends from CLEC's Switch location or Point of Interconnection (POI) to the Qwest Serving

Wire Center. An Entrance Facility may not extend beyond the area served by the Qwest Serving Wire Center.

~~4.11006~~ "Local Interconnection Service" or "LIS" is the Qwest product name for its provision of Interconnection as described in Section 7 of this Agreement.

~~4.107111~~ "Local Number Portability" or "LNP" shall have the meaning set forth in Section 10.2.1.1.

~~4.108~~ "Loop" or "Unbundled Loop" shall have the meaning set forth in Section 9.2.1.<sup>18</sup>

~~4.409112~~ "Local Service Ordering Guide" or "LSOG" is a document developed by the OBF to establish industry-wide ordering and Billing processes for ordering local services.

~~4.440113~~ "Local Service Request" or "LSR" means the industry standard forms and supporting documentation used for ordering local services.

4.114 "Location Routing Number" or "LRN" means a unique 10-digit number assigned to a Central Office Switch in a defined geographic area for call routing purposes. This 10-digit number serves as a network address and the routing information is stored in a database. Switches routing calls to subscribers whose telephone numbers are in portable NXXs perform a database query to obtain the Location Routing Number that corresponds with the Switch serving the dialed telephone number. Based on the Location Routing Number, the querying Carrier then routes the call to the Switch serving the ported number. The term "LRN" may also be used to refer to a method of LNP.<sup>19</sup>

4.115 "Loop" or "Unbundled Loop" shall have the meaning set forth in Section 9.2.1.<sup>20</sup>

4.1164 "Loop Concentrator/Multiplexer" or "LCM" is the Network Element that does one or more of the following:

4.116.1 aggregates lower bit rate or bandwidth signals to higher bit rate or bandwidth signals (multiplexing);

4.116.2 disaggregates higher bit rate or bandwidth signals to lower bit rate or bandwidth signals (demultiplexing);

4.116.3 aggregates a specified number of signals or channels to fewer channels (concentrating);

4.116.4 performs signal conversion, including encoding of signals (e.g., analog to digital and digital to analog signal conversion); or

<sup>18</sup> This definition has not been changed. It has been moved to be placed in the correct alphabetic position in this Section.

<sup>19</sup> This definition has not been changed. It has been moved to be placed in the correct alphabetic position in this Section.

<sup>20</sup> This definition has not been changed. It has been moved to be placed in the correct alphabetic position in this Section.

4.116.5 \_\_\_\_\_ in some instances performs electrical to optical (E/O) conversion.

4.116.6 \_\_\_\_\_ LCM includes DLC, and D4 channel banks and may be located in Remote Terminals or Central Offices.

~~4.112 \_\_\_\_\_ "Location Routing Number" or "LRN" means a unique 10-digit number assigned to a Central Office Switch in a defined geographic area for call routing purposes. This 10-digit number serves as a network address and the routing information is stored in a database. Switches routing calls to subscribers whose telephone numbers are in portable NXXs perform a database query to obtain the Location Routing Number that corresponds with the Switch serving the dialed telephone number. Based on the Location Routing Number, the querying Carrier then routes the call to the Switch serving the ported number. The term "LRN" may also be used to refer to a method of LNP.<sup>21</sup>~~

4.117~~3~~ \_\_\_\_\_ "Main Distribution Frame" or "MDF" means a Qwest distribution frame (e.g., COSMIC™ frame) used to connect Qwest cable pairs and line and trunk equipment terminals on a Qwest switching system.

4.118~~4~~ \_\_\_\_\_ "Maintenance and Repair" involves the exchange of information between Carriers where one initiates a request for maintenance or repair of existing products and services or Unbundled Network Elements or combinations thereof from the other with attendant acknowledgments and status reports in order to ensure proper operation and functionality of facilities.

4.119~~5~~ \_\_\_\_\_ "Maintenance of Service charge" is a charge that relates to trouble isolation. Maintenance of Service charges are set forth in Exhibit A. Basic Maintenance of Service charges apply when the Qwest technician performs work during standard business hours. Overtime Maintenance of Service charges apply when the Qwest technician performs work on a business day, but outside standard business hours, or on a Saturday. Premium Maintenance of Service charges apply when the Qwest technician performs work on either a Sunday or Qwest-recognized holiday.

4.120~~46~~ \_\_\_\_\_ "Master Street Address Guide" or "MSAG" is a database of street names and house number ranges within their associated communities defining particular geographic areas and their associated ESNs to enable proper routing of 911 calls.

4.121~~47~~ \_\_\_\_\_ "Meet Point" is a point of interconnection between two (2) networks, designated by two (2) Telecommunications Carriers, at which one Carrier's responsibility for service begins and the other Carrier's responsibility ends.

4.122~~48~~ \_\_\_\_\_ "Meet-Point Billing" or "MPB" or "Jointly Provided Switched Access" refers to an arrangement whereby two (2) LECs (including a LEC and CLEC) jointly provide Switched Access Service to an Interexchange Carrier, with each LEC (or CLEC) receiving an appropriate share of the revenues from the IXC as defined by their effective access Tariffs.

4.123~~49~~ \_\_\_\_\_ "Mid-Span Meet" means an Interconnection between two (2) networks, designated by two (2) Telecommunications Carriers, whereby each provides its own cable and equipment up to the Meet Point of the cable facilities.

<sup>21</sup> This definition has not been changed. It has been moved to be placed in the correct alphabetic position in this Section.

- 4.1240 "Miscellaneous Charges" mean cost-based charges that Qwest may assess in addition to recurring and nonrecurring rates set forth in Exhibit A, for activities CLEC requests Qwest to perform, activities CLEC authorizes, or charges that are a result of CLEC's actions, such as cancellation charges, additional labor and maintenance. Miscellaneous Charges are not already included in Qwest's recurring or nonrecurring rates. Miscellaneous Charges are listed in Exhibit A.
- 4.1254 "Multiple Exchange Carrier Access Billing" or "MECAB" refers to the document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Telcordia Technologies as Special Report SR-BDS-000983, contains the recommended guidelines for the Billing of an access service provided by two (2) or more LECs (including a LEC and a CLEC), or by one (1) LEC in two (2) or more states within a single LATA.
- 4.1262 "Multiple Exchange Carrier Ordering and Design" or "MECOD" Guidelines for Access Services - Industry Support Interface, refers to the document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Telcordia Technologies as Special Report SR STS-002643, establishes recommended guidelines for processing orders for access service which is to be provided by two (2) or more LECs (including a LEC and a CLEC). It is published by Telcordia Technologies as SRBDS 00983.
- 4.1273 "N-1 Carrier" means the Carrier in the call routing process immediately preceding the terminating Carrier. The N-1 Carrier is responsible for performing the database queries (under the FCC's rules) to determine the LRN value for correctly routing a call to a ported number.
- 4.1284 "National Emergency Number Association" or "NENA" is an association which fosters the technological advancement, availability and implementation of 911 Service nationwide through research, planning, training, certification, technical assistance and legislative representation.
- 4.1295 "Near Real Time" means that Qwest's OSS electronically receives a transaction from CLEC, automatically processes that transaction, returns the response to that transaction to CLEC in an automatic event driven manner (without manual intervention) via the interface for the OSS function in question. Except for the time it takes to send and receive the transaction between Qwest's and CLEC's OSS application, the processing time for Qwest's representatives should be the same as the processing time for CLEC's representatives. Current benchmarks using TCIF 98-006 averages between two (2) and four (4) seconds for the connection and an average transaction transmittal. The specific agreed metrics for "Near Real Time" transaction processing will be contained in the Performance Indicator Definitions (PIDs), where applicable.
- 4.13026 "Network Element" is a facility or equipment used in the provision of Telecommunications Service. It also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for Billing and collection or used in the transmission, routing, or other provision of a Telecommunications Service.

4.13127 "Network Installation and Maintenance Committee" or "NIMC" is the ATIS/CLC sub-committee responsible for developing business process rules for Maintenance and Repair or trouble administration.

4.13228 "Network Interface Device" or "NID" is a Network Element (including all of its features, functions and capabilities) that includes any means of interconnection of End User Customer premises wiring to Qwest's Distribution plant, such as a cross connect device used for that purpose.

4.13329 "New Service Provider" means the Party to which an End User Customer switches its local exchange service or the Party to which an End User Customer is porting its telephone number(s).

4.1340 "911 Service" shall have the meaning set forth in Section 10.3.1.

4.1354 "911/E911 Interconnection Trunk Groups" shall have the meaning set forth in Section 10.3.7.

4.136 "Non-Qualifying Service" is a service that is not a Qualifying Service.<sup>22</sup>

4.1372 "North American Numbering Council" or "NANC" means the federal advisory committee chartered by the FCC to analyze, advise, and make recommendations on numbering issues.

4.1383 "North American Numbering Plan" or "NANP" means the basic numbering plan for the Telecommunications networks located in the United States as well as Canada, Bermuda, Puerto Rico, Guam, the Commonwealth of the Marianna Islands and certain Caribbean Islands. The NANP format is a 10-digit number that consists of a 3-digit NPA code (commonly referred to as the area code) followed by a 3-digit NXX code and 4-digit line number.

4.1394 "Number Portability Administration Center" or "NPAC" means one (1) of the seven (7) regional number portability centers involved in the dissemination of data associated with ported numbers. The NPACs were established for each of the seven (7) original Bell Operating Company regions so as to cover the fifty (50) states, the District of Columbia and the U.S. territories in the North American Numbering Plan area.

4.14035 "Numbering Plan Area" or "NPA" is also sometimes referred to as an area code. It is a unique three-digit indicator that is defined by the "A," "B" and "C" digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two (2) general categories of NPA. "Geographic NPA" is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that Geographic area. A "Non-Geographic NPA," also known as a "Service Access Code" (SAC Code), is typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas; 500, Toll Free Service NPAs, 700, and 900 are examples of Non-Geographic NPAs.

4.14136 "NXX," "NXX Code," "Central Office Code," or "CO Code" is the three-digit Switch entity code which is defined by the "D," "E" and "F" digits of a 10-digit telephone number within the NANP.

<sup>22</sup> See, 47 CFR 51.5.

4.14237 "Operational Support Systems" or "OSS" shall have the meaning set forth in Section 12.

4.14338 "Ordering and Billing Forum" or "OBF" means the Telecommunications industry forum, under the auspices of the Carrier Liaison Committee of the Alliance for Telecommunications Industry Solutions, concerned with inter-company ordering and Billing.

4.14439 "Originating Line Information Parameter" or "OLIP" is an CCS SS7 Feature Group D signaling parameter that identifies the line class of service, i.e., originating screening and routing translation, which refers to the number transmitted through the network identifying the billing number of the calling party.<sup>23</sup>

4.1450 "P.01 Transmission Grade of Service" means a circuit switched trunk facility Provisioning standard with the statistical probability of no more than one call in 100 blocked on initial attempt during the average busy hour.

4.1464 "Packet Switch" is a router designed to read the destination address in an incoming cell or packet, consult a routing table and route the packet toward its destination. Packetizing is done in originating CPE and reassembly is done in terminating CPE. Multiple packet formats or protocols exist (e.g., x.25, x.75, frame relay, ATM, and IP).

4.1472 "Parity" means the provision of non-discriminatory access to Interconnection, Resale, Unbundled Network Elements and other services provided under this Agreement to the extent legally required on rates, terms and conditions that are non-discriminatory, just and reasonable. Where Technically Feasible, the access provided by Qwest will be provided in "substantially the same time and manner" to that which Qwest provides to itself, its End User Customers, its Affiliates or to any other party.

4.1483 "Party" means either Qwest or CLEC and "Parties" means Qwest and CLEC.

4.1494 "Percent Local Usage" or "PLU" is a calculation which represents the ratio of the local minutes to the sum of local and intraLATA toll minutes sent between the Parties over Local Interconnection trunks. Directory Assistance Services, CMRS traffic, transiting calls from other LECs and Switched Access Services are not included in the calculation of PLU.

4.15045 "Performance Indicator Definitions" or "PIDs" shall have the meaning set forth in Exhibit B

4.15146 "Person" is a general term meaning an individual or association, corporation, firm, joint-stock company, organization, partnership, trust or any other form or kind of entity.

~~4.147 "Plant Test Date" or "PTD" means the date acceptance testing is performed with CLEC.<sup>24</sup>~~

4.15248 "Physical Collocation" shall have the meaning set forth in Section 8.1.1.

<sup>23</sup> Revised to correct definition based on industry standard "GR-317-CORE Call Control Using Intergrated Services Digital User Part (ISDNUP)".

<sup>24</sup> This definition has not been changed. It has been moved to be placed in the correct alphabetic order in this Section.

~~4.153~~ "Plant Test Date" or "PTD" means the date acceptance testing is performed with ~~CLEC.~~<sup>25</sup>

~~4.149~~ "Pole Attachment" shall have the meaning set forth in Section 10.8.1.<sup>26</sup>

~~4.154~~<sup>50</sup> "Point of Interface", "Point of Interconnection," or "POI" is a demarcation between the networks of two (2) LECs (including a LEC and CLEC). The POI is that point where the exchange of traffic takes place.

~~4.155~~<sup>1</sup> "Point of Presence" or "POP" means the Point of Presence of an IXC.

~~4.156~~ "Pole Attachment" shall have the meaning set forth in Section 10.8.1.<sup>27</sup>

~~4.157~~<sup>2</sup> "Port" means a line or trunk connection point, including a line card and associated peripheral equipment, on a Central Office Switch but does not include Switch features. The Port serves as the hardware termination for line or Trunk Side facilities connected to the Central Office Switch. Each Line Side ~~p~~Port is typically associated with one or more telephone numbers that serve as the Customer's network address.

~~4.158~~<sup>3</sup> "POTS" means plain old telephone service.

~~4.159~~<sup>4</sup> "Power Spectral Density (PSD) Masks" are graphical templates that define the limits on signal power densities across a range of frequencies to permit divergent technologies to coexist in close proximity within the same Binder Groups.

~~4.160~~<sup>5</sup> "Premises" refers to Qwest's Central Offices and Serving Wire Centers; all buildings or similar structures owned, leased, or otherwise controlled by Qwest that house its network facilities; all structures that house Qwest facilities on public rights-of-way, including but not limited to vaults containing Loop Concentrators or similar structures; and all land owned, leased, or otherwise controlled by Qwest that is adjacent to these Central Offices, Wire Centers, buildings and structures.

~~4.161~~<sup>6</sup> "Product Catalog" or "PCAT" is a Qwest document that provides information needed to request services available under this Agreement. Qwest agrees that CLEC shall not be held to the requirements of the PCAT. The PCAT is available on Qwest's Web site:

<http://www.qwest.com/wholesale/pcat/>

~~4.156~~<sup>27</sup> "Project Coordinated Installation" allows CLEC to coordinate installation activity as prescribed in section 9.2.2.9.7, including out of hours coordination.

~~4.163~~<sup>58</sup> "Proof of Authorization" or "POA" shall consist of verification of the ~~end-user~~End User Customer's selection and authorization adequate to document the ~~end-user~~End User

<sup>25</sup> This definition is not new. It has been moved to be placed in the correct alphabetic order in this Section.

<sup>26</sup> This definition has not been changed. It has been moved to be placed in the correct alphabetic order in this Section.

<sup>27</sup> This definition is not new. It has been moved to be placed in the correct alphabetic order in this Section.

Customer's selection of its local service provider.

4.16459 "Proprietary Information" shall have the same meaning as Confidential Information.

4.1659 "Provisioning" involves the exchange of information between Telecommunications Carriers where one executes a request for a set of products and services or Unbundled Network Elements or combinations thereof from the other with attendant acknowledgments and status reports.

4.1664 "Pseudo Automatic Number Identification" or "Pseudo-ANI" is a number, consisting of the same number of digits as ANI, that is not a NANP telephone directory number and may be used in place of an ANI to convey special meaning, determined by agreements, as necessary, between the system originating the call, intermediate systems handling and routing the call, and the destination system.

4.1672 "Public Safety Answering Point" or "PSAP" is the public safety communications center where 911/E911 calls for a specific geographic area are answered.

4.1683 "Public Switched Network" includes all Switches and transmission facilities, whether by wire or radio, provided by any Common Carrier including LECs, IXCs and CMRS providers that use the NANP in connection with the provision of switched services.

4.169 "Qualifying Service" is a Telecommunications Service that competes with a Telecommunications Service that has been traditionally the exclusive or primary domain of incumbent LECs, including, but not limited to, Local Exchange Service, such as plain old telephone service (POTS), and Access Services, such as Digital Subscriber Line services and high capacity circuits. Services used solely as an input for CLEC to provide retail interexchange or Information Services are not Qualifying Services.<sup>28</sup>

4.17064 "Rate Center" identifies 1) the specific geographic point identified by specific vertical and horizontal (V&H) coordinates, which are used to measure distance sensitive End User Customer traffic to/from the particular NPA-NXX designations with the specific Rate Center; and 2) the corresponding geographic area which is associated with one or more particular NPA-NXX codes which have been assigned to a LEC for its provision of Telephone Exchange Services.

4.17165 "Ready for Service" or "RFS" – A Collocation job is considered to be Ready for Service when Qwest has completed all operational work in accordance with CLEC Application and makes functional space available to CLEC. Such work includes, but is not necessarily limited to: DC power (fuses available, Battery Distribution Fuse Board (BDFB) is powered, and cables between CLEC and power are terminated), cage enclosures, primary AC outlet, cable racking, and circuit terminations (e.g., fiber jumpers are placed between the outside plant fiber distribution panel and the Central Office fiber distribution panel serving CLEC) and APOT/CFA are complete, telephone service, and other services and facilities ordered by CLEC for Provisioning by the RFS date.

4.17266 "Records Issue Date" or "RID" means the date that all design and assignment information is sent to the necessary service implementation groups.

<sup>28</sup> See, 47 CFR 51.5.

4.17367 "Remote Premises" means all Qwest Premises, other than Qwest Wire Centers or adjacent to Qwest Wire Centers. Such Remote Premises include controlled environmental vaults, controlled environmental huts, cabinets, pedestals and other ~~R~~Remote ~~T~~Terminals.

4.17468 "Remote Terminal" or "RT" means a cabinet, vault or similar structure at an intermediate point between the End User Customer and Qwest's Central Office, where Loops are aggregated and hauled to the Central Office or Serving Wire Center using LCM. A Remote Terminal may contain active electronics such as digital ~~L~~loop ~~C~~carriers, fiber hubs, DSLAMs, etc.

4.17569 "Reseller" is a category of CLECs who purchase the use of Finished Services for the purpose of reselling those Telecommunications Services to their End User Customers.

4.1769 "Reserved Numbers" means those telephone numbers which are not in use but which are held in reserve by a Carrier under a legally enforceable written agreement for a specific End User Customer's future use.

4.1774 "Scheduled Issued Date" or "SID" means the date the order is entered into Qwest's order distribution system.

4.1782 "Selective Router" means the equipment necessary for Selective Routing.

4.1793 "Selective Routing" is the automatic routing of 911/E911 calls to the PSAP that has jurisdictional responsibility for the service address of the caller, irrespective of telephone company exchange or Wire Center boundaries. Selective Routing may also be used for other services.

4.18074 "Service Control Point" or "SCP" means a node in the CCS network to which information requests for service handling, such as routing, are directed and processed. The SCP is a real time database system that, based on a query from a Service Switching Point (SSP), performs subscriber or application-specific service logic and then sends instructions back to the SSP on how to continue call processing.

4.18175 "Service Creation Environment" is a computer containing generic call processing software that can be programmed to create new Advanced Intelligent Network call processing services.

4.18276 "Service Date" or "SD" means the date service is made available to the End User Customer. This also is referred to as the "Due Date."

4.18377 "Service Provider Identification" or "SPID" is the number that identifies a service provider to the relevant NPAC. The SPID may be a state specific number.

4.18478 "Serving Wire Center" denotes the Wire Center from which dial tone for Local Exchange Service would normally be provided to a particular Customer premises.

4.18579 "Shared Transport" shall have the meaning set forth in Section 9.8.1.1.

4.1869 "Signaling System 7" or "SS7" is an out-of-band signaling protocol consisting of four basic sub-protocols:

- 1) Message Transfer Part ("MTP"), which provides functions for basic routing of signaling messages between signaling points;
- 2) Signaling Connection Control Part ("SCCP"), which provides additional routing and management functions for transfer of messages other than call setup between signaling points;
- 3) Integrated Services Digital Network User Part ("ISUP"), which provides for transfer of call setup signaling information between signaling points; and
- 4) Transaction Capabilities Application Part ("TCAP"), which provides for transfer of non-circuit related information between signaling points.

4.1874 "Signaling Transfer Point" or "STP" means a Packet Switch that performs message routing functions and provides information for the routing of messages between signaling end points, including SSPs, SCPs, Signaling Points (SPs) and other STPs in order to set up calls and to query call-related databases. An STP transmits, receives and processes Common Channel Signaling ("CCS") messages.

4.1882 "Special Request Process" or "{SRP}" shall have the meaning set forth in Exhibit F.

4.1893 "Spectrum Compatibility" means the capability of two (2) Copper Loop transmission system technologies to coexist in the same cable without service degradation and to operate satisfactorily in the presence of cross talk noise from each other. Spectrum compatibility is defined on a per twisted pair basis for specific well-defined transmission systems. For the purposes of issues regarding Spectrum Compatibility, service degradation means the failure to meet the Bit Error Ratio (BER) and Signal-to-Noise Ratio (SNR) margin requirements defined for the specific transmission system for all Loop lengths, model Loops, or loss values within the requirements for the specific transmission system.

4.19084 "Splitter" means a device used in conjunction with a DSLAM either to combine or separate the high (DSL) and low (voice) frequency spectrums of the Loop in order to provide both voice and data over a single Loop.

4.19185 "Stand-Alone Test Environment" or "{SATE}" shall have the meaning set forth in Section 12.2.9.3.2.

4.19286 "Subloop" shall have the meaning set forth in Section 9.3.1.1.

4.19387 "Suspended Lines" means subscriber lines that have been temporarily disconnected.

4.19488 "Switch" means a switching device employed by a Carrier within the Public Switched Network. Switch includes but is not limited to End Office Switches, Tandem Switches, Access Tandem Switches, Remote Switching Modules, and Packet Switches. Switches may be employed as a combination of End Office/Tandem Switches.

4.19589 "Switched Access Service" means the offering of transmission and switching services to Interexchange Carriers for the purpose of the origination or termination of telephone toll service. Switched Access Services include: Feature Group A, Feature Group B, Feature

Group D, 8XX access, and 900 access and their successors or similar Switched Access Services.

4.1960 "Switched Access Traffic," as specifically defined in Qwest's interstate Switched Access Tariffs, is traffic that originates at one of the Party's End User Customers and terminates at an IXC Point of Presence, or originates at an IXC Point of Presence and terminates at one of the Party's End User Customers, whether or not the traffic transits the other Party's network.

4.1974 "Synchronous Optical Network" or "SONET" is a TDM-based (time division multiplexing) standard for high-speed fiber optic transmission formulated by the Exchange Carriers Standards Association ("ECSA") for the American National Standards Institute ("ANSI").

4.1982 "Tariff" as used throughout this Agreement refers to Qwest interstate Tariffs and state Tariffs, price lists, and price schedules.

4.1993 "Technically Feasible" Interconnection, access to Unbundled Network Elements, eCollocation, and other methods of achieving iInterconnection or access to Unbundled Network Elements at a point in the network shall be deemed Technically Feasible absent technical or operational concerns that prevent the fulfillment of a request by a Telecommunications Carrier for such iInterconnection, access, or methods. A determination of technical feasibility does not include consideration of economic, accounting, Billing, space, or site concerns, except that space and site concerns may be considered in circumstances where there is no possibility of expanding the space available. The fact that an incumbent LEC must modify its facilities or equipment to respond to such request does not determine whether satisfying such request is Technically Feasible. An incumbent LEC that claims that it cannot satisfy such request because of adverse network reliability impacts must prove to the Commission by clear and convincing evidence that such Interconnection, access, or methods would result in specific and significant adverse network reliability impacts.

4.200194 "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

4.201195 "Telecommunications Carrier" means any provider of Telecommunications Services, except that such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Act). A Telecommunications Carrier shall be treated as a Common Carrier under the Act only to the extent that it is engaged in providing Telecommunications Services, except that the Federal Communications Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

4.202196 "Telecommunications Equipment" means equipment, other than Customer Premises Equipment, used by a Carrier to provide Telecommunications Services, and include software integral to such equipment, including upgrades.

4.203197 "Telecommunications Services" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

4.204198 "Telephone Exchange Service" means a service within a telephone exchange, or

within a connected system of telephone exchanges within the same exchange area operated to furnish to End User Customers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or comparable service provided through a system of Switches, transmission equipment or other facilities (or combinations thereof) by which a subscriber can originate and terminate a Telecommunications Service.

4.20599 "TELRIC" means Total Element Long-Run Incremental Cost.

4.2064 "Toll Free Service" means service provided with any dialing sequence that invokes Toll Free, i.e., 800-like, service processing. Toll Free Service currently includes calls to the Toll Free Service 800/888/877/866 NPA SAC codes.

4.2072 "Transaction Set" is a term used by ANSI X12 and elsewhere that denotes a collection of data, related field rules, format, structure, syntax, attributes, segments, elements, qualifiers, valid values that are required to initiate and process a business function from one trading partner to another. Some business function events, e.g., pre-order inquiry and response are defined as complimentary Transaction Sets. An example of a Transaction Set is service address validation inquiry and service address validation response.

4.2083 "Trunk Side" refers to Switch connections that have been programmed to treat the circuit as connected to another switching entity.

4.2094 "Unbundled Network Element" ("UNE") is a Network Element that has been defined by the FCC or the Commission as a Network Element to which Qwest is obligated under Section 251(c)(3) of the Act to provide unbundled access, or for which unbundled access is provided under this Agreement. Unbundled Network Elements do not include those Network Elements Qwest is obligated to provide only pursuant to Section 271 of the Act.<sup>29</sup>

4.21095 "Unbundled Network Element Platform" or "UNE-P" is a combination of Unbundled Network Elements as set forth in Section 9.23.

4.21196 "UNE Combination" means a combination of two (2) or more Unbundled Network Elements that were or were not previously combined or connected in Qwest's network, as required by the FCC, the Commission or this Agreement.

4.21297 "Virtual Collocation" shall have the meaning set forth in Sections 8.1.1.1 and 8.2.2.1.

4.21398 "Voluntary Federal Subscriber Financial Assistance Programs" are Telecommunications Services provided to low-income subscribers, pursuant to requirements established by the Commission or the FCC.

4.21499 "Waste" means all hazardous and non-hazardous substances and materials which are intended to be discarded, scrapped or recycled, associated with activities CLEC or Qwest or their respective contractors or agents perform at Work Locations. It shall be presumed that all substances or materials associated with such activities, that are not in use or incorporated into structures (including without limitation damaged components or tools, leftovers, containers, garbage, scrap, residues or by products), except for substances and

<sup>29</sup> See, TRO at paras. 659 and 664.

materials that CLEC, Qwest or their respective contractors or agents intend to use in their original form in connection with similar activities, are Waste. Waste shall not include substances, materials or components incorporated into structures (such as cable routes) even after such components or structure are no longer in current use.

| 4.2150 "Wire Center" denotes a building or space within a building that serves as an aggregation point on a given Carrier's network, where transmission facilities are connected or switched. Wire Center can also denote a building where one or more Central Offices, used for the provision of Basic Exchange Telecommunications Services and Access Services, are located.

| 4.2164 "Wired and Office Tested Date" or "WOT" means the date by which all intraoffice wiring is completed, all plug-ins optioned and aligned, frame continuity established, and the interoffice facilities, if applicable, are tested. This includes the date that switching equipment, including translation loading, is installed and tested.

| 4.2172 "Work Locations" means any real estate that CLEC or Qwest, as appropriate, owns, leases or licenses, or in which it holds easements or other rights to use, or does use, in connection with this Agreement.

| 4.2183 Terms not otherwise defined here, but defined in the Act and the orders and the rules implementing the Act, shall have the meaning defined there. The definition of terms that are included here and are also defined in the Act, or its implementing orders or rules, are intended to include the definition as set forth in the Act and the rules implementing the Act.

## Section 5.0 - TERMS AND CONDITIONS

### 5.1 General Provisions

5.1.1 Intentionally Left Blank.

5.1.2 The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

5.1.3 Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that interferes with other Persons in the use of their service, prevents other Persons from using their service, or otherwise impairs the quality of service to other Carriers or to either Party's End User Customers. In addition, neither Party's provision of or use of services shall interfere with the services related to or provided under this Agreement.

5.1.3.1 If such impairment is material and poses an immediate threat to the safety of either Party's employees, Customers or the public or poses an immediate threat of a service interruption, that Party shall provide immediate notice by email to the other Party's designated representative(s) for the purposes of receiving such notification. Such notice shall include 1) identification of the impairment (including the basis for identifying the other Party's facilities as the cause of the impairment), 2) date and location of the impairment, and 3) the proposed remedy for such impairment for any affected service. Either Party may discontinue the specific service that violates this provision or refuse to provide the same type of service if it reasonably appears that the particular service would cause similar harm, until the violation of this provision has been corrected to the reasonable satisfaction of that Party and the service shall be reinstated as soon as reasonably possible. The Parties shall work cooperatively and in good faith to resolve their differences. In the event either Party disputes any action that the other Party seeks to take or has taken pursuant to this provision, that Party may pursue immediate resolution by expedited or other Dispute Resolution.

5.1.3.2 If the impairment is service impacting but does not meet the parameters set forth in Section 5.1.3.1, such as low level noise or other interference, the other Party shall provide written notice within five (5) calendar Days of such impairment to the other Party and such notice shall include the information set forth in subsection 5.1.3.1. The Parties shall work cooperatively and in good faith to resolve their differences. If the impairment has not been corrected or cannot be corrected within five (5) business days of receipt of the notice of non-compliance, the other Party may pursue immediate resolution by expedited or other Dispute Resolution.

5.1.3.3 If either Party causes non-service impacting impairment the other Party shall provide written notice within fifteen (15) calendar Days of the impairment to the other Party and such notice shall include the information set forth in subsection 5.1.3.1. The Parties shall work cooperatively and in good faith to resolve their differences. If either Party fails to correct any such impairment within fifteen (15) calendar Days of written notice, or if such non-compliance cannot be corrected within fifteen (15) calendar Days of written notice of non-compliance, and if the impairing Party fails to take all appropriate steps to correct as soon as reasonably possible, the other Party may pursue immediate resolution by expedited or other Dispute Resolution.

5.1.3.4 It is the responsibility of either Party to inform its End User Customers of service impacting impairment that may result in discontinuance of service as soon as the Party receives notice of same.

5.1.4 Each Party is solely responsible for the services it provides to its End User Customers and to other Telecommunications Carriers. This provision is not intended to limit the liability of either Party for its failure to perform under this Agreement.

5.1.5 The Parties shall work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

5.1.6 Nothing in this Agreement shall prevent either Party from seeking to recover the costs and expenses, if any, it may incur in (a) complying with and implementing its obligations under this Agreement, the Act, and the rules, regulations and orders of the FCC and the Commission, and (b) the development, modification, technical installation and maintenance of any systems or other infrastructure which it requires to comply with and to continue complying with its responsibilities and obligations under this Agreement. Notwithstanding the foregoing, Qwest shall not assess any charges against CLEC for services, facilities, Unbundled Network Elements, ancillary services and other related works or services covered by this Agreement, unless the charges are expressly provided for in this Agreement. All services and capabilities currently provided hereunder (including resold Telecommunications Services, Unbundled Network Elements, UNE eCombinations and ancillary services) and all new and additional services or Unbundled Network Elements to be provided hereunder, shall be priced in accordance with all applicable provisions of the Act and the rules and orders of the Federal Communications Commission and orders of the Commission.

## 5.2 Term of Agreement

5.2.1 This Agreement shall become effective on the date set forth in Section 1.4 pursuant to Section 252 of the Act. This Agreement shall be binding upon the Parties for a term of three (3) years and shall expire three (3) years from the Effective Date.

5.2.2 Upon expiration of the term of this Agreement, this Agreement shall continue in full force and effect until superseded by a successor agreement in accordance with this Section 5.2.2. Any Party may request negotiation of a successor agreement by written notice to the other Party no earlier than one hundred sixty (160) Days prior to the expiration of the term, or the Agreement shall renew on a month to month basis. The date of this notice will be the starting point for the negotiation window under Section 252 of the Act. This Agreement will terminate on the date a successor agreement is approved by the Commission.<sup>30</sup>

5.2.2.1 Prior to the conclusion of the term specified above, CLEC may obtain Interconnection services under the terms and conditions of a then-existing SGAT or agreement to become effective at the conclusion of the term or prior to the conclusion of the term if CLEC so chooses.

<sup>30</sup> The word "full" was added to this Section to be consistent with Qwest's other thirteen in-region SGATs.

### 5.3 Proof of Authorization

5.3.1 Each Party shall be responsible for obtaining and maintaining Proof of Authorization (POA), as required by applicable federal and state law, as amended from time to time.

5.3.2 The Parties shall make POAs available to each other upon request in the event of an allegation of an unauthorized change in accordance with all Applicable Laws and rules and shall be subject to any penalties contained therein.

### 5.4 Payment

5.4.1 Amounts payable under this Agreement are due and payable within thirty (30) calendar Days after the date of invoice, or within twenty (20) calendar Days after receipt of the invoice, whichever is later (payment dDue dDate). If the payment dDue dDate is not a business day, the payment shall be due the next business day.

5.4.2 One Party may discontinue processing orders for the failure of the other Party to make full payment for the relevant services, less any disputed amount as provided for in Section 5.4.4 of this Agreement, for the relevant services provided under this Agreement within thirty (30) calendar Days following the payment dDue dDate. The Billing Party will notify the other Party in writing at least ten (10) business days prior to discontinuing the processing of orders for the relevant services. If the Billing Party does not refuse to accept additional orders for the relevant services on the date specified in the ten (10) business days notice, and the other Party's non-compliance continues, nothing contained herein shall preclude the Billing Party's right to refuse to accept additional orders for the relevant services from the non-complying Party without further notice. For order processing to resume, the billed Party will be required to make full payment of all charges for the relevant services not disputed in good faith under this Agreement. Additionally, the Billing Party may require a deposit (or additional deposit) from the billed Party, pursuant to this section. In addition to other remedies that may be available at law or equity, the billed Party reserves the right to seek equitable relief, including injunctive relief and specific performance.

5.4.3 The Billing Party may disconnect any and all relevant services for failure by the billed Party to make full payment, less any disputed amount as provided for in Section 5.4.4 of this Agreement, for the relevant services provided under this Agreement within sixty (60) calendar Days following the payment dDue dDate. The billed Party will pay the applicable reconnect charge set forth in Exhibit A required to reconnect each resold End User Customer line disconnected pursuant to this paragraph. The Billing Party will notify the billed Party ~~in~~ at least ten (10) business days prior to disconnection of the unpaid service(s). In case of such disconnection, all applicable undisputed charges, including termination charges, shall become due. If the Billing Party does not disconnect the billed Party's service(s) on the date specified in the ten (10) business days notice, and the billed Party's noncompliance continues, nothing contained herein shall preclude the Billing Party's right to disconnect any or all relevant services of the non-complying Party without further notice. For reconnection of the non-paid service to occur, the billed Party will be required to make full payment of all past and current undisputed charges under this Agreement for the relevant services. Additionally, the Billing Party will request a deposit (or recalculate the deposit) as specified in Section 5.4.5 and 5.4.7 from the billed Party, pursuant to this Section. Both Parties agree, however, that the application of this provision will be suspended for the initial three (3) Billing cycles of this Agreement and will not apply to amounts billed during those three (3) cycles. In addition to other remedies that may be

available at law or equity, each Party reserves the right to seek equitable relief, including injunctive relief and specific performance.

5.4.4 Should CLEC or Qwest dispute, in good faith, any portion of the nonrecurring charges or monthly Billing under this Agreement, the Parties will notify each other in writing within fifteen (15) calendar Days following the payment dDue dDate identifying the amount, reason and rationale of such dispute. At a minimum, CLEC and Qwest shall pay all undisputed amounts due. Both CLEC and Qwest agree to expedite the investigation of any disputed amounts, promptly provide all documentation regarding the amount disputed that is reasonably requested by the other Party, and work in good faith in an effort to resolve and settle the dispute through informal means prior to initiating any other rights or remedies.

5.4.4.1 If a Party disputes charges and does not pay such charges by the payment dDue dDate, such charges may be subject to late payment charges. If the disputed charges have been withheld and the dispute is resolved in favor of the Billing Party, the withholding Party shall pay the disputed amount and applicable late payment charges no later than the second Bill Date following the resolution. If the disputed charges have been withheld and the dispute is resolved in favor of the disputing Party, the Billing Party shall credit the bill of the disputing Party for the amount of the disputed charges and any late payment charges that have been assessed no later than the second Bill Date after the resolution of the dispute. If a Party pays the disputed charges and the dispute is resolved in favor of the Billing Party, no further action is required.

5.4.4.2 If a Party pays the charges disputed at the time of payment or at any time thereafter pursuant to Section 5.4.4.3, and the dispute is resolved in favor of the disputing Party the Billing Party shall, no later than the second Bill Date after the resolution of the dispute: (1) credit the disputing Party's bill for the disputed amount and any associated interest or (2) pay the remaining amount to CLEC, if the disputed amount is greater than the bill to be credited. The interest calculated on the disputed amounts will be the same rate as late payment charges. In no event, however, shall any late payment charges be assessed on any previously assessed late payment charges.

5.4.4.3 If a Party fails to dispute a charge and discovers an error on a bill it has paid after the period set forth in ~~Section~~ 5.4.4, the Party may dispute the bill at a later time through an informal process, through an ~~Audit~~ pursuant to the Audit provision of this Agreement, through the Dispute Resolution provision of this Agreement, or applicable state statutes or Commission rules.

5.4.5 Each Party will determine the other Party's credit status based on previous payment history or credit reports such as Dun and Bradstreet. If a Party has not established satisfactory credit with the other Party according to the above provisions or the Party is repeatedly delinquent in making its payments, or the Party is being reconnected after a disconnection of service or discontinuance of the processing of orders by the Billing Party due to a previous nonpayment situation, the Billing Party may require a deposit to be held as security for the payment of charges before the orders from the billed Party will be provisioned and completed or before reconnection of service. "Repeatedly delinquent" means any payment received thirty (30) calendar Days or more after the payment dDue dDate, three (3) or more times during a twelve (12) month period. The deposit may not exceed the estimated total monthly charges for an average two (2) month period within the 1st three (3) months for all services. The deposit may be a surety bond if allowed by the applicable Commission regulations, a letter of credit with terms and conditions acceptable to the Billing Party, or some

other form of mutually acceptable security such as a cash deposit. Required deposits are due and payable within thirty (30) calendar Days after demand.

5.4.6 Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission regulations. Cash deposits and accrued interest will be credited to the billed Party's account or refunded, as appropriate, upon the earlier of the expiration of the term of the Agreement or the establishment of satisfactory credit with the Billing Party, which will generally be one full year of timely payments of undisputed amounts in full by the billed Party. Upon a material change in financial standing, the billed Party may request and the Billing Party will consider a recalculation of the deposit. The fact that a deposit has been made does not relieve CLEC from any requirements of this Agreement.

5.4.7 The Billing Party may review the other Party's credit standing and modify the amount of deposit required but in no event will the maximum amount exceed the amount stated in 5.4.5.

5.4.8 The late payment charge for amounts that are billed under this Agreement shall be in accordance with Commission requirements.

5.4.9 Each Party shall be responsible for notifying its End User Customers of any pending disconnection of a non-paid service by the billed Party, if necessary, to allow those End User Customers to make other arrangements for such non-paid services.

## 5.5 Taxes

5.5.1 Any federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under Applicable Law, even if the obligation to collect and remit such taxes is placed upon the other Party. However, where the selling Party is permitted by law to collect such taxes, fees or surcharges, from the purchasing Party, such taxes, fees or surcharges shall be borne by the Party purchasing the services. Each Party is responsible for any tax on its corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Until such time as a resale tax exemption certificate is provided, no exemptions will be applied. If either Party (the Contesting Party) contests the application of any tax collected by the other Party (the Collecting Party), the Collecting Party shall reasonably cooperate in good faith with the Contesting Party's challenge, provided that the Contesting Party pays any costs incurred by the Collecting Party. The Contesting Party is entitled to the benefit of any refund or recovery resulting from the contest, provided that the Contesting Party is liable for and has paid the tax contested.

## 5.6 Insurance

5.6.1 Each Party shall at all times during the term of this Agreement, at its own cost and expense, carry and maintain the insurance coverage listed below with insurers having a "Best's" rating of B+XIII with respect to liability arising from that Party's operations for which that Party has assumed legal responsibility in this Agreement. If either Party or its parent company has assets equal to or exceeding \$10,000,000,000, that Party may utilize an Affiliate captive insurance company in lieu of a "Best's" rated insurer. To the extent that the parent company of

a Party is relied upon to meet the \$10,000,000,000 asset threshold, such parent shall be responsible for the insurance obligations contained in this Section 5.6.1, to the extent its affiliated Party fails to meet such obligations.

5.6.1.1 Workers' Compensation with statutory limits as required in the state of operation and Employers' Liability insurance with limits of not less than \$100,000 each accident.

5.6.1.2 Commercial General Liability insurance covering claims for bodily injury, death, personal injury or property damage occurring or arising out of the use or occupancy of the premises, including coverage for independent contractor's protection (required if any work will be subcontracted), premises-operations, products and/or completed operations and contractual liability with respect to the liability assumed by each Party hereunder. The limits of insurance shall not be less than \$1,000,000 each occurrence and \$2,000,000 general aggregate limit.

5.6.1.3 Business automobile liability insurance covering the ownership, operation and maintenance of all owned, non-owned and hired motor vehicles with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage.

5.6.1.4 Umbrella/Excess Liability insurance in an amount of \$10,000,000 excess of Commercial General Liability insurance specified above. These limits may be obtained through any combination of primary and excess or umbrella liability insurance so long as the total limit is \$11,000,000.

5.6.1.5 "All Risk" Property coverage on a full replacement cost basis insuring all of CLEC personal property situated on or within the Premises.

5.6.2 Each Party will initially provide certificate(s) of insurance evidencing coverage, and thereafter will provide such certificate(s) upon request. Such certificates shall (1) name the other Party as an additional insured under commercial general liability coverage; (2) provide thirty (30) calendar Days prior written notice of cancellation of, material change or exclusions in the policy(s) to which certificate(s) relate; (3) indicate that coverage is primary and not excess of, or contributory with, any other valid and collectible insurance purchased by the other Party; and (4) acknowledge severability of interest/cross liability coverage.

## **5.7 Force Majeure**

5.7.1 Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, power blackouts, volcanic action, other major environmental disturbances, or unusually severe weather conditions (collectively, a Force Majeure Event). Inability to secure products or services of other Persons or transportation facilities or acts or omissions of transportation carriers shall be considered Force Majeure Events to the extent any delay or failure in performance caused by these circumstances is beyond the Party's control and without that Party's fault or negligence. The Party affected by a Force Majeure Event shall give prompt notice to the other Party, shall be excused from performance of its obligations hereunder on a ~~d~~Day to ~~d~~Day basis to the extent those obligations are prevented by the Force Majeure Event, and shall use reasonable efforts to remove or mitigate the Force Majeure Event. In the

event of a labor dispute or strike the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

## 5.8 Limitation of Liability

5.8.1 Each Party's liability to the other Party for any loss relating to or arising out of any act or omission in its performance under this Agreement, whether in contract, warranty, strict liability, or tort, including (without limitation) negligence of any kind, shall be limited to the total amount that is or would have been charged to the other Party by such breaching Party for the service(s) or function(s) not performed or improperly performed. Each Party's liability to the other Party for any other losses shall be limited to the total amounts charged to CLEC under this Agreement during the contract year in which the cause accrues or arises. Payments pursuant to the QPAP ~~shall~~ should not be counted against the limit provided for in this ~~SGAT~~ Section.<sup>31</sup>

5.8.2 Neither Party shall be liable to the other for indirect, incidental, consequential, or special damages, including (without limitation) damages for lost profits, lost revenues, lost savings suffered by the other Party regardless of the form of action, whether in contract, warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result. If the Parties enter into a Performance Assurance Plan under this Agreement, nothing in this Section 5.8.2 shall limit amounts due and owing under any Performance Assurance Plan.

5.8.3 Intentionally Left Blank.

5.8.4 Nothing contained in this Section shall limit either Party's liability to the other for (i) willful or intentional misconduct or (ii) damage to tangible real or personal property proximately caused solely by such Party's negligent act or omission or that of their respective agents, subcontractors, or employees.

5.8.5 Nothing contained in this Section 5.8 shall limit either Party's obligations of indemnification specified in this Agreement, nor shall this Section 5.8 limit a Party's liability for failing to make any payment due under this Agreement.

5.8.6 Intentionally Left Blank.<sup>32</sup>

## 5.9 Indemnity

5.9.1 The Parties agree that unless otherwise specifically set forth in this Agreement the following constitute the sole indemnification obligations between and among the Parties:

5.9.1.1 Each of the Parties agrees to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an Indemnitee) from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, reasonable costs and expenses (including attorneys' fees), whether suffered, made, instituted, or asserted by

<sup>31</sup> Grammatical change to be consistent with Qwest's other state SGATs.

<sup>32</sup> The term "Intentionally Left Blank" is added to this Section to be consistent with the numbering in Qwest's other thirteen in-region SGATs.

any Person or entity, for invasion of privacy, bodily injury or death of any Person or Persons, or for loss, damage to, or destruction of tangible property, whether or not owned by others, resulting from the Indemnifying Party's breach of or failure to perform under this Agreement, regardless of the form of action, whether in contract, warranty, strict liability, or tort including (without limitation) negligence of any kind.

5.9.1.2 In the case of claims or loss alleged or incurred by an End User Customer of either Party arising out of or in connection with services provided to the End User Customer by the Party, the Party whose End User Customer alleged or incurred such claims or loss (the Indemnifying Party) shall defend and indemnify the other Party and each of its officers, directors, employees and agents (collectively the Indemnified Party) against any and all such claims or loss by the Indemnifying Party's End User Customers regardless of whether the underlying service was provided or Unbundled Network Element was provisioned by the Indemnified Party, unless the loss was caused by the willful misconduct of the Indemnified Party. The obligation to indemnify with respect to claims of the Indemnifying Party's End User Customers shall not extend to any claims for physical bodily injury or death of any Person or Persons, or for loss, damage to, or destruction of tangible property, whether or not owned by others, alleged to have resulted directly from the negligence or intentional conduct of the employees, contractors, agents, or other representatives of the Indemnified Party.

5.9.1.3 Reserved for Future Use.

5.9.1.4 For purposes of Section 5.9.1.2, where the Parties have agreed to provision line sharing using a ~~POTS~~-Splitter: "End User Customer" means the DSL provider's End User Customer for claims relating to DSL and the voice service provider's End User Customer for claims relating to voice service.

5.9.2 The indemnification provided herein shall be conditioned upon:

5.9.2.1 The Indemnified Party shall promptly notify the Indemnifying Party of any action taken against the Indemnified Party relating to the indemnification. 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.

5.9.2.2 If the Indemnifying Party wishes to defend against such action, it shall give written notice to the Indemnified Party of acceptance of the defense of such action. In such event, the Indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the Indemnified Party may engage separate legal counsel only at its sole cost and expense. In the event that the Indemnifying Party does not accept the defense of the action, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party. Each Party agrees to cooperate with the other Party in the defense of any such action and the relevant records of each Party shall be available to the other Party with respect to any such defense.

5.9.2.3 In no event shall the Indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the Indemnified Party. In the event the Indemnified Party withholds consent, the Indemnified Party may, at its cost, 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 relevant Indemnified Party against, any cost or liability in excess of such refused compromise or settlement.

## **5.10 Intellectual Property**

5.10.1 Except for a license to use any facilities or equipment (including software) solely for the purposes of this Agreement or to receive any service solely (a) as provided in this Agreement or (b) as specifically required by the then-applicable federal and state rules and regulations relating to Interconnection and access to Telecommunications facilities and services, nothing contained within this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, trade name, trade mark, service mark, trade secret, or other proprietary interest or intellectual property, now or hereafter owned, controlled or licensable by either Party. Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trade or service marks.

5.10.2 Subject to Section 5.9.2, each Party (the Indemnifying Party) shall indemnify and hold the other Party (the Indemnified Party) harmless from and against any loss, cost, expense or liability arising out of a claim that the use of facilities of the Indemnifying Party or services provided by the Indemnifying Party provided or used pursuant to the terms of this Agreement misappropriates or otherwise violates the intellectual property rights of any third party. In addition to being subject to the provisions of Section 5.9.2, the obligation for indemnification recited in this paragraph shall not extend to infringement which results from (a) any combination of the facilities or services of the Indemnifying Party with facilities or services of any other Person (including the Indemnified Party but excluding the Indemnifying Party and any of its Affiliates), which combination is not made by or at the direction of the Indemnifying Party or (b) any modification made to the facilities or services of the Indemnifying Party by, on behalf of or at the request of the Indemnified Party and not required by the Indemnifying Party. In the event of any claim, the Indemnifying Party may, at its sole option (a) obtain the right for the Indemnified Party to continue to use the facility or service; or (b) replace or modify the facility or service to make such facility or service non-infringing. If the Indemnifying Party is not reasonably able to obtain the right for continued use or to replace or modify the facility or service as provided in the preceding sentence and either (a) the facility or service is held to be infringing by a court of competent jurisdiction or (b) the Indemnifying Party reasonably believes that the facility or service will be held to infringe, the Indemnifying Party shall notify the Indemnified Party and the Parties shall negotiate in good faith regarding reasonable modifications to this Agreement necessary to (1) mitigate damage or comply with an injunction which may result from such infringement or (2) allow cessation of further infringement. The Indemnifying Party may request that the Indemnified Party take steps to mitigate damages resulting from the infringement or alleged infringement including, but not limited to, accepting modifications to the facilities or services, and such request shall not be unreasonably denied.

5.10.3 To the extent required under applicable federal and state law, Qwest shall use its best efforts to obtain, from its vendors who have licensed intellectual property rights to Qwest in connection with facilities and services provided hereunder, licenses under such intellectual property rights as necessary for CLEC to use such facilities and services as contemplated hereunder and at least in the same manner used by Qwest for the facilities and services provided hereunder. Qwest shall notify CLEC immediately in the event that Qwest believes it has used its best efforts to obtain such rights, but has been unsuccessful in obtaining such rights.

5.10.3.1 Qwest covenants that it will not enter into any licensing agreements with respect to any Qwest facilities, equipment or services, including software, that contain provisions that would disqualify CLEC from using or interconnecting with such facilities, equipment or services, including software, pursuant to the terms of this Agreement. Qwest warrants and further covenants that it has not and will not knowingly modify any existing license agreements for any network facilities, equipment or services, including software, in whole or in part for the purpose of disqualifying CLEC from using or interconnecting with such facilities, equipment or services, including software, pursuant to the terms of this Agreement. To the extent that providers of facilities, equipment, services or software in Qwest's network provide Qwest with indemnities covering intellectual property liabilities and those indemnities allow a flow-through of protection to third parties, Qwest shall flow those indemnity protections through to CLEC.

5.10.4 Except as expressly provided in this Intellectual Property Section, nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, logo, trademark, trade name, trade secret or any other intellectual property right now or hereafter owned, controlled or licensable by either Party. Neither Party may use any patent, copyright, logo, trademark, trade name, trade secret or other intellectual property rights of the other Party or its Affiliates without execution of a separate agreement between the Parties.

5.10.5 Neither Party shall without the express written permission of the other Party, state or imply that: 1) -it is connected, or in any way affiliated with the other or its Affiliates; 2) -it is part of a joint business association or any similar arrangement with the other or its Affiliates; 3) the other Party and its Affiliates are in any way sponsoring, endorsing or certifying it and its goods and services; or -4)- with respect to its marketing, advertising or promotional activities or materials, the resold goods and services are in any way associated with or originated from the other or any of its Affiliates. Nothing in this paragraph shall prevent either Party from truthfully describing the Network Elements it uses to provide service to its End User Customers, provided it does not represent the Network Elements as originating from the other Party or its Affiliates in any marketing, advertising or promotional activities or materials.

5.10.6 For purposes of resale only and notwithstanding the above, unless otherwise prohibited by Qwest pursuant to an applicable provision herein, CLEC may use the phrase "CLEC" is a "Reseller of Qwest Services" (the Authorized Phrase) in CLEC's printed materials provided:

5.10.6.1 The Authorized Phrase is not used in connection with any goods or services other than Qwest services resold by CLEC.

5.10.6.2 CLEC's use of the Authorized Phrase does not cause End User Customers to believe that CLEC is Qwest.

5.10.6.3 The Authorized Phrase, when displayed, appears only in text form (CLEC may not use the Qwest logo) with all letters being the same font and point size. The point size of the Authorized Phrase shall be no greater than one fourth the point size of the smallest use of CLEC's name and in no event shall exceed 8 point size.

5.10.6.4 CLEC shall provide all printed materials using the Authorized Phrase to Qwest for its prior written approval.

5.10.6.5 If Qwest determines that CLEC's use of the Authorized Phrase causes End User Customer confusion, Qwest may immediately terminate CLEC's right to use the Authorized Phrase.

5.10.6.6 Upon termination of CLEC's right to use the Authorized Phrase or termination of this Agreement, all permission or right to use the Authorized Phrase shall immediately cease to exist and CLEC shall immediately cease any and all such use of the Authorized Phrase. CLEC shall either promptly return to Qwest or destroy all materials in its possession or control displaying the Authorized Phrase.

5.10.7 Qwest and CLEC each recognize that nothing contained in this Agreement is intended as an assignment or grant to the other of any right, title or interest in or to the trademarks or service marks of the other (the Marks) and that this Agreement does not confer any right or license to grant sublicenses or permission to third parties to use the Marks of the other and is not assignable. Neither Party will do anything inconsistent with the other's ownership of their respective Marks, and all rights, if any, that may be acquired by use of the Marks shall inure to the benefit of their respective Owners. The Parties shall comply with all Applicable Law governing Marks worldwide and neither Party will infringe the Marks of the other.

5.10.8 Upon request, for all intellectual property owned or controlled by a third party and licensed to Qwest associated with the Unbundled Network Elements provided by Qwest under this Agreement, either on the Effective Date or at any time during the term of the Agreement, Qwest shall within ten (10) business days, unless there are extraordinary circumstances in which case Qwest will negotiate an agreed upon date, then disclose to CLEC in writing -(i) the name of the Party owning, controlling or licensing such intellectual property, (ii) the facilities or equipment associated with such intellectual property, (iii) the nature of the intellectual property, and (iv) the relevant agreements or licenses governing Qwest's use of the intellectual property. Except to the extent Qwest is prohibited by confidentiality or other provisions of an agreement or license from disclosing to CLEC any relevant agreement or license within ten (10) business days of a request by CLEC, Qwest shall provide copies of any relevant agreements or licenses governing Qwest's use of the intellectual property to CLEC. To the extent Qwest is prohibited by confidentiality or other provisions of an agreement or license from disclosing to CLEC any relevant agreement or license, Qwest shall immediately, within ten (10) business days (i) disclose so much of it as is not prohibited, and (ii) exercise best efforts to cause the vendor, licensor or other beneficiary of the confidentiality provisions to agree to disclosure of the remaining portions under terms and conditions equivalent to those governing access by and disclosure to Qwest.

## **5.11 Warranties**

5.11.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THAT ALL PRODUCTS AND SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS IS," WITH ALL FAULTS.<sup>33</sup>

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<sup>33</sup> This Section 5.11.1 has been capitalized, but otherwise, not changed.

## 5.12 Assignment

5.12.1 Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to a corporate Affiliate or an entity under its common control; without the consent of the other Party, provided that the performance of this Agreement by any such assignee is guaranteed by the assignor. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

5.12.2 In the event that Qwest transfers to any unaffiliated party exchanges including End User Customers that CLEC serves in whole or in part through facilities or services provided by Qwest under this Agreement, the transferee shall be deemed a successor to Qwest's obligation and responsibilities relating to the exchanges acquired by transferee hereunder until such time as (1) CLEC and transferee negotiate a new Interconnection agreement that, upon approval by the Commission, supercedes and replaces this Agreement, or (2) the Agreement expires on its own terms. CLEC agrees to work expeditiously and in good faith to negotiate a new Interconnection agreement with transferee. Until a new Interconnection agreement between CLEC and transferee becomes effective, CLEC agrees to accept, without condition, the assignment to transferee of Qwest's obligation and responsibilities under this Agreement relating to the exchanges acquired by transferee. Nothing in this Agreement shall be construed to limit or abridge the authority of the Commission, under its then applicable statutory authority, to impose or withdraw any obligations or responsibilities on the transferee that the Commission deems appropriate as a condition of the transfer.

5.12.3 Nothing in this section is intended to restrict CLEC's rights to opt into interconnection agreements under § 252 of the Act.

## 5.13 Default

5.13.1 If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other material provision of this Agreement, and such default or violation shall continue for thirty (30) calendar Days after written notice thereof, the other Party may seek relief in accordance with the Dispute Resolution provision of this Agreement. The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

## 5.14 Disclaimer of Agency

5.14.1 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.

### 5.15 Severability

5.15.1 In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable or invalid in any respect under law or regulation, the Parties will negotiate in good faith for replacement language as set forth herein. If any part of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will affect only the portion of this Agreement which is invalid or unenforceable. In all other respects, this Agreement will stand as if such invalid or unenforceable provision had not been a part hereof, and the remainder of this Agreement shall remain in full force and effect.

### 5.16 Nondisclosure

5.16.1 All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with business or marketing plans, End User Customer specific, facility specific, or usage specific information, other than End User Customer information communicated for the purpose of providing Directory Assistance or publication of directory database, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) calendar Days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information. Each Party shall have the right to correct an inadvertent failure to identify information as Proprietary Information by giving written notification within thirty (30) Days after the information is disclosed. The receiving Party shall, from that time forward, treat such information as Proprietary Information.

5.16.2 Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.

5.16.3 Each Party shall keep all of the other Party's Proprietary Information confidential and will disclose it on a need to know basis only. ~~In no case shall retail marketing, sales personnel, or strategic planning have access to such Proprietary Information. Each The Parties shall use the other Party's Proprietary Information only in connection with this Agreement and in accordance with Applicable Law, including but not limited to, 47 U.S.C. §222. In accordance with Section 222 of the Act, when either Party receives or obtains Proprietary Information from the other Party for purposes of providing any Telecommunications Services, that Party shall use such information only for such purpose, and shall not use such information for its own marketing efforts.~~ Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing. Violations of these obligations shall subject a Party's employees to disciplinary action up to and including termination of employment. If either Party loses, or makes an unauthorized disclosure of, the other Party's Proprietary Information, it will notify such other Party immediately and use reasonable efforts to retrieve the information.<sup>34</sup>

<sup>34</sup> The changes to Section 5.16.3 are in conformance with Section 222 of the Act.

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

- a) was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the disclosing Party; or
- b) is or becomes publicly known through no wrongful act of the receiving Party; or
- c) is rightfully received from a third Person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; or
- d) is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
- e) is disclosed to a third ~~p~~Person by the disclosing Party without similar restrictions on such third ~~p~~Person's rights; or
- f) is approved for release by written authorization of the disclosing Party; or
- g) is required to be disclosed by the receiving Party pursuant to Applicable Law or regulation provided that the receiving Party shall give sufficient notice of the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.

5.16.5 Nothing herein is intended to prohibit a Party from supplying factual information about its network and Telecommunications Services on or connected to its network to regulatory agencies including the Federal Communications Commission and the Commission so long as any confidential obligation is protected. In addition either Party shall have the right to disclose Proprietary Information to any mediator, arbitrator, state or federal regulatory body, the Department of Justice or any court in the conduct of any proceeding arising under or relating in any way to this Agreement or the conduct of either Party in connection with this Agreement, including without limitation the approval of this Agreement, or in any proceedings concerning the provision of InterLATA services by Qwest that are or may be required by the Act. The Parties agree to cooperate with each other in order to seek appropriate protection or treatment of such Proprietary Information pursuant to an appropriate protective order in any such proceeding.

5.16.6 Effective Date of this Section. Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the Effective Date.

5.16.7 Each Party agrees that the disclosing Party could be irreparably injured by a breach of the confidentiality obligations of this Agreement by the receiving Party or its representatives and that the disclosing Party shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of the confidentiality provisions of this Agreement. Such remedies shall not be deemed to be the exclusive remedies for a breach of the confidentiality provisions of this Agreement, but shall be in addition to all other remedies available at law or in equity.

5.16.8 Nothing herein should be construed as limiting either Party's rights with respect to its own Proprietary Information or its obligations with respect to the other Party's Proprietary Information under Section 222 of the Act.

5.16.9 Forecasts provided by either Party to the other Party shall be deemed Confidential Information and the Parties may not distribute, disclose or reveal, in any form, this material other than as allowed and described in subsections 5.16.9.1 and 5.16.9.2.

5.16.9.1 The Parties may disclose, on a need to know basis only, CLEC individual forecasts and forecasting information disclosed by Qwest, to Qwest's legal personnel in connection with their representation of Qwest in any dispute regarding the quality or timeliness of the forecast as it relates to any reason for which the CLEC provided it to Qwest under this Agreement, ~~SGAT~~ as well as to CLEC's wholesale account managers, wholesale LIS and Collocation product managers, network and growth planning personnel, responsible for preparing or responding to such forecasts or forecasting information. In no case shall retail marketing, sales or strategic planning have access to this forecasting information. The Parties will inform all of the aforementioned personnel, with access to such Confidential Information, of its confidential nature and will require personnel to execute a nondisclosure agreement which states that, upon threat of termination, the aforementioned personnel may not reveal or discuss such information with those not authorized to receive it except as specifically authorized by law. Violations of these requirements shall subject the personnel to disciplinary action up to and including termination of employment.

5.16.9.1.1 Upon the specific order of the Commission, Qwest shall provide the forecast information that CLECs have made available to Qwest under this SGAT, under seal. Qwest shall take any actions necessary to protect the confidentiality and to prevent the public release of the information pending any applicable Commission procedures. Qwest shall provide notice to all CLECs involved at least five (5) business days prior to the release of the information.

5.16.9.2 The Parties shall maintain confidential forecasting information in secure files and locations such that access to the forecasts is limited to the personnel designated in subsection 5.16.9.1 above and such that no other personnel have computer access to such information.

## **5.17 Survival**

5.17.1 Any liabilities or obligations of a Party for acts or omissions prior to the termination of this Agreement, and any obligation of a Party under the provisions regarding indemnification, Confidential or Proprietary Information, limitations of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, shall survive cancellation or termination hereof.

## **5.18 Dispute Resolution**

5.18.1 If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents should arise, and the Parties do not resolve it in the ordinary course of their dealings (the "Dispute"), then it shall be resolved in accordance with this Section. Each notice of default, unless cured within the applicable cure period, shall be resolved in accordance herewith. Dispute resolution under the procedures provided in this

Section 5.18 shall be the preferred, but not the exclusive, remedy for all disputes between Qwest and CLEC arising out of this Agreement or its breach. Each Party reserves its rights to resort to the Commission or to a court, agency, or regulatory authority of competent jurisdiction. Nothing in this Section 5.18 shall limit the right of either Qwest or CLEC, upon meeting the requisite showing, to obtain provisional remedies (including injunctive relief) from a court before, during or after the pendency of any arbitration proceeding brought pursuant to this Section 5.18. However, once a decision is reached by the aArbitrator, such decision shall supersede any provisional remedy.

5.18.2 At the written request of either Party (the Resolution Request), and prior to any other formal dispute resolution proceedings, each Party shall within seven (7) calendar Days after such Resolution Request designate a vice-presidential level employee or a representative with authority to make commitments to review, meet, and negotiate, in good faith, to resolve the Dispute. The Parties intend that these negotiations be conducted by non-lawyer, business representatives, and the locations, format, frequency, duration, and conclusions of these discussions shall be at the discretion of the representatives. By mutual agreement, the representatives may use other procedures, such as mediation, to assist in these negotiations. The discussions and correspondence among the representatives for the purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, and shall be exempt from discovery and production, and shall not be admissible in any subsequent arbitration or other proceedings without the concurrence of both of the Parties.

5.18.3 If the vice-presidential level representatives or the designated representative with authority to make commitments have not reached a resolution of the Dispute within fifteen (15) calendar Days after the Resolution Request (or such longer period as agreed to in writing by the Parties), or if either Party fails to designate such vice-presidential level representative or their representative with authority to make commitments within seven (7) calendar Days after the date of the Resolution Request, then either Party may request that the Dispute be settled by arbitration. Notwithstanding the foregoing, a Party may request that the Dispute be settled by arbitration two (2) calendar Days after the Resolution Request pursuant to the terms of Section 5.18.3.1. In any case, the arbitration proceeding shall be conducted by a single arbitrator, knowledgeable about the Telecommunications industry unless the Dispute involves amounts exceeding five million (\$5,000,000) in which case the proceeding shall be conducted by a panel of three (3) arbitrators, knowledgeable about the Telecommunications industry. The arbitration proceedings shall be conducted under the then-current rules for commercial disputes of the American Arbitration Association (AAA) or J.A.M.S./Endispute, at the election of the Party that initiates dispute resolution under this Section 5.18. Such rules and procedures shall apply notwithstanding any part of such rules that may limit their availability for resolution of a Dispute. The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitrability of the Dispute. The arbitrator shall not have authority to award punitive damages. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration proceedings shall occur in the Denver, Colorado metropolitan area or in another mutually agreeable location. It is acknowledged that the Parties, by mutual, written agreement, may change any of these arbitration practices for a particular, some, or all Dispute(s). The Party which sends the Resolution Request must notify the Secretary of the Commission of the arbitration proceeding within forty-eight (48) hours of the determination to arbitrate.

5.18.3.1 All expedited procedures prescribed by the AAA or J.A.M.S./Endispute rules, as the case may be, shall apply to Disputes affecting the ability of a Party to

provide uninterrupted, high quality services to its End User Customers, or as otherwise called for in this Agreement. A Party may seek expedited resolution of a Dispute if the vice-presidential level representative, or other representative with authority to make commitments, have not reached a resolution of the Dispute within two (2) calendar Days after the Resolution Request. In the event the Parties do not agree that a service affecting Dispute exists, the Dispute resolution shall commence under the expedited process set forth in this Section 5.18.3.1, however, the first matter to be addressed by the Aarbitrator shall be the applicability of such process to such Dispute.

5.18.3.2 There shall be no discovery except for the exchange of documents deemed necessary by the aArbitrator to an understanding and determination of the Dispute. Qwest and CLEC shall attempt, in good faith, to agree on a plan for such document discovery. Should they fail to agree, either Qwest or CLEC may request a joint meeting or conference call with the aArbitrator. The aArbitrator shall resolve any Disputes between Qwest and CLEC, and such resolution with respect to the need, scope, manner, and timing of discovery shall be final and binding.

5.18.3.3 Arbitrator's Decision-

5.18.3.3.1 The Aarbitrator's decision and award shall be in writing and shall state concisely the reasons for the award, including the Aarbitrator's findings of fact and conclusions of law.

5.18.3.3.2 An interlocutory decision and award of the Aarbitrator granting or denying an application for preliminary injunctive relief may be challenged in a forum of competent jurisdiction immediately, but no later than ten (10) business days after the appellant's receipt of the decision challenged. During the pendency of any such challenge, any injunction ordered by the Aarbitrator shall remain in effect, but the enjoined Party may make an application to the Aarbitrator for appropriate security for the payment of such costs and damages as may be incurred or suffered by it if it is found to have been wrongfully enjoined, if such security has not previously been ordered. If the authority of competent jurisdiction determines that it will review a decision granting or denying an application for preliminary injunctive relief, such review shall be conducted on an expedited basis.

5 18 3 4 To the extent that any information or materials disclosed in the course of an arbitration proceeding contain proprietary, trade secret or Confidential Information of either Party, it shall be safeguarded in accordance with Section 5.16 of this Agreement, or if the Parties mutually agree, such other appropriate agreement for the protection of proprietary, trade secret or Confidential Information that the Parties negotiate. However, nothing in such negotiated agreement shall be construed to prevent either Party from disclosing the other Party's information to the Aarbitrator in connection with or in anticipation of an arbitration proceeding, provided, however, that the Party seeking to disclose the information shall first provide fifteen (15) calendar Days notice to the disclosing Party so that that Party, with the cooperation of the other Party, may seek a protective order from the arbitrator. Except as the Parties otherwise agree, or as the Aarbitrator for good cause orders, the arbitration proceedings, including hearings, briefs, orders, pleadings and discovery shall not be deemed confidential and may be disclosed at the discretion of either Party, unless it is subject to being safeguarded as proprietary,

trade secret or Confidential Information, in which event the procedures for disclosure of such information shall apply.

5.18.4 Should it become necessary to resort to court proceedings to enforce a Party's compliance with the dispute resolution process set forth herein, and the court directs or otherwise requires compliance herewith, then all of the costs and expenses, including its reasonable attorney fees, incurred by the Party requesting such enforcement shall be reimbursed by the non-complying Party to the requesting Party.

5.18.5 No Dispute, regardless of the form of action, arising out of this Agreement, may be brought by either Party more than two (2) years after the cause of action accrues.

5.18.6 Nothing in this Section is intended to divest or limit the jurisdiction and authority of the Commission or the FCC as provided by state and federal law.

5.18.7 In the event of a conflict between this Agreement and the rules prescribed by the AAA or J.A.M.S./Endispute, this Agreement shall be controlling.

5.18.8 This Section does not apply to any claim, controversy or Dispute between the Parties, their agents, employees, officers, directors or affiliated agents concerning the misappropriation of use of intellectual property rights of a Party, including, but not limited to, the use of the trademark, trade-name, trade dress or service mark of a Party.

## **5.19 Controlling Law**

5.19.1 This Agreement is offered by Qwest and accepted by CLEC in accordance with applicable federal law and the state law of Arizona. It shall be interpreted solely in accordance with applicable federal law and the state law of Arizona.

## **5.20 Responsibility for Environmental Contamination**

5.20.1 Neither Party shall be liable to the other for any costs whatsoever resulting from the presence or release of any Environmental Hazard that either Party did not introduce to the affected Work Location. Both Parties shall defend and hold harmless the other, its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard that the Indemnifying Party, its contractors or agents introduce to the Work Locations or (ii) the presence or release of any Environmental Hazard for which the Indemnifying Party is responsible under Applicable Law.

5.20.2 In the event any suspect materials within Qwest-owned, operated or leased facilities are identified to be asbestos containing, CLEC will ensure that to the extent any activities which it undertakes in the facility disturb such suspect materials, such CLEC activities will be in accordance with applicable local, state and federal environmental and health and safety statutes and regulations. Except for abatement activities undertaken by CLEC or equipment placement activities that result in the generation of asbestos-containing material, CLEC does not have any responsibility for managing, nor is it the owner of, nor does it have any liability for, or in connection with, any asbestos-containing material. Qwest agrees to immediately notify CLEC if Qwest undertakes any asbestos control or asbestos abatement activities that potentially could affect CLEC personnel, equipment or operations, including, but not limited to, contamination of equipment.

**5.21 Notices**

5.21.1 Any notices required by or concerning this Agreement shall be in writing and shall be sufficiently given if delivered personally, delivered by prepaid overnight express service, or sent by certified mail, return receipt requested, or by email where specified in this Agreement to Qwest and CLEC at the addresses shown below:

Qwest Corporation  
Director Interconnection ~~Compliance~~ Agreements  
1801 California, Room 244000  
Denver, CO 80202  
Email \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_

With copy to:  
Qwest Law Department  
Attention: Corporate Counsel, Interconnection  
1801 California Street, 49th Floor  
Denver, CO 80202  
Email \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_

and to CLEC at the address shown below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Email \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_

If personal delivery is selected to give notice, a receipt acknowledging such delivery must be obtained. Each Party shall inform the other of any change in the above contact Person and/or address using the method of notice called for in this Section 5.21.

**5.22 Responsibility of Each Party**

5.22.1 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 all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at Work Locations, and (ii) Waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the Work Locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by Applicable Law in connection with its activities, legal status and property, real or personal, and

(ii) the acts of its own Affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

### **5.23 No Third Party Beneficiaries**

5.23.1 The provisions of this Agreement are for the benefit of the Parties and not for any other Person. This Agreement will not provide any Person not a Party to this Agreement with any remedy, claim, liability, reimbursement, claim of action, or other right in excess of those existing by reference in this Agreement.

### **5.24 Reserved for Future Use.**

5.24.1 Reserved for Future Use.

### **5.25 Publicity**

5.25.1 Neither Party shall publish or use any publicity materials with respect to the execution and delivery or existence of this Agreement without the prior written approval of the other Party. Nothing in this section shall limit a Party's ability to issue public statements with respect to regulatory or judicial proceedings.

### **5.26 Executed in Counterparts**

5.26.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

### **5.27 Compliance**

5.27.1 Each Party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement. Without limiting the foregoing, Qwest and CLEC agree to keep and maintain in full force and effect all permits, licenses, certificates, and other authorities needed to perform their respective obligations hereunder.

### **5.28 Compliance with the Communications Assistance Law Enforcement Act of 1994**

5.28.1 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the CALEA. Each Party shall indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party for such noncompliance and shall at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

### **5.29 Cooperation**

5.29.1 The Parties agree that this Agreement involves the provision of Qwest services in ways such services were not previously available and the introduction of new processes and procedures to provide and bill such services. Accordingly, the Parties agree to work jointly and cooperatively in testing and implementing processes for pre-ordering, ordering, maintenance, Provisioning and Billing and in reasonably resolving issues which result from such

implementation on a timely basis. Electronic processes and procedures are addressed in Section 12 of this Agreement.

5.29.2 If, at any time, CLEC believes that a Qwest employee has engaged in unlawful behavior with respect to CLEC, CLEC may report the incident to the account team in writing, describing in detail, all facts upon which CLEC's belief is based. Qwest will investigate the allegations, and within three (3) business days after Qwest has received written notification from the CLEC of the allegations, inform CLEC that the matter is being investigated. Qwest will keep CLEC informed throughout the investigation and will advise in writing of the investigation outcome. Due to confidentiality issues, Qwest may not be in a position to disclose all of the findings to CLEC. However, Qwest will provide non-confidential findings.

### 5.30 Amendments

5.30.1 Either Party may request an amendment to this Agreement at any time by providing to the other Party in writing information about the desired amendment and proposed language changes. If the Parties have not reached agreement on the requested amendment within sixty (60) calendar Days after receipt of the request, either Party may pursue resolution of the amendment through the Dispute Resolution provisions of this Agreement.

#### 5.30.2 Intentionally Left Blank.

5.30.3 The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Agreement may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any party of any default, misrepresentation, or breach of warranty or covenant hereunder whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.<sup>35</sup>

### 5.31 Entire Agreement

5.31.1 This Agreement (including the documents referred to herein) constitutes the full and entire understanding and agreement between the Qwest and CLEC Parties with regard to the subjects of this Agreement and supersedes any all prior understandings, oral or written agreements or representations, by or between the Parties written or oral, to the extent they relate in any way to the subjects of this Agreement. statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.<sup>36</sup>

### 5.32 ~~Reserved for Future Use~~

<sup>35</sup> This new Section 5.30.3 is intended to clarify the process for amending the Agreement.

<sup>36</sup> The revisions to this Section are intended to clarify the scope of the Agreement.

## Section 6.0 – RESALE

### 6.1 Description

6.1.1 Qwest shall offer for resale at wholesale rates any Telecommunications Services that it provides at retail to subscribers who are not Telecommunications Carriers, subject to the terms and conditions of this Section. All Qwest retail Telecommunications Services are available for resale from Qwest pursuant to the Act and will include terms and conditions (except prices) in Qwest's applicable product Tariffs, catalogs, price lists, or other retail Telecommunications Services offerings. To the extent, however, that a conflict arises between the terms and conditions of the Tariff, catalog, price list, or other retail Telecommunications Services offering and this Agreement, this Agreement shall be controlling.

6.1.2 While this Section 6.0 of this Agreement addresses the provision of certain Qwest services to CLEC for resale by CLEC, the Parties also acknowledge that CLEC is required to provide its Telecommunications Services to Qwest for resale by Qwest. Upon request by Qwest, CLEC shall make its Telecommunications Services available to Qwest for resale pursuant to the applicable provisions of the Telecommunications Act of 1996, the FCC's relevant orders and rules, and the Commission's relevant orders and rules.

6.1.3 Certain Qwest services are not available for resale under this Agreement, as noted in Section 6.2. The applicable discounts for services available for resale are identified in Exhibit A.

### 6.2 Terms and Conditions

6.2.1 Qwest shall offer introductory training on procedures that CLEC must use to access Qwest's OSS at no cost to CLEC. If CLEC asks Qwest personnel to travel to CLEC's location to deliver training, CLEC will pay Qwest's reasonable travel related expenses. Qwest may also offer to CLEC other training at reasonable costs.

6.2.2 Services available for resale under this Agreement may be resold only to the same class of End User Customers to which Qwest sells such services where such restrictions have been ordered or approved by the Commission. Such restrictions are listed below in this Section 6.2.2.

6.2.2.1 Promotional offerings of ninety (90) dDays or less are available for resale. Such promotions are available for resale under the same terms and conditions that are available to Qwest retail End User Customers, with no wholesale discount. Should Qwest re-offer any promotion for a sequential ninety (90) day or less promotion period following the initial ninety (90) day or less promotion period, then the initial and subsequent promotion(s) will be available to CLEC for resale with any applicable wholesale discount.

6.2.2.2 Market tTrials of ninety (90) dDays or less are not available for resale.

6.2.2.3 Residential services and Lifeline/Link-up services are available only to the same class of End User Customers eligible to purchase these services from Qwest.

6.2.2.4 Universal Emergency Number Service is not available for resale. Universal Emergency Number Service (E911/911<sup>12</sup> service) is provided with each Local Exchange Service line resold by CLEC whenever E911/911 service would be provided on the same line if provided by Qwest to a Qwest retail End uUser Customer.

6.2.2.5 Non-Telecommunications Services, such as inside wiring and maintenance, calling cards and CPE, are not available for resale.

6.2.2.6 Voice messaging service is available for resale at the retail rate with no discount. Enhanced Services and information services, other than voice messaging, are not available for resale.

6.2.2.7 Qwest will make retail Contract Service Arrangements (CSA) available for resale at the wholesale discount rate specified in Exhibit A of this Agreement. All terms and conditions (except prices) in Qwest's applicable Tariffs, catalogs, price lists, or other retail Telecommunications Services offerings will apply to resale of CSAs, including early termination liability. Nothing in this Agreement shall affect any obligation of any Qwest retail End uUser Customer that early terminates a CSA, including payment of any early termination charges.

6.2.2.8 Grandfathered services are available for resale by CLEC to existing End uUser Customers of the grandfathered product or service.

6.2.2.9 Centrex terms and conditions related to calculation of charges for, and Provisioning of common blocks, station lines and optional features will be based on the Centrex definition of a system and CLEC's serving location.

6.2.2.9.1 Where a common block is applicable, a Centrex system is defined by a single common block or multiple common blocks for a single CLEC within a single Central Office switching system. A common block defines the dialing plan for intercom calling, access to the Public Switched Network and/or private facilities, station line and system restrictions and feature access arrangements and functionality. CLEC may purchase multiple common blocks within a single Central Office switching system when CLEC requires different dialing plans, feature access arrangements and station line or system restrictions within a single system operation. CLEC with multiple common blocks within the same Central Office Switch may have Network Access Register and Priate Facility trunk groups aggregated across multiple common blocks. Centrex system based optional features (i.e., Automatic Route Selection) may not be aggregated across multiple common blocks. A Centrex system must provide station lines to at least one (1) location and may provide station lines to multiple locations.

6.2.2.9.2 Centrex station lines are provisioned and charges are calculated based on serving CLEC's location. A location is defined as the site where Qwest facilities (cable plant from the serving Central Office Switch) meet CLEC facilities (inside wire). In a multi-tenant building, Qwest may bring facilities directly to a single Point of Interconnection with CLEC facilities, typically in a basement equipment room, which would be considered a single location for this multi-tenant building. Should Qwest bring service to multiple floors or offices within a multi-tenant building each floor or office with a separate CLEC facilities

termination point is considered a location. Where CLEC has~~with~~ multiple buildings within contiguous property (campus), such buildings will be provisioned and billed as a single location. Contiguous property is defined as property owned or leased by a ~~single~~ CLEC and not separated by public thoroughfare, river or railroad rights-of-way. Property will be considered contiguous when connected via connecting passageways or conduit acceptable to Qwest for its facilities. Where CLEC has~~with~~ Centrex station lines from multiple Central Office switching systems, within the same Qwest Wire Center, and provisioned to the same location, CLEC will not be charged for service or provisioned as if service was originating from a single Centrex system. For example, station lines may only be aggregated from a single CLEC Centrex ~~CLEC~~ system to a single CLEC serving location for rating purposes. CLEC may not specify a Central Office as a CLEC location for the termination of Centrex station lines.<sup>37</sup>

6.2.2.10 Private line service used for Special Access is available for resale but not at a discount.

6.2.2.11 Reserved for Future Use.

6.2.2.12 Telecommunications Services provided directly to CLEC for its own use and not resold to End User Customers must be identified by CLEC as such, and CLEC will pay Qwest retail prices for such services.

6.2.3 Qwest shall provide to CLEC Telecommunications Services for resale that are at least equal in quality and in substantially the same time and manner that Qwest provides these services to itself, its subsidiaries, its Affiliates, other Resellers, and Qwest's retail End User Customers. Qwest shall also provide resold services to CLEC in accordance with the Commission's retail service quality requirements, if any. Qwest further agrees to reimburse CLEC for credits or fines and penalties assessed against CLEC as a result of Qwest's failure to provide service to CLEC, subject to the following provisions.

6.2.3.1 Qwest shall provide service credits to CLEC for resold services in accordance with the Commission's retail service requirements that apply to Qwest retail services, if any. Such credits shall be limited in accordance with the following:

- a) Qwest's service credits to CLEC shall be provided at the rate at which Qwest is required to provide credit to its retail End User Customers;
- b) Qwest shall only be liable to provide service credits in accordance with the resold services provided to CLEC. Qwest is not required to provide service credits for service failures that are the fault of CLEC;
- c) Qwest shall not be liable to provide service credits to CLEC if CLEC is not subject to the Commission's service quality requirements;
- d) Qwest shall not be liable to provide service credits to CLEC if CLEC does not provide service quality credits to its End User Customers; ~~and~~

<sup>37</sup> Changes consistent with the use of the defined term "CLEC" as a specific party to an agreement based on this SGAT. Also, in conformance with other SGATs in the Qwest region.

- e) In no case shall Qwest's credits to CLEC exceed the amount Qwest would pay a Qwest ~~E~~nd ~~u~~User Customer under the service quality requirements, and.
- f) Intentionally Left Blank~~Reserved for Future Use.~~

6.2.3.2 Fines and Penalties - Qwest shall be liable to pay to CLEC fines and penalties for resold services in accordance with the Commission's retail service requirements that apply to Qwest retail services, if any. Such credits shall be limited in accordance with the following:

- a) Fines and penalties paid to CLEC shall be paid at the rate at which Qwest's retail operations are required to pay fines or penalties;
- b) Qwest shall only be liable to provide fines and penalties in accordance with the resold services provided to CLEC. Qwest is not required to pay fines and penalties for service failures that are the fault of CLEC;
- c) Qwest shall not be liable to provide fines and penalties to CLEC if CLEC is not subject to the Commission's fine and penalty requirements for service quality; and
- d) In no case shall Qwest's fines and penalties to CLEC exceed the amount Qwest would pay the Commission under the service quality plan; and.
- e) Intentionally Left Blank~~Reserved for Future Use.~~

6.2.4 In the event that there are existing agreements between CLEC and Qwest for resale under Qwest retail Tariff discounts, CLEC may elect to continue to obtain services for resale under the existing agreements and retail Tariff discounts, or CLEC may elect to terminate such existing agreements and obtain such services by adopting this Agreement pursuant to the General Terms of this Agreement. If CLEC so adopts this Agreement, the associated wholesale discount specified in Exhibit A of this Agreement will apply.

6.2.5 Reserved for Future Use.

6.2.6 The Parties may not reserve blocks of telephone numbers except as allowed by Applicable Law or regulation.

6.2.7 Qwest will accept at no charge one (1) primary white pages ~~D~~irectory ~~L~~isting for each main telephone number belonging to CLEC's ~~E~~nd ~~u~~User Customer based on ~~E~~nd ~~u~~User Customer information provided to Qwest by CLEC. Qwest will place CLEC's ~~E~~nd ~~u~~User Customers' ~~I~~listings in Qwest's Directory Assistance Database and will include such ~~I~~listings in Qwest's Directory Assistance Service. Additional terms and conditions with respect to ~~d~~irectory ~~I~~listings are described in the Ancillary Services Section and the Qwest's ~~D~~ex Official Directory Publisher Section of this Agreement. <sup>38</sup>

6.2.8 Qwest shall provide to CLEC, for CLEC's ~~E~~nd ~~u~~User Customers, E911/911 call routing to the appropriate Public Safety Answering Point (PSAP). Qwest shall not be responsible for any failure of CLEC to provide accurate ~~E~~nd ~~u~~User Customer information for

<sup>38</sup> This Section has been revised to reflect that Dex is no longer an affiliate of Qwest.

listings in any databases in which Qwest is required to retain and/or maintain such information. Qwest shall provide CLEC's End User Customer information to the Automatic Location Identification/Database Management System (ALI/DMS). Qwest shall use its standard process to update and maintain CLEC's End User Customer service information in the ALI/DMS used to support E911/911 services on the same schedule that it uses for its retail End User Customers. Qwest assumes no liability for the accuracy of information provided by CLEC.

6.2.9 If Qwest provides and CLEC accepts Qwest's Directory Assistance Service or operator services for CLEC's resold local Exchange Service lines, such as Directory Assistance and operator services may be provided with branding as provided in this Agreement in Sections 10.5 for Directory Assistance Service, and 10.7 for operator services.

6.2.10 CLEC shall designate the Primary Interexchange Carrier (PIC) assignments on behalf of its End User Customers for InterLATA and IntraLATA services. CLEC and Qwest shall follow all Applicable Laws, rules and regulations with respect to PIC changes. Qwest shall disclaim any liability for CLEC's improper InterLATA and IntraLATA PIC change requests, and CLEC shall disclaim any liability for Qwest's improper InterLATA (when applicable) and IntraLATA PIC change requests.

6.2.11 When End User Customers switch from Qwest to CLEC, or to CLEC from any other Reseller and if they do not change their service address to an address served by a different Central Office, such End User Customers shall be permitted to retain their current telephone numbers if they so desire.

6.2.12 In the event Qwest properly terminates the Provisioning of any resold services to CLEC for any reason, CLEC shall be responsible for providing any and all necessary notice to its End User Customers of the termination. In no case shall Qwest be responsible for providing such notice to CLEC's End User Customers. Qwest will provide notice to CLEC of Qwest's termination of a resold service on a timely basis consistent with Commission rules and notice requirements.

6.2.13 The underlying network provider of a resold service shall be entitled to receive, from the purchaser of Switched Access, the appropriate access charges pursuant to its then effective Switched Access Tariff.

6.2.14 Resold services are available where facilities currently exist and are capable of providing such services without construction of additional facilities or enhancement of existing facilities. However, if CLEC requests that facilities be constructed or enhanced to provide resold services, Qwest will construct facilities to the extent necessary to satisfy its obligations to provide basic Local Exchange Service as set forth in Qwest's retail Tariff and Commission rules. Under such circumstances, Qwest will develop and provide to CLEC a price quote for the construction. Construction charges associated with resold services will be applied in the same manner that construction charges apply to Qwest retail End User Customers. If the quote is accepted by CLEC, CLEC will be billed the quoted price and construction will commence after receipt of payment.

### 6.3 Rates and Charges

6.3.1 Wholesale discounts for resold Telecommunications Services offerings are provided in Exhibit A. The Telecommunications Services offerings available for resale but excluded from the wholesale pricing arrangement in the Agreement are available at the retail

Tariff, price list, catalog, or other retail Telecommunications Services offering rates. Telecommunications Services available for resale with or without a wholesale discount are subject to Commission-approved change, and any such changes shall apply from the effective date of such change on a going-forward basis only.

6.3.2 The Customer Transfer Charges (CTC) as specified in Exhibit A apply when transferring services to CLEC.

6.3.3 A Subscriber Line Charge (SLC), or any subsequent federally mandated charge to End User Customers, will continue to be paid by CLEC without discount for each local exchange line resold under this Agreement. All federal and state rules and regulations associated with SLC as found in the applicable Tariffs also apply.

6.3.4 CLEC will pay to Qwest the Primary Interexchange Carrier (PIC) change charge without discount for CLEC End User Customer changes of Interexchange or IntraLATA Carriers. Any change in CLEC's End User Customers' Interexchange or IntraLATA Carrier must be requested by CLEC on behalf of its End User Customer, and Qwest will not accept changes to CLEC's End User Customers' Interexchange or IntraLATA Carrier(s) from anyone other than CLEC.

6.3.5 CLEC agrees to pay Qwest when its End User Customer activates any services or features that are billed on a per use or per activation basis (e.g., continuous redial, last call return, call back calling, call trace) subject to the applicable discount in Exhibit A as such may be amended pursuant to this Section. With respect to all such charges, Qwest shall provide CLEC with sufficient information to enable CLEC to bill its End User Customers.

6.3.6 Miscellaneous Charges applicable to services ordered for resale by CLEC will apply if such Miscellaneous Charges apply for equivalent services ordered by Qwest retail End User Customers, except that CLEC will receive any applicable wholesale discount. Such Miscellaneous Charges include charges listed in the applicable Tariff.

6.3.7 If the Commission orders additional services to be available for resale, Qwest will revise Exhibit A to incorporate the services added by such order into this Agreement, effective on the date ordered by the Commission. If the Commission indicates those additional services must be available for resale at wholesale discount rates, those additional services will be added to this Agreement at the original Agreement wholesale discount rate.

6.3.8 Qwest shall timely bill new or changed Commission-ordered resale rates or charges using the effective date for such rates or charges as ordered by the Commission. If Qwest bills CLEC amounts different from new or changed rates or charges after the effective date of such rates or charges, Qwest shall make appropriate bill adjustments or provide appropriate bill credits on CLEC's bill(s).

6.3.9 If rates for services resold by CLEC under this Agreement change, based on changes in Qwest's Tariffs, catalogs, price lists or other retail Telecommunications Services offerings, charges billed to CLEC for such services will be based upon the new Tariff, catalogs, price lists, or other retail Telecommunications Services offerings rates less the applicable wholesale discount, if any, as agreed to herein or as established by Commission order. The new rate will be effective upon the effective date of the Tariff, catalog, price list, or other retail Telecommunications Services offerings.

6.3.10 Product-specific nonrecurring charges as set forth in Qwest's applicable Tariffs, catalogs, price lists, or other retail Telecommunications Services offerings will apply when new or additional resold services are ordered and installed at CLEC's request for use by CLEC's End User Customers. Such nonrecurring charges will be subject to the wholesale discount, if any, that applies to the underlying service being added or changed.

#### 6.4 Ordering Process

6.4.1 CLEC, or CLEC's agent, shall act as the single point of contact for its ~~end user~~End User Customer's service needs, including without limitation, sales, service design, order taking, Provisioning, change orders, training, maintenance, trouble reports, repair, post-sale servicing, Billing, collection and inquiry. CLEC's ~~end user~~End User Customers contacting Qwest in error will be instructed to contact CLEC; and Qwest's ~~end user~~End User Customers contacting CLEC in error will be instructed to contact Qwest. In responding to calls, neither Party shall make disparaging remarks about each other. To the extent the correct provider can be determined, misdirected calls received by either Party will be referred to the proper provider of local Exchange Service; however, nothing in this Agreement shall be deemed to prohibit Qwest or CLEC from discussing its products and services with CLEC's or Qwest's End User Customers who call the other Party, seeking such information.

6.4.2 CLEC shall transmit to Qwest all information necessary for the ordering (~~b~~Billing, Directory Listing and other information), installation, repair, maintenance and post-installation servicing according to Qwest's standard procedures, as described in the Qwest Product Catalog (PCAT) available on Qwest's public web site located at <http://www.qwest.com/wholesale/pcat>. Information shall be provided using Qwest's designated Local Service Request (LSR) format which may include the LSR, End User Customer and resale forms.

6.4.3 Qwest will use the same performance standards and criteria for installation, Provisioning, maintenance, and repair of services provided to CLEC for resale under this Agreement as Qwest provides to itself, its Affiliates, its subsidiaries, other Resellers, and Qwest retail End User Customers. The installation, Provisioning, maintenance, and repair processes for CLEC's resale service requests are detailed in the Support Functions Access to OSS Section of this Agreement, and are applicable whether CLEC's resale service requests are submitted via Operational Support System or by facsimile.

6.4.4 CLEC is responsible for providing to Qwest complete and accurate End User Customer Directory Listing information including initial and updated information for Directory Assistance Service, white pages directories, and E911/911 Emergency Services. The Ancillary Services Section of this Agreement contains complete terms and conditions for Directory Listings for Directory Assistance Services, white pages directories, and E911/911 Emergency Services.

6.4.5 If Qwest's retail End User Customer, or the End User Customer's New local Service Provider orders the discontinuance of the End User Customer's existing Qwest service in anticipation of the End User Customer moving to a New local Service Provider, Qwest will render its closing bill to the End User Customer, discontinuing Billing as of the date of the discontinuance of Qwest's service to the End User Customer. If the Current Service Provider~~CLEC that currently provides resold service to an end user,~~ or if the End User Customer's New Service Provider~~new local service provider,~~ orders the discontinuance of existing resold service from the CLEC~~Current Service Provider~~, Qwest will bill the Current Service Provider~~existing CLEC~~ for service through the date the End User Customer receives

resold service from the Current Service Provider existing CLEC. Qwest will notify CLEC by Operational Support System interface, facsimile, or by other agreed-upon processes when an End User Customer moves from the Current Service Provider to a New Service Provider CLEC to a different local service provider. Qwest will not provide the Current Service Provider CLEC with the name of the other local New Service Provider selected by the End User Customer.<sup>39</sup>

6.4.6 CLEC shall provide Qwest and Qwest shall provide CLEC with points of contact for order entry, problem resolution and repair of the resold services. These points of contact will be identified for both CLEC and Qwest in the event special attention is required on a service request.

6.4.7 Prior to placing orders on behalf of the End User Customer, CLEC shall be responsible for obtaining and having in its possession Proof of Authorization (POA), as set forth in the POA Proof of Authorization Section of this Agreement.

6.4.8 Due De intervals for CLEC's resale service requests are established when service requests are received by Qwest through Operational Support Systems or by facsimile. Intervals provided to CLEC shall be equivalent to intervals provided by Qwest to itself, its Affiliates, its subsidiaries, other Resellers, and to Qwest's retail End User Customers.

## 6.5 Billing

6.5.1 Qwest shall bill CLEC and CLEC shall be responsible for all applicable charges for the resold services as provided herein. CLEC shall also be responsible for all Tariffed, cataloged, price listed, and other retail Telecommunications Services offerings charges and charges separately identified in this Agreement associated with services that CLEC resells to an End User Customer under this Agreement.

6.5.2 Qwest shall provide CLEC, on a monthly basis, within seven (7) to ten (10) calendar Days of the last day of the most recent Billing period, in an agreed upon standard electronic Billing format as detailed in the Section 12.2.5, Billing information including (1) a summary bill, and (2) individual End User Customer sub-account information consistent with the samples available for CLEC review.

## 6.6 Maintenance and Repair

6.6.1 Qwest will maintain its facilities and equipment used to provide CLEC resold services. CLEC or its End User Customers may not rearrange, move, disconnect or attempt to repair Qwest's facilities or equipment, including facilities or equipment that may terminate or be located at CLEC's End User Customer's premises, other than by connection or disconnection to any interface between Qwest and the End User Customer's facilities, without the written consent of Qwest.

6.6.2 Maintenance and Repair procedures are detailed in Section 12. Access to telephone numbers and Dialing Parity are discussed in Sections 13 and 14 respectively.

6.6.3 CLEC and Qwest will employ the procedures for handling misdirected repair calls

<sup>39</sup> This Section has been modified to use the Section 4 defined terms "Current Service Provider" and "New Service Provider".