

- 7.4.4 If, despite timely notification by the non-Recording Company, message detail is lost and unrecoverable as a direct result of the Recording Company having lost or damaged tapes or incurred system outages while performing recording, Assembly and Editing, rating, Message Processing and/or transmission of message detail, both Parties will estimate the volume of lost messages and associated revenue based on information available to it concerning the average revenue per minute for the average interstate and/or intrastate call. In such events, the Recording Company's liability shall be limited to the granting of a credit adjusting amounts otherwise due from it equal to the estimated net lost revenue associated with the lost message detail.
- 7.4.5 Each Party will not be liable for any costs incurred by the other Party when transmitting data files via data lines and a transmission failure results in the non-receipt of data.

## **8.0 Transit Traffic**

### **8.1 Introduction**

- 8.1.1 This Section 8 sets forth the rates, terms and conditions for Transit Traffic Service when AT&T ARKANSAS, AT&T CALIFORNIA, AT&T INDIANA, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T NORTH CAROLINA, AT&T OHIO, AT&T OKLAHOMA, and/or AT&T TEXAS ("AT&T-TSP") acts as a transit service provider for CLEC. Transit Traffic Service is provided to Telecommunications Carriers for Telecommunications Traffic that does not originate with, or terminate to, AT&T-TSP's End Users. Transit Traffic Service allows CLEC to exchange CLEC originated traffic with a Third Party Terminating Carrier, to which CLEC is not directly interconnected, and it allows CLEC to receive traffic originated by a Third Party Originating Carrier.
- 8.1.2 AT&T-TSP offers Transit Traffic Services to interconnected CLECs or to interconnected Out of Exchange Local Exchange Carriers.

### **8.2 Definitions**

The definitions in this Section 8 are only for the purpose of Transit Traffic Service as set forth in this Section 8. If a definition herein conflicts with any definition in the General Terms and Conditions of the Agreement or this Attachment 02, then the definition herein governs for the purpose of this Section 8. To the extent that defined terms in the Agreement are used in this Section, but for which no definition appears herein, then the definition in the Agreement controls.

- 8.2.1 "AT&T - Transit Service Provider" or ("AT&T-TSP") means as applicable, AT&T ARKANSAS, AT&T CALIFORNIA, AT&T INDIANA, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OHIO, AT&T OKLAHOMA, AT&T NORTH CAROLINA, and/or AT&T TEXAS as those entities provide Transit Traffic Services to CLEC and Third Parties.
- 8.2.2 "Calling Party Number" or "CPN" is as defined in 47 C.F.R. § 64.1600(c).
- 8.2.3 "Local" means physically located in the same ILEC Local Exchange Area as defined by the ILEC Local (or "General") Exchange Tariff on file with the applicable state Commission or regulatory agency; or physically located within neighboring ILEC Local Exchange Areas that are within the same common mandatory local calling area. This includes but is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other types of mandatory expanded local calling scopes.
- 8.2.4 "Loss" or "Losses" means any and all losses, costs (including court costs), claims, damages (including fines, penalties, or civil judgments and settlements), injuries, liabilities and expenses (including attorneys' fees).
- 8.2.5 "Third Party Originating Carrier" means a Telecommunications Carrier that originates Transit Traffic that transits AT&T-TSP's network and is delivered to CLEC.
- 8.2.6 "Third Party Terminating Carrier" means a Telecommunications Carrier to which traffic is terminated when CLEC originates traffic that is sent through AT&T-TSP's network, i.e., CLEC is using AT&T-TSP's Transit Traffic Service.
- 8.2.7 "Transit Traffic" means traffic originating on CLEC's network that is switched and transported by AT&T-TSP and delivered to a Third Party Terminating Carrier's network or traffic from a Third Party Originating Carrier's network. A call that is originated or terminated by a CLEC purchasing local switching pursuant to a

commercial agreement with AT&T-TSP is not considered Transit Traffic for the purposes of this Attachment. Additionally Transit Traffic does not include traffic to/from IXCs.

8.2.8 "Transit Traffic MOUs" means all Transit Traffic minutes of use to be billed at the Transit Traffic rate by AT&T-TSP.

8.2.9 "Transit Traffic Service" is an optional switching and intermediate transport service provided by AT&T-TSP for Transit Traffic between CLEC and a Third Party Originating or Terminating Carrier, where CLEC is directly interconnected with an AT&T-TSP Tandem.

### 8.3 Responsibilities of the Parties

8.3.1 AT&T-TSP will provide CLEC with Transit Traffic Service to all Third Party Terminating Carriers with which AT&T-TSP is interconnected, within the same LATA, or outside of that LATA, to the extent a LATA boundary waiver exists.

8.3.2 Transit Traffic Service rates apply to all Transit Traffic that originates on CLEC's network. Transit Traffic Service rates are only applicable when calls do not originate with (or terminate to) an AT&T-TSP End User.

### 8.4 CLEC Originated Traffic

8.4.1 CLEC acknowledges and agrees that it is solely responsible for compensating Third Party Terminating Carriers for Transit Traffic that CLEC originates. AT&T-TSP will directly bill CLEC for CLEC-originated Transit Traffic. AT&T-TSP will not act as a billing intermediary, i.e., clearinghouse, between CLEC and Third Party Terminating Carriers, nor will AT&T-TSP pay any termination charges to the Third Party Terminating Carriers on behalf of CLEC.

8.4.2 If CLEC originates Transit Traffic destined to a Third Party Terminating Carrier with which CLEC does not have a traffic compensation arrangement, then CLEC will indemnify, defend and hold harmless AT&T-TSP against any and all Losses, including, without limitation, charges levied by such Third Party Terminating Carrier against AT&T-TSP for such Transit Traffic. Furthermore, If CLEC originates Transit Traffic destined for a Third Party Terminating Carrier with which CLEC does not have a traffic compensation arrangement, and a regulatory agency or court orders AT&T-TSP to pay such Third Party Terminating Carrier for the Transit Traffic AT&T-TSP has delivered to the Third Party Terminating Carrier, then CLEC will indemnify AT&T-TSP for any and all Losses related to such regulatory agency or court order, including, but not limited to, Transit Traffic termination charges, interest on such Transit Traffic Termination charges, and any billing and collection costs that AT&T-TSP may incur to collect any of the foregoing charges, interest or costs from CLEC.

8.4.3 CLEC shall be responsible for sending CPN and other appropriate information, as applicable, for calls delivered to AT&T-TSP's network. CLEC shall not strip, alter, modify, add, delete, change, or incorrectly assign or re-assign any CPN. If AT&T-TSP identifies improper, incorrect, or fraudulent use of local exchange services, or identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN, then CLEC agrees to cooperate to investigate and take corrective action. If CLEC is sending CPN to AT&T-TSP, but AT&T-TSP is not receiving proper CPN information, then CLEC will work cooperatively with AT&T-TSP to correct the problem. If AT&T-TSP does not receive CPN from CLEC, then AT&T-TSP cannot forward any CPN to the Third Party Terminating Carrier, and CLEC will indemnify, defend and hold harmless AT&T-TSP from any and all Losses arising from CLEC's failure to include CPN with Transit Traffic that AT&T-TSP delivers to a Third Party Terminating Carrier on behalf of CLEC.

8.4.4 CLEC, when acting as an originating carrier of Transit Traffic, has the sole responsibility for providing appropriate information to identify Transit Traffic to Third Party Terminating Carriers.

### 8.5 CLEC Terminated Traffic

8.5.1 CLEC shall not charge AT&T-TSP when AT&T-TSP provides Transit Traffic Service as the Transit Service Provider for calls terminated to CLEC.

8.5.2 Where AT&T-TSP is providing Transit Traffic Service to CLEC, AT&T-TSP will pass the CPN received from the Third Party Originating Carrier to CLEC. If AT&T-TSP does not receive CPN from the Third Party

Originating Carrier, then AT&T-TSP cannot forward CPN to CLEC; therefore, CLEC will indemnify, defend and hold harmless AT&T-TSP from any and all Losses arising from or related to the lack of CPN in this situation. If AT&T-TSP or CLEC identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN from a Third Party Originating Carrier, CLEC agrees to cooperate with AT&T-TSP and the Third Party Originating Carrier to investigate and take corrective action. If the Third Party Originating Carrier is sending CPN, but AT&T-TSP or CLEC is not properly receiving the information, then CLEC will work cooperatively with AT&T-TSP and the Third Party Originating Carrier to correct the problem.

- 8.5.3 CLEC agrees to seek terminating compensation for Transit Traffic directly from the Third Party Originating Carrier. AT&T-TSP, as the Transit Service Provider, is not obligated to pay CLEC for such Transit Traffic, and AT&T-TSP is not to be deemed as the default originator of such Transit Traffic or be considered as the default originator.

## 8.6 Transit Traffic Routing/Trunk Groups

- 8.6.1 When CLEC has one or more switches in a LATA and it desires to exchange Transit Traffic with Third Parties through AT&T-TSP, CLEC shall trunk to AT&T-TSP Tandems in such LATA pursuant to terms in this Attachment 02. In the event CLEC has no switch in a LATA in which it desires to send Transit Traffic through AT&T-TSP, CLEC shall establish one or more POIs within such LATA and trunk from each POI to AT&T-TSP Tandems in such LATA pursuant to terms in this Attachment 02.

- 8.6.2 CLEC shall route Transit Traffic to the AT&T-TSP Tandem Office Switch from which the Third Party Terminating Carrier switch subtends.

- 8.6.3 Transit Traffic not routed to the appropriate AT&T-TSP Tandem by CLEC shall be considered misrouted. Transit Traffic routed by CLEC through any AT&T-TSP End Office Switch shall be considered misrouted. Upon written notification from AT&T-TSP of misrouting of Transit Traffic, CLEC will correct such misrouting within sixty (60) days.

- 8.6.4 AT&T ARKANSAS, AT&T CALIFORNIA, AT&T INDIANA, AT&T KANSAS, AT&T MISSOURI, AT&T OHIO, AT&T OKLAHOMA, and/or AT&T TEXAS only.

The same facilities and trunking (ordering, provisioning, servicing, etc.) used pursuant to CLEC's Agreement and in this Attachment 02 to route Section 251(b)(5) Traffic will be used by AT&T-TSP to route Transit Traffic.

- 8.6.5 AT&T KENTUCKY and /or AT&T NORTH CAROLINA only

- 8.6.5.1 The same facilities and trunking (ordering, provisioning, servicing, etc.) used pursuant to CLEC's Agreement for Transit Trunk Groups and in this Attachment 02 for Third Party Trunk Groups will be utilized for the routing of Transit Traffic.

## 8.7 Direct Trunking Requirements.

- 8.7.1 When Transit Traffic originated by CLEC requires twenty-four (24) or more trunks, upon sixty (60) days written notice from AT&T-TSP, CLEC shall establish a direct trunk group or alternate transit arrangement between itself and the Third Party Terminating Carrier. Once a Trunk Group has been established, CLEC agrees to cease routing Transit Traffic through the AT&T-TSP Tandem to the Third Party Terminating Carrier (described above), unless AT&T-TSP and CLEC mutually agree otherwise.

## 8.8 Transit Traffic Rate Application

AT&T CALIFORNIA, AT&T INDIANA, and/or, AT&T OHIO only

The applicable Transit Traffic Service rate applies to all Transit Traffic MOUs. For AT&T CALIFORNIA, AT&T INDIANA, and/or AT&T OHIO, Transit Traffic MOUs include Local and IntraLATA toll minutes of use. CLEC agrees to compensate AT&T CALIFORNIA, AT&T INDIANA and/or AT&T OHIO as a transit service provider for the rate elements at the rate set forth in the Pricing Schedule.

AT&T ARKANSAS, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OKLAHOMA, AT&T NORTH

CAROLINA, and/or AT&T TEXAS only

The applicable Transit Traffic Service rate applies to all Transit Traffic MOUs. For AT&T ARKANSAS, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OKLAHOMA, AT&T NORTH CAROLINA and/or AT&T TEXAS, Transit Traffic MOUs include Local minutes of use only. CLEC agrees to compensate AT&T ARKANSAS, AT&T KANSAS, AT&T KENTUCKY, AT&T MISSOURI, AT&T OKLAHOMA, AT&T NORTH CAROLINA and/or AT&T TEXAS as a transit service provider for the rate elements at the rate set forth in the Pricing Schedule.

AT&T MISSOURI only

Pursuant to the Missouri Public Service Commission Order in Case No. TO-99-483, the Transit Traffic rate elements shall not apply to MCA Traffic (i.e., no transiting charges shall be assessed for MCA Traffic) for AT&T MISSOURI.

AT&T KENTUCKY and/or AT&T NORTH CAROLINA only

Traffic between CLEC and Wireless Type 1 Third Parties or Wireless Type 2A Third Parties that do not engage in Meet Point Billing with AT&T KENTUCKY and/or AT&T NORTH CAROLINA shall not be treated as Transit Traffic from a routing or billing perspective until such time as such traffic is identifiable as Transit Traffic.

- 8.8.1.1 CLEC shall send all IntraLATA toll traffic to be terminated by an independent telephone company to the End User's IntraLATA toll provider and shall not send such traffic to AT&T KENTUCKY and/or AT&T NORTH CAROLINA as Transit Traffic. IntraLATA toll traffic shall be any traffic that originates outside of the terminating independent telephone company's local calling area.

## **ATTACHMENT 03 – STRUCTURE ACCESS**

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## 1.0 Introduction

- 1.1 This Attachment 03 - Structure Access ("Appendix") sets forth the rates, terms, conditions, and procedures by which AT&T-21STATE shall provide non-discriminatory access to AT&T-21STATE-owned Poles, Ducts, Conduit, and ROW. Separate tariffs or agreements shall govern CLEC's access, if any, to the following facilities which, if allowed, would require special security, technical, and construction arrangements outside the scope of this Appendix:
- 1.1.1 AT&T-21STATE's central office vaults and Ducts and Conduits which serve no purpose other than to provide a means of entry to and exit from AT&T-21STATE's central offices;
  - 1.1.2 controlled environment vaults (CEVs), huts, cabinets, and other similar outside plant structures and Ducts and Conduits which serve no purpose other than to provide a means of entry to and exit from such vaults, huts, cabinets, and structures;
  - 1.1.3 Ducts and Conduits located within buildings owned or leased by AT&T-21STATE; and
  - 1.1.4 Ducts, Conduits, equipment rooms, and similar spaces located in space leased by AT&T-21STATE from third party property owners for purposes other than to house cables and other equipment in active service as part of AT&T-21STATE's network distribution operations.

## 2.0 Definitions

- 2.1 "Application" means the process of requesting a License to place Facilities in or on AT&T-21STATE-owned Conduit, Ducts, or Poles.
- 2.2 "Assigned", when used with respect to AT&T-21STATE-owned Conduits, Ducts or Poles, means any space in such Conduit or Duct or on such Pole that is occupied, or scheduled to be utilized pursuant to an Application deemed complete, by an entity authorized by AT&T-21STATE to use such space.
- 2.3 "Attaching Party" means any Party with an existing or prospective physical facility Attachment on or in any AT&T-21STATE structure.
- 2.4 "Attachment" as used herein means the physical connection of cable, wire, or equipment to AT&T-21STATE's Poles, Ducts, or Conduit.
- 2.5 "Authorized Contractor" refers to any contractor included on a list of contractors provided by AT&T-21STATE and which, subject to CLEC's direction, control and the requirements and policies in each state, performs Facilities modification, Make-Ready Surveys or Make-Ready Work which would ordinarily be performed by AT&T-21STATE or persons acting on AT&T-21STATE's behalf. AT&T-21STATE shall make available and keep an up-to-date list of contractors it authorizes to perform Make-Ready Surveys and Make-Ready Work in the communications space on its Poles in cases where AT&T-21STATE has failed to meet deadlines specified in Section 6.
  - 2.5.1 A person or entity approved as an Authorized Contractor is only an Authorized Contractor with respect to those tasks for which such person or entity has been approved by AT&T-21STATE and is an Authorized Contractor only in those AT&T-21STATE construction districts specified by AT&T-21STATE.
  - 2.5.2 Designation of an Authorized Contractor for a specific category of tasks shall not be deemed to be the designation of such person or entity as an Authorized Contractor for other purposes, nor shall approval of an Authorized Contractor by a single AT&T-21STATE construction district constitute approval of such Authorized Contractor for the area served by a different AT&T-21STATE construction district; provided, however, that if a specific construction job extends beyond the boundaries of a single construction district, an Authorized Contractor shall, for the purposes of that job, be deemed to have been approved by all AT&T-21STATE construction districts in which the work is to be performed.
- 2.6 "Available" when used with respect to Conduit or Duct space or Poles, means any usable space in such Conduit or Duct or on such Pole not assigned to a specific entity, including AT&T-21STATE, at the applicable time.
- 2.7 "Conduit(s)" means a structure containing one or more Ducts, usually placed underground or on bridges, in which cables or wires may be installed. As used in this Appendix, the term "Conduit" refers only to conduit structures (including Ducts, Manholes and Handholes) and space within those structures and does not include (a) cables and

other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, and other AT&T-21STATE structures (such as huts and cabinets) which branch off from or are connected to AT&T-21STATE's Conduit.

- 2.8 "Conduit System" means any combination of Ducts, Conduits, Manholes, and Handholes joined to form an integrated whole. In this Appendix, the term refers to Conduit Systems owned or controlled by AT&T-21STATE.
- 2.9 "Cost(s)" means the amounts AT&T-21STATE bills CLEC for specific work performed, and shall be (a) the actual charges made by subcontractors to AT&T-21STATE for work and/or, (b) if the work was performed by AT&T-21STATE employees, it shall be actual costs for all services provided by AT&T-21STATE, including, but not limited to labor, engineering, and any associated administrative or professional services, as applicable, calculated on an individual case basis, along with any directly attributable material expenditures.
- 2.10 "Duct(s)" means a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other Facilities. As used in this Appendix, the term Duct includes innerducts created by subdividing a Duct into smaller channels, but does not include cables and other telecommunications equipment located within such Ducts.
- 2.11 "Facilities" refer to any property or equipment, including but not limited to cables, used in the provision of Telecommunications Services.
- 2.12 "Handholes" means an enclosure, usually below ground level, used for the purpose of installing, operating, and maintaining Facilities in a Conduit. A Handhole is too small to permit personnel to physically enter. As used in this Appendix, the term "Handhole" refers only to Handholes, which are part of AT&T-21STATE's Conduit System, and does not refer to handholes which provide access to buried cables not housed within AT&T-21STATE Ducts or Conduits. As used in this Appendix, the term "Handhole" refers only to Handhole structures owned or controlled by AT&T-21STATE and does not include cables and other telecommunications equipment located within handhole structures.
- 2.13 "License(s)" means any License issued pursuant to this Appendix by AT&T-21STATE.
- 2.14 "Maintenance Duct(s)" generally refers to a full-sized Duct (typically three inches in diameter or larger), and may include an innerduct, for use, on a short-term basis, for maintenance, repair, or emergency restoration activities. The term "Maintenance Duct" does not include Ducts and Conduits extending from an AT&T-21STATE Manhole to customer premises. When only one usable full-sized Duct remains in a Conduit section, that Duct shall be deemed to be the Maintenance Duct. AT&T-21STATE may elect to reserve an innerduct, in addition to the full-sized duct, for restoration purposes, dependent on the specific circumstances in a Conduit run. Such reservations shall be communicated, as necessary, when responding to applications for access.
- 2.15 "Make-Ready Survey" means all work and activities performed or to be performed to determine whether there is adequate capacity on a Pole or in a Conduit or Conduit System (including Manholes and Handholes) to accommodate CLEC's Facilities and to determine what Make-Ready Work, if any, is required to prepare the Pole, Conduit or Conduit System to accommodate CLEC's Facilities.
- 2.16 "Make-Ready Work" means all work performed or to be performed to prepare AT&T-21STATE's Conduit System, Poles or related Facilities for the requested Attachment of CLEC's Facilities. Make-Ready Work includes, but is not limited to, clearing obstructions (e.g., by rodding Ducts to ensure clear passage), and the rearrangement, transfer, replacement, and removal of existing Facilities on a Pole or in a Conduit System where such work is required solely to accommodate CLEC's Facilities and not to meet AT&T-21STATE's business needs or convenience. Make-Ready Work may require "dig ups" of existing Facilities and may include the repair, enlargement or modification of AT&T-21STATE's Structure or the performance of other work required to make AT&T-21STATE's Structure usable for the initial placement of CLEC's Facilities.
- 2.17 "Manhole" means an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron or concrete Manhole cover, which personnel may enter and use for the purpose of installing, operating, and maintaining Facilities in a Conduit. As used in this Appendix, the term "Manhole" does not include cables and other telecommunications equipment located within manhole structures.
- 2.18 "Overlashing" refers to the practice of placing an additional communications cable by lashing such cable with spinning wire over an existing cable and strand on Poles.



- 2.19 "Pole" means utility poles but only includes those utility poles owned or controlled by AT&T-21STATE, and does not include cables and other telecommunications equipment attached to pole structures or utility poles with respect to which AT&T-21STATE has no legal authority to permit Attachments by other persons or entities.
- 2.20 "Pole Attachment Act" and "Pole Attachment Act of 1978" means those provisions of the Act, as amended, now codified as 47 U.S.C. § 224.
- 2.21 "Right(s) of Way (ROW)" means the right to use the land or other property of another party to place Poles, Conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property). For purposes of this Appendix, "ROW" refers to property owned or controlled by AT&T-21STATE and used by AT&T-21STATE for its telecommunications distribution Facilities. ROW does not include:
- 2.21.1 cables and other telecommunications equipment buried or located on such ROW; or
  - 2.21.2 public ROW (which are owned by and subject to the control of governmental entities); or
  - 2.21.3 any space which is owned and controlled by a third party property owner and occupied by AT&T-21STATE with permission from such owner rather than as a matter of legal right.
- 2.22 "Routine Inspection" refers to inspections that are planned and scheduled by AT&T-21STATE, for the purpose of inspecting the Facilities of CLEC and others, including AT&T-21STATE, on AT&T-21STATE Structure.
- 2.23 "Sheath" or "Sheathing" means an outer covering containing communications wires, fibers, or other communications media.
- 2.24 "Spot Inspection" refers to spontaneous inspections done by AT&T-21STATE, which may be initiated, at AT&T-21STATE's discretion, for the purpose of ensuring safety and compliance with AT&T-21STATE standards on specific Structure.
- 2.25 "Structure" refers collectively to Poles, Ducts and Conduits.

### **3.0 General Provisions**

#### **3.1 Undertaking of AT&T-21STATE:**

- 3.1.1 AT&T-21STATE shall provide CLEC with equal and nondiscriminatory access to Structure on terms and conditions consistent with obligations under the Pole Attachment Act or, in the case of reverse pre-emption by a state, the applicable state laws and regulations. Further, AT&T-21STATE shall not withhold or delay assignment of such space to CLEC unless such space has been assigned.

#### **3.2 Attachments Authorized by this Appendix:**

- 3.2.1 AT&T-21STATE shall issue one or more Licenses to CLEC authorizing CLEC to attach Facilities to AT&T-21STATE's owned or controlled Poles and to place Facilities within AT&T-21STATE's owned or controlled Conduits, Ducts or ROW under the terms and conditions set forth in this Appendix.
- 3.2.2 Unless otherwise provided herein, authority to attach Facilities to AT&T-21STATE's owned or controlled Poles, to place Facilities within AT&T-21STATE's owned or controlled Conduits, Ducts or ROW shall be granted only in individual Licenses granted under this Appendix and the placement or use of such Facilities shall be determined in accordance with such Licenses and procedures established in this Appendix.
- 3.2.3 CLEC agrees that its Attachment of Facilities to AT&T-21STATE's owned or controlled Poles, owned or controlled Conduits, Ducts or ROW shall take place pursuant to the licensing procedures set forth herein, and AT&T-21STATE agrees that it shall not unreasonably withhold or delay issuance of such Licenses.
- 3.2.4 CLEC may not sublease or otherwise authorize any third party to use any part of AT&T-21STATE Structure licensed to CLEC under this Appendix, except that CLEC may lease its own Facilities to third parties. Notwithstanding the above, CLEC may permit third parties to overlash to existing CLEC Attachments on AT&T-21STATE's Pole(s), without approval from, but with proper advance notification to, AT&T-21STATE. However, prior to the actual Overlapping by a third party, such third party must execute its own distinct Pole Attachment agreement with AT&T-21STATE.

3.2.5 CLEC warrants that any Overlashing the CLEC conducts or permits (via a third party or contractor) shall meet the following requirements: (1) the Overlashing complies with the standards referenced in Section 4.1 of this Appendix; (2) CLEC has computed the pole loading with the additional overlashed Facility, and the Pole will not be overloaded with the addition of the overlashed Facility; and (3) CLEC has determined that no Make-Ready is necessary to accommodate the overlashed Facility, or will ensure that any Make-Ready necessary will be conducted before the Overlashing occurs. CLEC agrees to indemnify AT&T-21STATE should any of the warranties be breached.

3.3 Licenses:

3.3.1 Subject to the terms and conditions set forth in this Appendix, AT&T-21STATE shall issue to CLEC one or more Licenses authorizing CLEC to place or attach Facilities in or to specified Structure owned or controlled by AT&T-21STATE on a "first-come, first-served" basis. In the event that existing Structure capacity is insufficient to satisfy CLEC's Application, AT&T-21STATE shall include reasonable alternatives in the Make-Ready Estimate provided as described in Section 6.8 below. AT&T-21STATE shall have the right to designate the location and manner in which CLEC's Facilities will enter and exit AT&T-21STATE's Conduit System and the specific location and manner of installation for any associated equipment which is permitted by AT&T-21STATE to occupy the Structure.

3.4 Access and Use of ROW:

3.4.1 To the extent AT&T-21STATE has the authority, AT&T-21STATE grants CLEC a right to use any ROW for AT&T-21STATE Poles, Ducts, or Conduits to which CLEC may attach its Facilities for the purposes of constructing, operating and maintaining such CLEC's Facilities on AT&T-21STATE's Poles, Ducts or Conduits. Notwithstanding the foregoing, CLEC shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, ROW, license, permit, permission, certification or franchise to construct, operate and/or maintain its Facilities on private and public property at the location of the AT&T-21STATE Pole, Duct or Conduit to which CLEC seeks to attach its Facilities. CLEC shall furnish proof of any such easement, ROW, license, permit, permission, certification, or franchise within thirty (30) calendar days of request by AT&T-21STATE. AT&T-21STATE does not warrant the validity or apportionability of any rights it may hold to place Facilities on private property.

3.4.2 Neither Party shall restrict or interfere with the other Party's access to or right to occupy property, owned by third parties, which is not subject to the other Party's control, including property as to which either Party has access subject to non-exclusive ROW. Each Party shall make its own, independent legal assessment of its right to enter upon or use the property of third party property owners and shall bear all expenses, including legal expenses, involved in making such determinations.

3.4.2.1 At locations where AT&T-21STATE has access to third party property pursuant to non-exclusive ROW, AT&T-21STATE shall not interfere with CLEC's negotiations with third party property owners for similar access; nor with CLEC's access to such property pursuant to easements or other ROW obtained by CLEC from the property owner. At locations where AT&T-21STATE has obtained exclusive ROW from third party property owners or otherwise controls the ROW, AT&T-21STATE shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to CLEC on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits AT&T-21STATE to provide such access, and provided further that if AT&T-21STATE has available space that it shares with CLEC in AT&T-21STATE non-aerial ROW or easements (e.g., for cabinets placed on or underground), which have not been accounted for in rates determined in accordance with the Pole Attachment Act (e.g., aerial, linear ROW for pole lines are so accounted for), AT&T-21STATE shall include in a one-time billing CLEC's pro rata portion of the charges, if any, paid by AT&T-21STATE to obtain such non-aerial ROW or easements, plus any other documented legal, administrative, and engineering costs incurred by AT&T-21STATE in obtaining such ROW or easements and processing CLEC's requests for such access.

3.4.2.2 Except to the extent necessary to meet the requirements of the Act, neither this Appendix nor any License granted hereunder shall constitute a conveyance or assignment of any of either Party's

rights to use any public or private ROW, and nothing contained in this Appendix or in any License granted hereunder shall be construed as conferring on one Party any right to interfere with the other Party's access to any such public or private ROW.

3.5 No Effect on AT&T-21STATE's Right to Convey Property:

3.5.1 Nothing contained in this Appendix or in any License issued hereunder shall in any way affect the right of AT&T-21STATE to convey to any other person or entity any interest in real or personal property, including any Poles, Conduit or Ducts to or in which CLEC has attached or placed Facilities pursuant to Licenses issued under this Appendix provided however that AT&T-21STATE shall give CLEC reasonable advance written Notice of such intent to convey.

3.5.2 Nothing herein contained shall be construed as a grant of any exclusive authorization, right or privilege to CLEC. AT&T-21STATE shall have the right to grant, renew and extend rights and privileges to others not Parties to this Agreement, by contract or otherwise, to use any Pole or Conduit System covered by this Appendix and CLEC's rights hereunder.

3.6 No Effect on AT&T-21STATE's Rights to Manage its Own Facilities:

3.6.1 This Appendix shall not be construed as limiting or interfering with AT&T-21STATE's rights set forth below, except to the extent expressly provided by the provisions of this Appendix or Licenses issued hereunder or by the Act or other applicable laws, rules or regulations:

3.6.1.1 To locate, relocate, move, replace, modify, maintain, and operate AT&T-21STATE's own Facilities within AT&T-21STATE's Conduits, Ducts or ROW or any of AT&T-21STATE's Facilities attached to AT&T-21STATE's Poles at any time and in any reasonable manner which AT&T-21STATE deems appropriate to serve its end users, avail itself of new business opportunities, or otherwise meet its business needs; or

3.6.1.2 enter into new agreements or arrangements with other persons or entities permitting them to attach or place their Facilities to or in AT&T-21STATE's Poles, Conduits or Ducts; provided, however, that such relocations, moves, replacements, modifications, maintenance and operations or new Attachments or arrangements shall not substantially interfere with CLEC's Attachment, or ROW provided by Licenses issued pursuant to this Appendix.

3.7 No Effect on CLEC's Rights to Manage its Own Facilities:

3.7.1 This Appendix shall not be construed as limiting or interfering with CLEC's rights set forth below, except to the extent expressly provided by the provisions of this Appendix or Licenses issued hereunder or by the Act or other applicable laws, rules or regulations:

3.7.1.1 To locate, relocate, move, replace, modify, maintain, and operate its own Facilities within AT&T-21STATE's Conduits, Ducts or ROW or its Facilities attached to AT&T-21STATE's Poles at any time and in any reasonable manner which CLEC deems appropriate to serve its end users, avail itself of new business opportunities, or otherwise meet its business needs; or

3.7.1.2 To enter into new agreements or arrangements with other persons or entities permitting CLEC to attach or place its Facilities to or in such other persons' or entities' Poles, Conduits or Ducts, or ROW; provided, however, that such relocations, moves, replacements, modifications, maintenance and operations or new Attachments or arrangements shall not conflict with CLEC's obligations under Licenses issued pursuant to this Appendix.

3.8 No Right to Interfere with Facilities of Others:

3.8.1 The provisions of this Appendix or any License issued hereunder shall not be construed as authorizing either Party to rearrange or interfere in any way with any of the other Party's Facilities, with the Facilities of other persons or entities, or with the use of or access to such Facilities by such other Party or such other persons or entities, except to the extent expressly provided by the provisions of this Appendix or any License issued hereunder or by the Act or other applicable laws, rules or regulations.

- 3.8.2 CLEC acknowledges that the Facilities of persons or entities other than AT&T-21STATE and CLEC may be attached to or occupy AT&T-21STATE's Poles, Conduits, Ducts and ROW.
- 3.8.3 AT&T-21STATE shall not attach, or give permission to any third parties to attach Facilities to existing CLEC Facilities without CLEC's prior written consent. If AT&T-21STATE becomes aware of any such unauthorized Attachment to CLEC Facilities, AT&T-21STATE shall use its best efforts to rectify the situation as soon as practicable.
- 3.8.4 With respect to the Structure occupied by CLEC or the subject of an Application for Attachment by CLEC, AT&T-21STATE will give to CLEC sixty (60) calendar days written Notice for Conduit extensions or reinforcements, Pole line extensions, Pole replacements, or of AT&T-21STATE's intention not to maintain or use any existing Pole(s) or Conduit.
  - 3.8.4.1 Where AT&T-21STATE elects to abandon or remove AT&T-21STATE Facilities, the Pole(s) or Conduit will be offered to existing occupants on a first-in, first-right to maintain basis. The first existing occupant electing to exercise this option will be required to execute the appropriate agreement with AT&T-21STATE to purchase and transfer ownership from AT&T-21STATE to that existing occupant, subject to then-existing Licenses pertaining to such Pole(s) or Conduit. If none of the existing occupants elects to maintain such Pole(s) or Conduit, all occupants will be required to remove their existing Facilities within ninety (90) calendar days of written Notice from AT&T-21STATE.
  - 3.8.4.2 If an emergency or provisions of an applicable joint use agreement require AT&T-21STATE to construct, reconstruct, expand or replace Poles, Conduits or Ducts owned or controlled by AT&T-21STATE and either occupied by CLEC or the subject of an Application for Attachment by CLEC, AT&T-21STATE will notify CLEC as soon as reasonably practicable of such proposed construction, reconstruction, expansion or replacement to enable CLEC, if it so desires, to request that a Pole, Conduit or Duct of greater height or capacity be utilized to accommodate an anticipated Facility need of CLEC.
- 3.8.5 Upon request and at CLEC's expense, AT&T-21STATE shall remove any retired cable from Conduit Systems to allow for the efficient use of Conduit space within a reasonable period of time. AT&T-21STATE retains salvage rights on any cable removed. In order to safeguard its Structure and Facilities, AT&T-21STATE reserves the right to remove retired cables and is under no obligation to allow CLEC the right to remove such cables. Based on sound engineering judgment, there may be situations where it would neither be feasible nor practical to remove retired cables.
- 3.9 Assignment of Space:
  - 3.9.1 Assignment of space on Poles, in Conduits or Ducts and within ROW will be made pursuant to Licenses granted by AT&T-21STATE and in compliance with all applicable engineering and safety standards, as identified in Section 4 below. When an increase in capacity or strength of a Pole or Conduit is practical and necessary to fulfill CLEC's request, AT&T-21STATE will propose such a modification as Make-Ready, and CLEC will be responsible for the actual Costs associated with the modification in exchange for approval of the applicable License.

#### **4.0 Requirements and Specifications**

- 4.1 Industry-recognized standards are incorporated below by reference. CLEC agrees that its Facilities shall be placed, constructed, maintained, repaired, and removed in accordance with current (as of the date when such work is performed) editions of the following publications, regulations, specifications, and standards:
  - 4.1.1 the Blue Book Manual of Construction Procedures, Special Report SR-1421, published by Telcordia Technologies, f/k/a Bell Communications Research, Inc. ("BellCore"), and sometimes referred to as the "Blue Book";
  - 4.1.2 the National Electrical Code (NEC), published by the National Fire Protection Association;
  - 4.1.3 the current version of the National Electrical Safety Code (NESC), published by the Institute of Electrical and

Electronic Engineers, Inc.;

- 4.1.4 the California Public Utility Commission's General Orders 95 and 128 for Attachments to AT&T-21STATE Poles, Ducts, and Conduits that exist in the State of California; and
- 4.1.5 the AT&T Structure Access Guidelines.
- 4.2 Changes in Industry-Recognized Standards:
  - 4.2.1 CLEC agrees to rearrange its Facilities in accordance with changes in the standards published in the publications specified in Section 4.1 above of this Appendix if required by law to do so or upon the mutual agreement of the Parties.
- 4.3 Additional Electrical Design Specifications:
  - 4.3.1 CLEC agrees that, in addition to specifications and requirements referred to in Section 4.1 above, CLEC's Facilities placed in AT&T-21STATE's Conduit System shall meet all of the following electrical design specifications:
    - 4.3.1.1 No Facility shall be placed in AT&T-21STATE's Conduit System in violation of FCC regulations.
    - 4.3.1.2 CLEC's Facilities carrying more than 50 volts AC rms (root mean square) to ground or 135 volts DC to ground shall be enclosed in an effectively grounded Sheath or shield.
    - 4.3.1.3 No coaxial cable of CLEC shall occupy a Conduit System containing AT&T-21STATE's cable unless such cable meets the voltage limitations of Article 820 of the National Electrical Code.
    - 4.3.1.4 CLEC's coaxial cable may carry continuous DC voltages up to 1800 volts to ground where the conductor current will not exceed one-half (1/2) ampere and where such cable has two (2) separate grounded metal Sheaths or shields and a suitable insulating jacket over the outer Sheath or shield. The power supply shall be so designed and maintained that the total current carried over the outer Sheath shall not exceed 200 micro-amperes under normal conditions. Conditions which would increase the current over this level shall be cleared promptly.
    - 4.3.1.5 Neither Party shall circumvent the other Party's corrosion mitigation measures. Each Party's new Facilities shall be compatible with the other Party's Facilities so as not to damage any Facilities of the other Party by corrosion or other chemical reaction.
- 4.4 Additional Physical Design Specifications:
  - 4.4.1 CLEC's Facilities placed in AT&T-21STATE's Conduit System must meet all of the following physical design specifications:
    - 4.4.1.1 Cables bound or wrapped with cloth or having any kind of fibrous coverings or impregnated with an adhesive material shall not be placed in AT&T-21STATE's Conduit or Ducts.
    - 4.4.1.2 The integrity of AT&T-21STATE's Conduit System and overall safety of AT&T-21STATE's personnel and other personnel working in AT&T-21STATE's Conduit System requires that "dielectric cable" be placed when CLEC's cable Facility utilizes an alternative Duct or route that is shared in the same trench by any current-carrying Facility of a power utility.
    - 4.4.1.3 New construction splices in Attaching Party's fiber optic and twisted pair cables may be located in AT&T's manholes or handholes only when, in AT&T's sole judgment, (a) there is sufficient space available; and (b) placing splice cases outside of AT&T's manholes or handholes is unreasonable in light of the cost and feasibility. In those cases, AT&T may, in its sole discretion, permit Attaching Party to place new construction splices in AT&T's manholes or handholes at a location to be determined by AT&T. In no event are any splice points allowed in AT&T's conduits or ducts.
- 4.5 Additional Specifications Applicable to Connections:
  - 4.5.1 The following specifications apply to connections of CLEC's Conduit to AT&T-21STATE's Conduit System:

4.5.1.1 CLEC will be permitted to connect its Conduit or Duct only at an AT&T-21STATE Manhole. No Attachment will be made by entering or breaking into Conduit between Manholes. All necessary work to install CLEC Facilities will be performed by CLEC or its contractor at CLEC's expense. In no event shall CLEC or its contractor "core bore" or make any other modification to AT&T-21STATE Manhole(s) without the prior written approval of AT&T-21STATE.

4.5.1.2 If CLEC constructs or utilizes a Duct connected to AT&T-21STATE's Manhole, the Duct and all connections between that Duct and AT&T-21STATE's Manhole shall be sealed, to the extent practicable, to prevent the entry of gases or liquids into AT&T-21STATE's Conduit System. If CLEC's Duct enters a building, it shall also be sealed where it enters the building and at all other locations necessary to prevent the entry of gases and liquids from the building into AT&T-21STATE's Conduit System.

4.6 Requirements Relating to Personnel, Equipment, Material, and Construction Procedures Generally:

4.6.1 Duct clearing, rodding or modifications required to grant CLEC access to AT&T-21STATE's Conduit Systems may be performed by AT&T-21STATE at CLEC's expense at charges which represent AT&T-21STATE's actual Costs. Alternatively (at CLEC's option) such work may be performed by an Authorized Contractor. The Parties acknowledge that CLEC, its contractors, and other persons acting on CLEC's behalf will perform work for CLEC (e.g., splicing CLEC's Facilities) within AT&T-21STATE's Conduit System. CLEC represents and warrants that neither CLEC nor any person acting on CLEC's behalf shall permit any person to climb or work on any of AT&T-21STATE's Poles or to enter AT&T-21STATE's Manholes or work within AT&T-21STATE's Conduit System unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to Pole or the Conduit Systems and to perform the work safely.

4.6.2 Rodding or clearing of Ducts in AT&T-21STATE's Conduit System shall be done only when specific authorization for such work has been obtained in advance from AT&T-21STATE. The Parties agree that such rodding or clearing shall be performed according to existing industry standards and practices. CLEC may contract with AT&T-21STATE for performance of such work or, at CLEC's option, with an Authorized Contractor.

4.6.3 Personnel performing work on AT&T-21STATE's or CLEC's behalf in AT&T-21STATE's Conduit System shall not climb on, step on, or otherwise disturb the other Party's or any third party's cables, air pipes, equipment, or other Facilities located in any Manhole or other part of AT&T-21STATE's Conduit System.

4.6.4 All of CLEC's Facilities shall be firmly secured and supported in accordance with industry standards as referred to in Section 4.1 above.

4.6.5 Identification of Facilities in Conduit/Manholes and on Poles:

4.6.5.1 CLEC's Facilities shall be plainly identified inside each Manhole and/or on each Pole with CLEC's name firmly affixed via permanent tags that meet standards set by AT&T-21STATE for its own Facilities.

4.6.6 Manhole pumping and purging required in order to allow CLEC's work operations to proceed shall be performed in compliance with industry standards and all regulations and standards established by the United States Environmental Protection Agency or by any applicable state or local environmental regulators.

4.6.7 Any leak detection liquid or device used by CLEC or personnel performing work on CLEC's Facilities within AT&T-21STATE's Conduit System shall be of a type approved by AT&T-21STATE or compliant with industry-recognized standards as referenced in Section 4.1 above.

4.6.8 When CLEC, or personnel performing work on CLEC's behalf, are working within or in the vicinity of any part of AT&T-21STATE's Poles or Conduit System which is located within, under, over, or adjacent to streets, highways, alleys or other traveled ROW, CLEC and all personnel performing work on CLEC's behalf shall follow procedures which CLEC deems appropriate for the protection of persons and property. CLEC shall be responsible, at all times, for determining and implementing the specific steps required to protect persons and property at the site. CLEC will provide all traffic control and warning devices required to protect

pedestrian and vehicular traffic, workers and property from danger. AT&T-21STATE shall have no responsibility for the safety of personnel performing work on CLEC's behalf, for the safety of bystanders, or for ensuring that all operations conform to current Occupational Safety and Health Administration (OSHA) regulations and all other governmental rules, ordinances or statutes. AT&T-21STATE reserves the right to suspend CLEC's activities on, in or in the vicinity of AT&T-21STATE's Poles or Conduit System if, in AT&T-21STATE's reasonable judgment, any hazardous condition arises due to the activity (including both acts and omissions) of CLEC or any personnel performing work on CLEC's behalf, which suspension shall cease when the condition has been rectified.

- 4.6.9 Smoking or the use of any open flame is prohibited in AT&T-21STATE's Manholes, in any other portion of AT&T-21STATE's Conduit System, or within ten (10) feet of any open Manhole entrance; provided that this provision will not prohibit the use of spark producing tools, including, but not limited to, electric drills and fusion splicers.
- 4.6.10 Artificial lighting, when required, will be provided by CLEC. Only explosion-proof lighting fixtures shall be used.
- 4.6.11 CLEC will abide by any laws, regulations or ordinances regarding the use of spark-producing tools, equipment or devices in AT&T-21STATE's Manholes, in any other portions of AT&T-21STATE's Conduit System, or within ten (10) feet of any open Manhole opening. This includes, but is not limited to, such tools as electric drills and hammers, meggers, breakdown sets, induction sets, and the like.

#### 4.7 Opening of Manholes:

- 4.7.1 The following requirements apply to the opening of AT&T-21STATE's Manholes and the authority of AT&T-21STATE personnel present when work on CLEC's behalf is being performed within or in the vicinity of AT&T-21STATE's Conduit System.
  - 4.7.1.1 AT&T-21STATE's Manholes shall be opened only as permitted by AT&T-21STATE's authorized employees or agents following notification by CLEC, which permission shall not be unreasonably denied or delayed.
  - 4.7.1.2 CLEC shall notify AT&T-21STATE at least five (5) Business Days in advance of any routine work operation requiring entry into any of AT&T-21STATE's Manholes.
  - 4.7.1.3 CLEC shall be responsible for obtaining any necessary authorization from appropriate authorities to open Manholes for Conduit work operations therein.
  - 4.7.1.4 AT&T-21STATE may monitor, at CLEC's expense, the activities of CLEC or CLEC's authorized contractor or agent, as may involve AT&T-21STATE's Manholes or Conduit System and the placement of CLEC's Facilities in AT&T-21STATE's Manholes.
  - 4.7.1.5 AT&T-21STATE's authorized employee or agent shall not direct or control the conduct of CLEC's work at the work site. The presence of AT&T-21STATE's authorized employee or agent at the work site shall not relieve CLEC, or personnel performing work on CLEC's behalf, of their responsibility to conduct all work operations within AT&T-21STATE's Conduit System in a safe and workmanlike manner.
  - 4.7.1.6 Although AT&T-21STATE's authorized employee or agent shall not direct or control the conduct of CLEC's work at the work site, AT&T-21STATE's employee or agent shall have the authority to suspend CLEC's work operations within AT&T-21STATE's Conduit System if, in the reasonable discretion of such AT&T-21STATE employee or agent, it appears that any hazardous conditions arise or any unsafe practices are being followed by CLEC or personnel performing work on CLEC's behalf.

#### 4.8 OSHA Compliance-Notice to AT&T-21STATE of Unsafe Conditions:

##### 4.8.1 CLEC agrees that:

- 4.8.1.1 Its Facilities shall be constructed, placed, maintained, repaired, and removed in accordance with

OSHA's rules and regulations promulgated thereunder.

4.8.1.2 All persons acting on CLEC's behalf, including but not limited to CLEC's employees, agents, contractors, and subcontractors shall, when working on or within AT&T-21STATE's Poles or Conduit System, comply with OSHA and all rules and regulations thereunder.

4.8.1.3 CLEC shall establish appropriate procedures and controls to assure compliance with all requirements of this Section.

4.8.1.4 CLEC (and any Person Acting on CLEC's Behalf) may report unsafe conditions on, in or in the vicinity of AT&T-21STATE's Poles or Conduit System to AT&T-21STATE.

4.9 CLEC acknowledges that some of AT&T-21STATE's Conduit was fabricated from asbestos-containing materials. Such Conduit is generally marked with a designation of "C Fiber Cement Conduit", "Transite", or "Johns-Manville". Until proven otherwise, CLEC will presume that all Conduits not fabricated of plastic, tile, or wood are asbestos-containing and will handle pursuant to all applicable regulations relating to worker safety and protection of the environment.

4.10 Compliance with Environmental Laws and Regulations: AT&T-21STATE makes no representations to CLEC or personnel performing work on CLEC's behalf that AT&T-21STATE's Conduit System or any specific portions thereof will be free from environmental contaminants at any particular time. CLEC agrees to establish appropriate procedures and controls to assure compliance with all applicable environmental laws and regulations including, but not limited to:

4.10.1 CLEC's Facilities shall be constructed, placed, maintained, repaired, and removed in accordance with all applicable federal, state, and local environmental statutes, ordinances, rules, regulations, and other laws, including but not limited to the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et. seq.), the Toxic Substance Control Act (15 U.S.C. §§ 2601-2629), the Clean Water Act (33 U.S.C. §§ 1251 et. seq.), and the Safe Drinking Water Act (42 U.S.C. §§ 300f 300j).

4.10.2 All persons acting on CLEC's behalf, including but not limited to CLEC's employees, agents, contractors, and subcontractors, shall, when working on, within or in the vicinity of AT&T-21STATE's Poles or Conduit System, comply with all applicable federal, state, and local environmental laws, including but not limited to all environmental statutes, ordinances, rules, and regulations.

4.10.3 Neither CLEC nor personnel performing work on CLEC's behalf shall discharge water or any other substance from any AT&T-21STATE Manhole or other Conduit Facility onto public or private property, including any storm water drainage system, without first testing such water or substance for contaminants in accordance with industry standards and practices and determining that such discharge would not violate any environmental law, create any environmental risk or hazard, or damage the property of any person. No such waste material shall be deposited on AT&T-21STATE premises for storage or disposal.

4.11 Compliance with Other Governmental Requirements:

4.11.1 CLEC agrees that its Facilities attached to AT&T-21STATE's Structure shall be constructed, placed, maintained, and removed in accordance with the ordinances, rules, and regulations of any governing body having jurisdiction of the subject matter. CLEC shall comply with all statutes, ordinances, rules, regulations and other laws requiring the marking and lighting of aerial wires, cables and other structures to ensure that such wires, cables and structures are not a hazard to aeronautical navigation. CLEC shall establish appropriate procedures and controls to assure such compliance by all persons acting on CLEC's behalf, including but not limited to, CLEC's employees, agents, contractors, and subcontractors.

4.12 Differences in Standards or Specifications:

4.12.1 To the extent that there may be differences in any applicable standards or specifications referred to in Section 4.1 above, the most stringent standard or specification shall apply.

4.13 CLEC Solely Responsible for the Condition of Its Facilities:

4.13.1 CLEC shall be responsible at all times for the condition of its Facilities and its compliance with the



requirements, specifications, rules, regulations, ordinances, and laws specified above. AT&T-21STATE may, however, conduct such inspections and audits of its Poles and Conduit System as AT&T-21STATE determines reasonable or necessary. Such inspection and audits shall be conducted as outlined in Section 13 of this Appendix.

- 4.14 Observed safety hazards or imminent Facility failure conditions of another party shall be reported to the affected party where such party can be readily identified.

## **5.0 Additional CLEC Responsibilities**

### **5.1 Third Party Property Owners**

- 5.1.1 Licenses granted under this Appendix authorize CLEC to place Facilities in, or attach Facilities to, Poles, Conduits and Ducts owned or controlled by AT&T-21STATE, but do not affect the rights of landowners to control terms and conditions of access to their property.

5.1.1.1 CLEC agrees that neither CLEC, nor any persons acting on CLEC's behalf, including but not limited to CLEC's employees, agents, contractors, and subcontractors, shall engage in any conduct which damages public or private property in the vicinity of AT&T-21STATE's Poles or Conduit System, interferes in any way with the use or enjoyment of public or private property, except as expressly permitted by the owner of such property, or creates a hazard or nuisance on such property (including, but not limited to, a hazard or nuisance resulting from any abandonment or failure to remove CLEC's Facilities or any construction debris from the property, failure to erect warning signs or barricades as may be necessary to give notice to others of unsafe conditions on the premises while work performed on CLEC's behalf is in progress, or failure to restore the property to a safe condition after such work has been completed).

### **5.2 Lawful Purposes:**

- 5.2.1 All Facilities placed by CLEC in AT&T-21STATE's Conduit and Ducts or on AT&T-21STATE's Poles must serve a lawful purpose and the uses made of CLEC's Facilities must comply with all applicable federal, state, and local laws and with all federal, state, and local regulatory rules, regulations, and requirements. In this regard, CLEC shall not utilize any Facilities occupying or attached to AT&T-21STATE's Conduits, Ducts or Poles for the purpose of providing any services which it is not authorized by law to provide or for the purpose of enabling any other person or entity to provide any such services.

## **6.0 Facilities and Licenses**

### **6.1 Licenses Required:**

- 6.1.1 Before placing any Facilities in AT&T-21STATE's Conduits or Ducts or attaching any Facilities to AT&T-21STATE's Poles, CLEC must first apply for and receive a written License from AT&T-21STATE.

### **6.2 Provision of Records and Information to CLEC:**

- 6.2.1 AT&T-21STATE will, upon request and at the expense of the CLEC, provide CLEC access, in AT&T-21STATE engineering offices for viewing only, to copies of redacted maps, records and additional information relating to the location, capacity and utilization of AT&T-21STATE's Structure. Upon request, AT&T-21STATE will meet with the CLEC to clarify matters relating to maps, records or additional information. The Costs, which are to be paid by CLEC, associated with viewing copies of AT&T-21STATE records are on an individual case basis. The total Costs are associated with map preparation, viewing and assistance and will be on a time, including all applicable overheads, and material basis. Upon request, AT&T-21STATE may provide to CLEC an estimate of charges associated with viewing the records. Prior to viewing the records, CLEC shall pay the estimated charges. If such records review is not in conjunction with a specific Application, subsequent to CLEC viewing records, AT&T-21STATE shall true up the estimate, as compared to actual Costs, and issue either a refund or an additional invoice to CLEC.

- 6.2.2 Maps, records and information are and remain the proprietary property of AT&T-21STATE, are provided for the CLEC's review solely for enabling the CLEC to obtain access to AT&T-21STATE's Structure, and may

not be resold, reproduced or disseminated by the CLEC.

- 6.2.3 AT&T-21STATE may provide for viewing only, if available, information currently on AT&T-21STATE's maps and/or records regarding:
  - 6.2.3.1 the location of Structure and street addresses for Manholes and Poles as shown on AT&T-21STATE's records;
  - 6.2.3.2 the footage between Manholes or lateral Ducts' lengths, as shown on AT&T-21STATE's records;
  - 6.2.3.3 the footage between Poles, if shown on AT&T-21STATE's records;
  - 6.2.3.4 the total capacity of the Structure; and/or
  - 6.2.3.5 the existing utilization of the Structure.
- 6.2.4 No Warranty of Record Information:
  - 6.2.4.1 CLEC acknowledges that records and information provided by AT&T-21STATE pursuant to this Section 6.2 may not reflect actual field conditions and that physical inspection is necessary to verify presence and condition of outside plant Facilities and ROW. In providing such records and information for review, AT&T-21STATE assumes no liability to CLEC or any third party for errors/omissions contained therein.
- 6.3 Structure Access Request Form ("Application"): To apply for a License under this Appendix, CLEC shall submit to AT&T-21STATE the appropriate AT&T-21STATE Application and either a route map specifically indicating CLEC desired route or engineered drawings. CLEC shall provide sufficient information to locate the proposed Structure and identify/describe the physical characteristics (size, dimensions, and weight) of its Facilities to be attached to AT&T-21STATE's Poles or placed in AT&T-21STATE's Conduit System, so that AT&T-21STATE can perform the Make-Ready Survey. CLEC shall promptly withdraw or amend its request if, at any time prior to the forty-fifth (45<sup>th</sup>) day, it has determined that it no longer seeks access to specific AT&T-21STATE Structure, provided that CLEC shall still be responsible for any Costs attributable to the request.
- 6.4 Cooperation in the Application Process: The orderly processing of Applications submitted by CLEC and other parties seeking access to AT&T-21STATE's Structure requires good faith cooperation and coordination between AT&T-21STATE's personnel and personnel acting on behalf of CLEC and other parties seeking access. The Parties therefore agree to the following procedures which shall remain in effect during the term of this Appendix unless earlier modified by mutual agreement of the Parties.
  - 6.4.1 Before submitting a formal written Application for access to AT&T-21STATE's Structure, CLEC shall make a good faith determination that it actually plans to attach Facilities to or place Facilities within the Poles, Ducts, Conduits, or ROW specified in the Application. Applications shall not be submitted for the purpose of holding or reserving space which CLEC does not plan to use or for the purpose of precluding AT&T-21STATE or any other provider of telecommunications services from using such Structure.
  - 6.4.2 No more than twenty (20) Manholes shall be the subject of any single License Application.
  - 6.4.3 Each Application shall designate an employee as CLEC's single point of contact for any and all purposes of that Application under this Section, including, but not limited to, processing Licenses and providing records and information. CLEC may at any time designate a new point of contact by giving written notice of such change while the Application is open.
  - 6.4.4 All Applications, including those submitted by third parties, will be processed on a first-come, first-served basis.
  - 6.4.5 When CLEC has multiple Applications on file with AT&T-21STATE, CLEC may designate, if desired, its priority of completion of Surveys and Make-Ready Work with respect to all such Applications.
- 6.5 Make-Ready Survey ("Survey"). A Survey must be completed by AT&T-21STATE within forty-five (45) calendar days of receipt of a complete Application from the CLEC, subject to the requirements and policies in each state. In the case of large requests, as defined in Section 6.10.2, AT&T-21STATE shall respond within sixty (60) calendar days of

receipt of a complete Application. An inaccurate or incomplete Application will stop the Survey clock until the information is corrected or completed by CLEC and resubmitted to AT&T-21STATE.

6.5.1 AT&T-21STATE will provide CLEC an estimate of the Costs to perform the Survey upon receipt of an Application. After receipt of a complete Application and CLEC's payment of the estimated Survey Costs, AT&T-21STATE will schedule the Survey. If CLEC gives its prior written consent in writing, the determination of Duct availability may include the rodding of Ducts at CLEC's expense.

6.5.2 The primary purposes of the Survey will be to enable AT&T-21STATE to:

6.5.2.1 Determine whether and where Attachment is feasible based on capacity, safety, reliability, and generally applicable engineering purposes;

6.5.2.2 confirm or determine the modifications, capacity expansion (i.e., taller or stronger Pole), and Make-Ready Work, if any, necessary to accommodate CLEC's Attachment of Facilities to AT&T-21STATE Structure;

6.5.2.3 plan and engineer the Facilities modification, capacity expansion (i.e., taller or stronger Pole), and Make-Ready Work, if any, required to prepare AT&T-21STATE's Structure and associated Facilities for CLEC's proposed Attachments;

6.5.2.4 if applicable, identify the owner of the Pole; and

6.5.2.5 respond to CLEC within the required timeframe with the preceding information.

6.6 Assignment of Conduit, Duct and Pole Space: AT&T-21STATE will select, or approve the CLEC's selection of, the space CLEC will occupy on AT&T-21STATE's Poles or in AT&T's Conduit Systems. Maintenance Ducts shall not be considered Available for CLEC's use except as specifically provided elsewhere in this Appendix. Where required by law or franchise agreement, Ducts and attachment space on Poles reserved for municipal use shall not be considered Available for the CLEC's use. All other Ducts, innerducts, space on Poles or space in ROW, which are not Assigned or occupied, shall be deemed Available for AT&T-21STATE, CLEC, and other parties entitled to access under applicable law. AT&T-21STATE shall assign such space as follows, following completion of the Survey:

6.6.1 After CLEC's Application for Attachment has been approved by AT&T-21STATE, the Pole, Duct, or Conduit space selected and/or approved by AT&T-21STATE in such Application will be assigned to CLEC for a pre-occupancy period not to exceed twelve (12) months, with the following exception:

6.6.1.1 State of California. The Pole, Duct, or Conduit space selected and/or approved by AT&T-21STATE in such Application will be assigned to CLEC for a pre-occupancy period not to exceed nine (9) months as detailed by the California Public Utility Commission.

6.6.2 AT&T-21STATE may assign space to itself by making appropriate entries in the same records used to log assignments to CLEC and third parties. If AT&T-21STATE assigns Pole, Duct, or Conduit space to itself, such assignment will automatically lapse twelve (12) months (nine (9) months in California) after the date the assignment has been entered into the appropriate AT&T-21STATE record, if AT&T-21STATE has not occupied such assigned space within such twelve (12) or nine (9) month period.

6.6.3 Notwithstanding anything to the contrary, prior to the expiration of the twelve (12) or nine (9) month period, CLEC may submit a request for an extension of time based on a thorough explanation of delays outside the CLEC's control. AT&T-21STATE shall carefully consider the circumstances of any specific request and will not unreasonably withhold or deny an extension. This extension process shall also apply to assignments of space associated with AT&T-21STATE's own Facility deployments.

6.7 No Make-Ready Work Required:

6.7.1 If AT&T-21STATE determines that no Make-Ready Work is required to accommodate CLEC's proposed Attachment(s), AT&T-21STATE shall approve such Application after the determination has been made that no Make-Ready Work is required. In addition, AT&T-21STATE shall true up the billing, by comparing estimated to actual Costs, associated with an Application and issue either an invoice for the additional Costs or refund for the overpayment. Within fourteen (14) calendar days of receipt of payment, AT&T-21STATE

shall issue the License.

6.8 Make-Ready Work Required ("Estimate"):

- 6.8.1 If Make-Ready Work is determined to be necessary during the Survey phase, AT&T-21STATE shall provide to CLEC an Estimate of charges for such Make-Ready Work, as it directly relates to AT&T-21STATE-owned Facilities (i.e. Pole replacements and subsequent transfer of AT&T-21STATE cable or AT&T-21STATE cable rearrangements), within fourteen (14) calendar days of providing the response required by Section 6.5, or in the case where the CLEC selected an Authorized Contractor for the Survey, within fourteen (14) calendar days of receipt by AT&T-21STATE of such Survey result. Furthermore, an invoice for the actual Survey Costs shall be submitted to CLEC for payment.
- 6.8.2 In addition, AT&T-21STATE shall provide a description of Make-Ready Work required of other parties to accommodate CLEC's proposed Attachment(s). CLEC shall be responsible for negotiating with the other parties the cost for such Make-Ready Work and subsequent payment by CLEC, as identified in Section 6.9.4 below.
- 6.8.3 AT&T-21STATE may withdraw an outstanding Estimate of charges to perform Make-Ready Work beginning fourteen (14) calendar days after the Estimate is presented.
- 6.8.4 CLEC may accept a valid Estimate and make payment any time after receipt of an Estimate but before the Estimate is withdrawn. CLEC's acceptance of Estimate shall also constitute CLEC's agreement to pay any additional Cost-based charges as described in Section 6.9.2 for completed Make-Ready Work.

6.9 Make-Ready Work. Upon receipt of payment specified in Section 6.8.4, AT&T-21STATE shall notify, immediately and in writing, CLEC and all known parties that may be affected by the Make-Ready required for CLEC's Attachment(s).

6.9.1 The notice shall:

- 6.9.1.1 Specify the location and type of Make-Ready to be performed;
- 6.9.1.2 Except for Conduit and Ducts, set a date for completion of Make-Ready no later than sixty (60) calendar days after notification is sent (or one hundred five (105) calendar days in the case of larger orders as specified in Section 6.10), which may later be extended by fifteen (15) calendar days if Make-Ready required by other parties is not complete and AT&T-21STATE elects to exercise its right of control;
- 6.9.1.3 State that any entity with an existing Attachment may modify the Attachment consistent with the specified Make-Ready before the date set for completion;
- 6.9.1.4 Except for Conduit and Ducts, state that AT&T-21STATE may assert its right to fifteen (15) additional calendar days to complete Make-Ready should another party fail to complete such within the prescribed timeframe;
- 6.9.1.5 State that if Make-Ready is not completed by the completion date set by AT&T-21STATE, CLEC may utilize an Authorized Contractor to complete the specified Make-Ready;
- 6.9.1.6 For Conduit and Ducts, set a date for completion of Make-Ready based upon the amount and complexity of work required; and
- 6.9.1.7 State the name, telephone number, and e-mail address of a person to contact for more information about the Make-Ready procedure.
- 6.9.2 Make-Ready Work performed by AT&T-21STATE shall be completed in accordance with the timelines in this Section, as applicable. Upon completion of such Make-Ready Work, the actual Make-Ready Costs shall be trued up through comparison to estimated Make-Ready Costs. The result will include either an additional bill, payable by CLEC, for the amount that the actual Make-Ready Costs exceeded the estimated Make-Ready Costs or a refund, to CLEC, of the amount that the estimated Make-Ready Costs exceeded the actual Make-Ready Costs.
- 6.9.3 Make-Ready Work performed by CLEC, or by an Authorized Contractor selected by CLEC, shall be

performed in accordance with AT&T-21STATE's specifications and in accordance with the same standards and practices followed by AT&T-21STATE or AT&T-21STATE's contractors. Neither CLEC nor Authorized Contractors selected by CLEC shall conduct such work in any manner which degrades the integrity of AT&T-21STATE's Structures or interferes with any existing use of AT&T-21STATE's Facilities or the Facilities of any other party. Following completion of the Make-Ready Work by CLEC or the Authorized Contractor selected by CLEC, CLEC shall notify AT&T-21STATE of such completion.

- 6.9.4 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. While AT&T-21STATE shall be responsible for notifying other parties pursuant to this section, CLEC shall make arrangements with other parties regarding reimbursement for any expenses incurred by other parties in transferring or rearranging their respective Facilities to accommodate the Attachment or placement of CLEC's Facilities to or in AT&T-21STATE's Structure, as well as scheduling the rearrangement of those parties' Facilities.
- 6.10 Timelines Applicable to Pole Attachment Requests. The following timelines shall apply:
- 6.10.1 AT&T-21STATE shall apply the timeline described in Sections 6.5, 6.8, and 6.9 for Applications for Pole Attachment up to the lesser of 300 Poles or 0.5 percent of AT&T-21STATE's Poles in a state.
- 6.10.2 AT&T-21STATE may add fifteen (15) calendar days to the Survey period described in Section 6.5 and forty-five (45) calendar days to the Make-Ready period described in Section 6.9 when Applications exceed the limits described in Section 6.10.1 but are smaller than the lesser of 3,000 Poles or five (5) percent of AT&T-21STATE's Poles in a state.
- 6.10.3 AT&T-21STATE shall negotiate in good faith the timing when the Applications for Pole Attachment exceed the lesser of 3000 Poles or five (5) percent of AT&T-21STATE's Poles in a state.
- 6.10.4 AT&T-21STATE may aggregate the number of Poles on multiple Applications from CLEC as a single Application for the purposes of determining the appropriate timeline for the active Applications within a rolling thirty (30) day window.
- 6.10.5 In the state of California only: Make-Ready Work performed by AT&T must be completed within thirty (30) business days of receipt of advanced payment from the Attaching Party, provided that such a timeframe is not inconsistent with applicable legal, safety and reliability requirements. For all requests with more than 500 poles or 5 miles of conduit, the timeline for information requests, as well as Surveys and Make-Ready Work completed by AT&T, shall be negotiated by the Parties in order to establish a mutually satisfactory timeframe.
- 6.11 Deviation by AT&T-21STATE. AT&T-21STATE may deviate from the time limits specified in this Section 6 as described below.
- 6.11.1 AT&T-21STATE shall not be required to offer an Estimate before the Parties have executed an agreement specifying the rates, terms, and conditions of Attachment.
- 6.11.2 During performance of Make-Ready Work, for good and sufficient cause that renders it infeasible to complete such work within the prescribed timeframe, AT&T-21STATE may deviate. If so, AT&T-21STATE shall immediately notify, in writing, CLEC and other affected entities with existing Attachments on the affected Poles, and shall include the reason for and date and duration of the deviation. AT&T-21STATE shall deviate from the time limits specified in this Section 6 for a period no longer than necessary and shall resume Make-Ready performance without discrimination when it returns to routine operations.
- 6.12 Deviation by CLEC. Allowable deviations by CLEC with respect to this Section 6:
- 6.12.1 If AT&T-21STATE fails to respond as specified in Section 6.5, CLEC may, as specified in the same section, hire an Authorized Contractor to complete the Survey.
- 6.12.2 When Make-Ready is not complete by the date specified by Section 6.9.1.2, With exceptions outlined in Section 16.12.2.1 below CLEC may hire an Authorized Contractor to complete such Make-Ready, except as stated below:
- 6.12.2.1 Any Make-Ready Work involving the rearrangement or transfer of AT&T-21STATE Facilities in AT&T-21STATE wire center areas where AT&T-21STATE employs members of the International Brotherhood of Electrical Workers System Council T-9 ("IBEW T-9") or Communication Workers of America District 3 ("CWA-3") shall be excluded from the Authorized Contractor Make-Ready provision with respect to any Attachments on Poles owned by AT&T-21STATE. IBEW T-9 workers are employed by AT&T-21STATE in portions of Illinois and northern Indiana. CWA-3 workers are employed by AT&T-9STATE in all AT&T-9STATE wire centers.

6.12.3 When Make-Ready is not complete by the date specified by Section 6.9.1.2 and is excluded from the Authorized Contractor process based upon Section 6.12.2, AT&T-21STATE and CLEC will work together to reach an equitable solution for both Parties.

6.12.4 If CLEC hires an Authorized Contractor for purposes of completing Make-Ready Work or Surveys, it shall choose from among AT&T-21STATE's list of Authorized Contractors. In those instances, CLEC shall provide AT&T-21STATE with a reasonable opportunity for an AT&T-21STATE representative to accompany and consult with the Authorized Contractor and CLEC.

#### 6.13 Replacement of Facilities:

6.13.1 If CLEC desires to place additional cables in Conduits or Ducts already occupied, or to replace existing Facilities with new Facilities substantially different from those described in Licenses in effect, CLEC must apply for and acquire a new License specifically describing the physical size, weight and jacket material of the cable to be placed in AT&T-21STATE's Conduits and Ducts or the physical size, weight, and jacket type of cables and the size and weight of apparatus enclosures and other Facilities to be attached to AT&T-21STATE Poles.

### 7.0 Issuance of Licenses

#### 7.1 Obligation to Issue Licenses:

7.1.1 AT&T-21STATE shall issue a License to CLEC pursuant to this Section. AT&T-21STATE and CLEC acknowledge that each Application for a License shall be evaluated on an individual basis. Nothing contained in this section shall be construed as abridging any independent Attachment rights which CLEC may have under the provisions of any applicable federal or state laws or regulations governing access to AT&T-21STATE's Poles, Conduits and Ducts, to the extent the same are not inconsistent with the Act. CLEC acknowledges the following regarding multiple Applications:

7.1.2 That multiple parties including AT&T-21STATE may seek to make Attachments to AT&T-21STATE's Structure at or about the same time.

7.1.3 That the Make-Ready Work required to prepare AT&T-21STATE's Facilities to accommodate multiple applicants may differ from the Make-Ready Work required to accommodate a single applicant.

7.1.4 That issues relating to the proper apportionment of Costs arise in multi-applicant situations that do not arise in single applicant situations.

7.1.5 That cooperation and negotiations between all applicants and AT&T-21STATE may be necessary to resolve disputes involving multiple Applications for permission to place Facilities in/on the same Pole, Conduit, Duct, or ROW.

#### 7.2 License:

7.2.1 When the requirements of either Section 6.7 or 6.9, as applicable, have been satisfied, AT&T-21STATE will execute and return a signed authorization to CLEC, as appropriate, authorizing CLEC to attach or place the specified Facilities on AT&T-21STATE's Poles or in AT&T-21STATE's Conduit or Ducts.

7.2.2 Each License issued under this Appendix shall authorize CLEC to attach to AT&T-21STATE's Poles or place or maintain in AT&T-21STATE's Conduit or Ducts only those Facilities specifically described in the License, and no others.

7.2.3 Except as expressly stated to the contrary in individual Licenses issued hereunder, each License issued pursuant to this Appendix shall incorporate all terms and conditions of this Appendix, whether or not such terms or conditions are expressly incorporated by reference on the face of the License itself.

### 8.0 Construction of CLEC's Facilities

#### 8.1 Construction Schedule:

8.1.1 Promptly after the issuance of a License permitting CLEC to attach Facilities to AT&T-21STATE's Poles or place Facilities in AT&T-21STATE's Conduit or Ducts, CLEC shall provide AT&T-21STATE with a

construction schedule and shall thereafter keep AT&T-21STATE informed of significant anticipated changes in the construction schedule.

8.1.2 Construction schedules required by this Section shall include, at a minimum, the following information:

8.1.2.1 The name, title, business address, and business telephone number of the manager responsible for construction of the Facilities;

8.1.2.2 The names of each contractor and subcontractor who will be involved in the construction activities;

8.1.2.3 The estimated dates when construction will begin and end; and

8.1.2.4 The approximate dates when CLEC or persons acting on CLEC's behalf will be performing construction work in connection with the placement of CLEC's Facilities in AT&T-21STATE's Conduit or Ducts.

8.2 Additional Pre-construction Procedures for Facilities Placed in Conduit System:

8.2.1 In addition to the requirements referenced and stated in Section 4.0 above, the following procedures shall apply before CLEC places Facilities in AT&T-21STATE's Conduit System:

8.2.1.1 AT&T-21STATE shall designate the particular Duct or Ducts or innerducts (if Available) to be occupied by CLEC's Facilities, the location and manner in which CLEC's Facilities will enter and exit AT&T-21STATE's Conduit System, and the specific location and manner of installation of any associated equipment which is permitted by AT&T-21STATE to occupy the Conduit System. CLEC may not occupy a Duct other than the specified Duct without the express written consent of AT&T-21STATE. AT&T-21STATE shall provide to CLEC space in Manholes for racking and storage of up to fifty (50) feet of cable, provided space is available.

8.3 Responsibility for Constructing or Placing Facilities:

8.3.1 AT&T-21STATE shall have no obligation to construct any Facilities for CLEC or to attach CLEC's Facilities to, or place CLEC's Facilities in, AT&T-21STATE's Poles or Conduit System, except as may be necessary to facilitate the interconnection of unbundled network elements or except to the extent expressly provided in this Section, any License issued hereunder, or by the Telecommunications Act or any other applicable law.

8.4 CLEC Responsible for Constructing, Attaching and Placing Facilities:

8.4.1 Except where otherwise mutually agreed by CLEC and AT&T-21STATE, CLEC shall be responsible for constructing its own Facilities and attaching those Facilities to, or placing them in, AT&T-21STATE's Poles, Conduit or Ducts at CLEC's sole Cost and expense. CLEC shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the construction and placement of CLEC's Facilities and for directing the activities of all persons acting on CLEC's behalf while they are physically present on AT&T-21STATE's Pole, in any part of AT&T-21STATE's Conduit System or in the vicinity of AT&T-21STATE's Poles or Conduit System.

8.5 Compliance with Applicable Standards, Health and Safety Requirements, and Other Legal Requirements:

8.5.1 CLEC shall construct its Facilities in accordance with the provisions of this section and all Licenses issued hereunder.

8.5.2 CLEC shall construct, attach and place its Facilities in compliance with all Requirements and Specifications set forth above in this Appendix.

8.5.3 CLEC shall satisfy all Legal Requirements set forth in this Appendix.

8.5.4 CLEC shall not permit any person acting on CLEC's behalf to perform any work on AT&T-21STATE's Poles nor within AT&T-21STATE's Conduit System without first verifying, to the extent practicable, on each date when such work is to be performed, that the condition of the Pole or Conduit System is suitable for the work to be performed. If CLEC or any person working on CLEC's behalf determines that the condition of the Pole or Conduit System is not suitable for the work to be performed, CLEC shall notify AT&T-21STATE of the



condition of the Pole or Conduit System in question and shall not proceed with construction activities until CLEC is satisfied that the work can be safely performed.

8.6 Construction Notification:

8.6.1 If requested to do so, CLEC shall provide AT&T-21STATE with information to reasonably assure AT&T-21STATE that construction has been performed in accordance with all applicable standards and requirements.

8.7 Points for Attachment:

8.7.1 AT&T-21STATE shall specify the point of attachment at each Pole to be occupied by CLEC's Facilities, and such CLEC's Facilities shall be attached above AT&T-21STATE's Facilities. When the Facilities of more than one applicant are involved, AT&T-21STATE will attempt, to the extent practicable, to designate the same relative position on each Pole for each applicant's Facilities.

8.8 CLEC power supply units shall be located in accordance with the specifications and standards referenced in Section 4.0 above.

8.9 AT&T-21STATE will evaluate and approve in its sole discretion, on an individual case basis, the location of certain pole-mounted equipment, such as cabinets, amplifiers and wireless equipment including, but not limited to, antennas. The approval and location of such Attachments are dependent upon factors including, but not limited to, climbing space requirements and the types of existing Attachments.

8.10 CLEC shall hold AT&T-21STATE harmless and indemnify AT&T-21STATE for damages to itself or third parties in accordance with the General Terms and Conditions of this Agreement, which result from the operation or maintenance of CLEC's Attachments, including, but not limited to, power supplies, antennas, cabinets and wireless equipment.

8.11 Completion of CLEC Construction:

8.11.1 For each CLEC Attachment within AT&T-21STATE Structure, CLEC will provide to AT&T-21STATE (within twenty (20) calendar days of CLEC construction-complete date) a complete set of actual placement drawings for posting to AT&T-21STATE records.

**9.0 Use and Routine Maintenance of CLEC's Facilities**

9.1 Use of CLEC's Facilities:

9.1.1 Each License granted under this Section authorizes CLEC to have access to CLEC's Facilities on or in AT&T-21STATE's Poles, Conduits and Ducts as needed for the purpose of serving CLEC's End Users.

9.2 Routine Maintenance of CLEC's Facilities:

9.2.1 Each License granted under this section authorizes CLEC to engage in routine maintenance of CLEC's Facilities located on or in AT&T-21STATE's Poles, Conduits, Ducts and ROW pursuant to such License. CLEC shall give reasonable written notice to the affected public authority or private landowner as appropriate before commencing any construction, installation, or maintenance of its Attachments or making any material alterations thereto. CLEC shall give reasonable notification to AT&T-21STATE before performing any work, whether or not of a routine nature, in AT&T-21STATE's Conduit System.

9.3 CLEC Responsible for Maintenance of CLEC's Facilities:

9.3.1 CLEC shall maintain its Facilities in accordance with the provisions of this Section (including but not limited to all requirements set forth in this Appendix) and all Licenses issued hereunder. CLEC shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the maintenance of CLEC's Facilities and for directing the activities of all persons acting on CLEC's behalf while they are physically present on AT&T-21STATE's Poles, within AT&T-21STATE's Conduit System or in the immediate vicinity of such Poles or Conduit System.

9.4 AT&T-21STATE Is Not Responsible for Maintaining CLEC's Facilities:

- 9.4.1 AT&T-21STATE shall have no obligation to maintain any Facilities which CLEC has attached or connected to, or placed in, AT&T-21STATE's Poles, Conduits, Ducts or any portion of AT&T-21STATE's Conduit System, except to the extent expressly provided by the provisions of this Section or any License issued hereunder, or by the Act or other applicable laws, rules or regulations.

9.5 Information Concerning the Maintenance of CLEC's Facilities:

- 9.5.1 Promptly after the issuance of a License permitting CLEC to attach Facilities to, or place Facilities in AT&T-21STATE's Poles, Conduits or Ducts, CLEC shall provide AT&T-21STATE with the name, title, business address, and business telephone number of the manager responsible for routine maintenance of CLEC's Facilities, and shall thereafter notify AT&T-21STATE of changes to such information. The manager responsible for routine maintenance of CLEC's Facilities shall, on AT&T-21STATE's request, identify any contractor, subcontractor, or other person performing maintenance activities on CLEC's behalf at a specified site and shall, on AT&T-21STATE's request, provide such additional documentation relating to the maintenance of CLEC's Facilities as reasonably necessary to demonstrate that CLEC and all persons acting on CLEC's behalf are complying with the requirements of this Appendix and Licenses issued hereunder.

9.6 Identification of Personnel Authorized to Have Access to CLEC's Facilities:

- 9.6.1 All personnel authorized to have access to CLEC's Facilities shall, while working on AT&T-21STATE's Poles, in its Conduit System or Ducts or in the vicinity of such Poles, Ducts or Conduit Systems, carry with them suitable identification and shall, upon the request of any AT&T-21STATE employee, produce such identification.

**10.0 Modification and Replacement of CLEC's Facilities**

10.1 Notification of Planned Modification or Replacement of Facilities:

- 10.1.1 CLEC shall, when practicable, notify AT&T-21STATE in writing at least sixty (60) calendar days before adding to, relocating, replacing or otherwise modifying its Facilities attached to an AT&T-21STATE Pole or located in any AT&T-21STATE Conduit or Duct. Notification shall contain sufficient information to enable AT&T-21STATE to determine whether the proposed addition, relocation, replacement, or modification is permitted under CLEC's present License or requires a new or amended License.

10.2 New or Amended License Required:

- 10.2.1 A new or amended License will be required if the proposed addition, relocation, replacement, or modification:
- 10.2.1.1 Requires that CLEC use additional space on AT&T-21STATE's Poles or in its Conduits or Ducts (including, but not limited to, any additional Ducts, innerducts, or substantial space in any Handhole or Manhole) on either a temporary or permanent basis; or
  - 10.2.1.2 Results in the size or location of CLEC's Facilities on AT&T-21STATE's Poles or in its Conduit or Ducts being appreciably different from those described and authorized in CLEC's present License (e.g., different Duct or size increase causing a need to re-calculate storm loadings, guying, or Pole class).

**11.0 Rearrangement of Facilities at the Request of Another**

11.1 Rearrangement of CLEC's Facilities at AT&T-21STATE's Request:

- 11.1.1 CLEC acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained therein or connected thereto and that such changes may be necessitated by AT&T-21STATE's business needs. CLEC agrees that in such cases CLEC will, upon AT&T-21STATE's request, and at AT&T-21STATE's expense, but at no Cost to CLEC, participate with AT&T-21STATE in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement.
- 11.1.2 CLEC acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained

therein or connected thereto and that such changes may be necessitated by a third party's request for access to AT&T-21STATE's Structure. CLEC agrees that in such instances CLEC will, upon AT&T-21STATE's request, and at such third party's expense, but at no Cost to CLEC, participate with AT&T-21STATE and third party in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement.

- 11.1.3 CLEC acknowledges that, from time to time, it may be necessary or desirable for AT&T-21STATE to replace Poles, relocate, reconstruct, or modify portions of its Conduit System or rearrange Facilities contained therein or connected thereto as a result of an order by a municipality or other governmental authority. CLEC shall, upon AT&T-21STATE's request, participate with AT&T-21STATE (and other CLECs) in the relocation, reconstruction, or modification of AT&T-21STATE's Conduit System or Facilities rearrangement and pay its proportionate share of any costs of such relocation, reconstruction, or modification that are not reimbursed by such municipality or governmental authority.
- 11.1.4 CLEC shall make all rearrangements or transfers of its Facilities within such period of time as is jointly deemed reasonable by the Parties based on the amount of rearrangements necessary, a desire to minimize chances for service interruption or Facility-based service denial to a CLEC End User and any requirements of the Act or federal or state laws or regulations with regard to any such rearrangement or transfer.
- 11.1.5 If CLEC fails to make the required rearrangements or transfers within the time prescribed or within such extended periods of time as may be granted by AT&T-21STATE in writing, AT&T-21STATE may perform such rearrangements or transfers with written notification to CLEC, and CLEC shall reimburse AT&T-21STATE for actual Costs and expenses incurred by AT&T-21STATE in connection with the rearrangement or transfers of CLEC's Facilities; provided, however, that nothing contained in this Appendix or any License issued hereunder shall be construed as requiring CLEC to bear any expenses which, under the Act or other applicable federal or state laws or regulations, are to be allocated to persons or entities other than CLEC; and provided further, however, that CLEC shall have no responsibility for rearrangement costs and expenses relating to rearrangements performed for the purpose of meeting AT&T-21STATE's business needs.

## **12.0 Emergency Repairs and Pole Replacements**

### **12.1 Responsibility for Emergency Repairs; Access to Maintenance Duct:**

- 12.1.1 In general, each Party shall be responsible for making emergency repairs to its own Facilities and for formulating appropriate plans and practices enabling such Party to make such repairs.
- 12.1.2 Nothing contained in this Appendix shall be construed as requiring either Party to perform any repair or service restoration work of any kind with respect to the other Party's Facilities or the Facilities of Attaching Parties.
- 12.1.3 Maintenance Ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any entity with Facilities in the Conduit section in which the Maintenance Duct is located; provided, however, that an entity using the Maintenance Duct for emergency repair activities will notify AT&T-21STATE within twelve (12) hours of the current Business Day (or first Business Day following a non-business day) that such entity is entering the AT&T-21STATE Conduit system and using the Maintenance Duct for emergency restoral purposes. The notice will include a description of the emergency and non-emergency services involved and an estimate of the completion time. Maintenance Ducts will be used to restore the highest priority services, first. Existing spare Ducts may be used for restoration purposes providing the spare Ducts are restored after restoration work is complete. Any spare Ducts not returned will be included to be assigned to the user of the Duct and a License issued.
- 12.1.4 CLEC shall either vacate the Maintenance Duct within thirty (30) calendar days or, with AT&T-21STATE's consent, rearrange its Facilities to ensure that at least one full-sized replacement Maintenance Duct (or, if the designated Maintenance Duct was an innerduct, a suitable replacement innerduct) is available for use by all occupants in the Conduit section within thirty (30) calendar days after CLEC occupies the Maintenance Ducts. If CLEC fails to vacate the Maintenance Duct as described above, AT&T-21STATE

may install a Maintenance Conduit at CLEC's expense.

12.2 Designation of Emergency Repair Coordinators and Other Information:

12.2.1 For each AT&T-21STATE construction district, CLEC shall provide AT&T-21STATE with the emergency contact number of CLEC's designated point of contact for coordinating the handling of emergency repairs of CLEC's Facilities and shall thereafter notify AT&T-21STATE of changes to such information.

12.3 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations:

12.3.1 When notice and coordination are practicable, AT&T-21STATE, CLEC, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the principles described in Sections 12.3.2 through 12.3.4.

12.3.2 Emergency service restoration work requirements shall take precedence over other work operations.

12.3.3 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security, hospital lines) shall be given the highest priority and temporary occupancy of the Maintenance Duct (and, if necessary, other unoccupied Ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.

12.3.4 AT&T-21STATE shall determine the order of precedence of work operations and assignment of Duct space in the Maintenance Duct (and other unoccupied Ducts) only if the affected parties present are unable to reach consensus provided, however, that these decisions shall be made by AT&T-21STATE on a nondiscriminatory basis in accordance with the principles set forth in this section.

12.4 Emergency Pole Replacements

12.4.1 When emergency Pole replacements are required, AT&T-21STATE shall promptly make a good faith effort to contact CLEC to notify CLEC of the emergency and to determine whether CLEC will respond to the emergency in a timely manner.

12.4.2 If notified by AT&T-21STATE that an emergency exists which will require the replacement of a Pole, CLEC shall transfer its Facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an AT&T-21STATE replacement Pole, the transfer shall be in accordance with AT&T-21STATE's placement instructions.

12.4.3 If CLEC is unable to respond to the emergency situation immediately, CLEC shall so advise AT&T-21STATE and thereby authorize AT&T-21STATE (or any Attaching Party sharing the Pole with AT&T-21STATE) to perform such emergency-necessitated transfers (and associated Facilities rearrangements) on CLEC's behalf at the CLEC's expense.

12.5 Expenses Associated with Emergency Repairs:

12.5.1 Each Party shall bear all reasonable expenses arising out of or in connection with emergency repairs of its own Facilities and transfers or rearrangements of such Facilities associated with emergency Pole replacements made in accordance with the provisions of this section.

12.5.2 Each Party shall be solely responsible for paying all persons and entities that provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such Party's Facilities.

12.5.3 CLEC shall reimburse AT&T-21STATE for the Costs incurred by AT&T-21STATE for work performed by AT&T-21STATE on CLEC's behalf in accordance with the provisions of this section.

**13.0 Inspection by AT&T-21STATE of CLEC's Facilities**

- 13.1 AT&T-21STATE may monitor, at CLEC's expense, the entrance and exit of CLEC's Facilities into/from AT&T-21STATE's Manholes and the placement of CLEC's Facilities in AT&T-21STATE's Manholes.
- 13.2 Post-Construction Inspections:
- 13.2.1 AT&T-21STATE will, at CLEC's expense, conduct a post-construction inspection of CLEC's attachment of Facilities to AT&T-21STATE's Structure for the purpose of determining the conformance of the Attachments to the License. AT&T-21STATE will endeavor to notify CLEC of proposed date and time prior to the post-construction inspection. The CLEC may accompany AT&T-21STATE on the post-construction inspection. Findings of nonconformance shall be communicated to CLEC by AT&T-21STATE as soon as practical.
- 13.3 Routine or Spot Inspections:
- 13.3.1 AT&T-21STATE shall have the right, but not the obligation, to make Routine or Spot inspections of all Facilities attached to AT&T-21STATE's Structure to help ensure compliance with the terms and conditions of the respective agreements.
- 13.3.2 AT&T-21STATE will give CLEC advance written notification of Routine Inspections involving CLEC Facilities, and CLEC shall have the right to have a representative attend such inspections at CLEC's sole expense. However, Spot Inspections by their very nature are performed without such advance notice.
- 13.3.3 If CLEC's Facilities are in compliance with this Appendix, there will be no charges incurred by CLEC for the Routine or Spot Inspection. If CLEC's Facilities are not in compliance with this Appendix, AT&T-21STATE may charge CLEC for the inspection. The amount paid by CLEC shall be the amount applicable to the particular item of Structure with the noncompliant Attachment.
- 13.4 If, pursuant to a post-construction, Routine or Spot Inspection, AT&T-21STATE determines that CLEC's Facilities or any part thereof have not been placed or maintained or are not being used in accordance with the requirements of this Agreement, AT&T-21STATE may send notice to CLEC specifying the alleged noncompliance. CLEC agrees to acknowledge receipt of the notice as soon as practicable. If CLEC does not dispute AT&T-21STATE's assertion that such Facilities are not in compliance, CLEC agrees to provide AT&T-21STATE with a schedule for bringing such Facilities into compliance, to bring the Facilities into compliance within a reasonable time, and to notify AT&T-21STATE when the Facilities have been brought into compliance.
- 13.5 CLEC shall bring its noncompliant Facilities into compliance within thirty (30) calendar days after being notified of such noncompliance. If any Make-Ready or modification work to AT&T-21STATE's Structure is required to bring CLEC's Facilities into compliance, CLEC shall provide notice to AT&T-21STATE and the Make-Ready Work or modification will be treated in the same fashion as Make-Ready Work or modifications for a new request for attachment. If the violation creates a hazardous condition, Facilities must be brought into compliance upon notification.
- 13.6 Disputes over Alleged Noncompliance:
- 13.6.1 If CLEC disputes AT&T-21STATE's assertion that CLEC's Facilities are not in compliance, CLEC shall notify AT&T-21STATE in writing of the basis for CLEC's objection to the assertion that its Facilities are noncompliant.
- 13.7 Neither the act of inspection by AT&T-21STATE of CLEC's Facilities nor any failure to inspect such Facilities shall operate to impose on AT&T-21STATE any liability of any kind whatsoever or to relieve CLEC of any responsibility, obligations or liability under this Section or otherwise existing.
- 13.8 Failure to Bring Facilities into Compliance:
- 13.8.1 If CLEC has not brought the Facilities into compliance within a reasonable time or provided AT&T-21STATE with proof sufficient to persuade AT&T-21STATE that AT&T-21STATE erred in asserting that the Facilities were not in compliance, AT&T-21STATE may, at its option and CLEC's expense, take such non-service affecting steps as may be required to bring CLEC's Facilities into compliance, including but not limited to correcting any conditions which do not meet the specifications of this Appendix.

### 13.9 Correction of Conditions by AT&T-21STATE:

- 13.9.1 If AT&T-21STATE elects to bring CLEC's Facilities into compliance, the provisions of this Section shall apply.
- 13.9.2 AT&T-21STATE will, whenever practicable, notify CLEC in writing before performing such work. The written notice shall describe the nature of the work to be performed and AT&T-21STATE's schedule for performing the work.
- 13.9.3 If CLEC's Facilities have become detached or partially detached from supporting racks or wall supports located within an AT&T-21STATE Manhole, AT&T-21STATE may, at CLEC's expense, reattach them but shall not be obligated to do so. If AT&T-21STATE does not reattach CLEC's Facilities, AT&T-21STATE shall endeavor to arrange with CLEC for the reattachment of any Facilities affected.
- 13.9.4 AT&T-21STATE shall, as soon as practicable after performing the work, advise CLEC in writing of the work performed or action taken. Upon receiving such notice, CLEC shall inspect the Facilities and take such steps as CLEC may deem necessary to ensure that the Facilities meet CLEC's performance requirements.
- 13.9.5 CLEC to Bear Expenses:
  - 13.9.5.1 CLEC shall bear all expenses arising out of or in connection with any work performed to bring CLEC's Facilities into compliance with this Section; provided, however that nothing contained in this Section or any License issued hereunder shall be construed as requiring CLEC to bear any expenses which, under applicable federal or state laws or regulations, must be borne by persons or entities other than CLEC.
- 13.9.6 AT&T-21STATE shall have the right, upon thirty (30) calendar days' notice to CLEC, to determine the total number and exact location of CLEC's Attachments on AT&T-21STATE Poles and/or Conduit through a physical Survey conducted by AT&T-21STATE or its agents. CLEC shall have the right to participate in the Survey. The costs incurred by AT&T-21STATE to conduct the physical inventory shall be shared proportionately with AT&T-21STATE by CLEC. If the Attachments of third parties are included in the inventory, all parties, including CLEC, shall share proportionately in the costs with AT&T-21STATE.

## 14.0 **Unauthorized Attachment or Utilization of AT&T-21STATE's Facilities**

### 14.1 Notice to CLEC:

- 14.1.1 If any of CLEC's Facilities for which no License is presently in effect are found attached to AT&T-21STATE's Poles or within any part of AT&T-21STATE's Conduit System, AT&T-21STATE, without prejudice to other rights or remedies available to AT&T-21STATE under this Appendix, and without prejudice to any rights or remedies which may exist independent of this Appendix, shall send a written notice to CLEC advising CLEC that no License is presently in effect with respect to the Facilities. Within thirty (30) calendar days after receiving a notice, CLEC shall acknowledge receipt of the notice by submitting to AT&T-21STATE, in writing, an Application for a new or amended License with respect to such Facilities.

### 14.2 Approval of Request and Retroactive Charges:

- 14.2.1 If AT&T-21STATE approves CLEC's Application for a new or amended License, CLEC shall be liable to AT&T-21STATE for all fees and charges associated with the unauthorized Attachment(s). The issuance of a new or amended License as provided by this Section shall not operate retroactively or constitute a waiver by AT&T-21STATE of any of its rights or privileges under this Appendix or otherwise.
- 14.2.2 Attachment fees and charges shall continue to accrue until the unauthorized Facilities are removed from AT&T-21STATE's Poles, Conduit System or ROW or until a new or amended License is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if CLEC and its predecessors had continuously complied with all applicable AT&T-21STATE licensing requirements. Such fees and charges shall be due and payable thirty (30) calendar days after the date of the bill or invoice stating such fees and charges. In addition, CLEC shall be liable for an unauthorized Attachment fee as specified in Section 16 of this Appendix. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, CLEC shall rearrange or remove its unauthorized Facilities at AT&T-21STATE's

request to comply with applicable placement standards, shall remove its Facilities from any space occupied by or assigned to AT&T-21STATE or another party, and shall pay AT&T-21STATE for all Costs incurred by AT&T-21STATE in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of CLEC's unauthorized Facilities.

#### 14.3 Removal of Unauthorized Attachments:

14.3.1 If CLEC does not obtain a new or amended License with respect to unauthorized Facilities within the specified period of time, AT&T-21STATE shall by written notice advise CLEC to remove its unauthorized Facilities not less than sixty (60) calendar days from the date of notice and CLEC shall remove the Facilities within the time specified in the notice. If the Facilities have not been removed within the time specified in the notice, AT&T-21STATE may, at AT&T-21STATE's option, remove CLEC's Facilities at CLEC's expense.

#### 14.4 No Ratification of Unpermitted Attachments or Unauthorized Use of AT&T-21STATE's Facilities:

14.4.1 No act or failure to act by AT&T-21STATE with regard to any unauthorized Attachment or unauthorized use of AT&T-21STATE's Structure shall be deemed to constitute a ratification by AT&T-21STATE of the unauthorized Attachment or use, nor shall the payment by CLEC of fees and charges for unauthorized Attachments exonerate CLEC from liability for any trespass or other illegal or wrongful conduct in connection with the unauthorized placement or use of such Facilities.

### 15.0 Removal of CLEC's Facilities

15.1 When CLEC no longer intends to occupy space on an AT&T-21STATE Pole or in an AT&T-21STATE Duct or Conduit, CLEC will provide written notification to AT&T-21STATE that it wishes to terminate the License with respect to such space and will remove its Facilities from the space described in the notice. Upon removal of CLEC's Facilities, the License shall terminate and the space shall be available for reassignment.

15.1.1 CLEC shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its Facilities from AT&T-21STATE's Structure, including compliance with industry standard requirements.

15.1.2 Except as otherwise agreed upon in writing by the Parties, CLEC must, after removing its Facilities, plug all previously occupied Ducts at the entrances to AT&T-21STATE's Manholes.

15.1.3 CLEC shall be solely responsible for the removal of its own Facilities from AT&T-21STATE's Structure.

15.2 At AT&T-21STATE's request, CLEC shall remove from AT&T-21STATE's Structure any of CLEC's Facilities which are no longer in active use. Upon request, CLEC will provide proof satisfactory to AT&T-21STATE that CLEC's Facility is in active service. CLEC shall not abandon any of its Facilities by leaving such Facilities on or in AT&T-21STATE's Structure.

#### 15.3 Removal Following Termination of License:

15.3.1 CLEC shall remove its Facilities from AT&T-21STATE's Poles, Ducts, Conduits, or ROW within thirty (30) calendar days after termination of the License.

#### 15.4 Removal Following Replacement of Facilities:

15.4.1 CLEC shall remove Facilities no longer in service from AT&T-21STATE's Structures within thirty (30) calendar days after the date CLEC replaces existing Facilities on a Pole or in a Conduit with substitute Facilities on the same Pole or in the same Conduit.

#### 15.5 Removal to Avoid Forfeiture:

15.5.1 If the presence of CLEC's Facilities on or in AT&T-21STATE's Structure would cause a forfeiture of the rights of AT&T-21STATE to occupy the property where such Structure is located, AT&T-21STATE will promptly notify CLEC in writing and CLEC shall not, without due cause and justification, refuse to remove its Facilities within such time as may be required to prevent such forfeiture. AT&T-21STATE will give CLEC not less than thirty (30) calendar days from the date of notice to remove CLEC's Facilities unless prior removal is required to prevent the forfeiture of AT&T-21STATE's rights. At CLEC's request, the Parties will engage in good faith negotiations with each other, with other parties, and with third party property owners

and cooperatively take such other steps as may be necessary to avoid the removal of CLEC's Facilities.

15.6 Removal of Facilities by AT&T-21STATE; Notice of Intent to Remove:

15.6.1 If CLEC fails to remove its Facilities from AT&T-21STATE's Structure in accordance with the provisions of Sections 15.1-15.5 of this Appendix, AT&T-21STATE may remove such Facilities and store them at CLEC's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to CLEC for any injury, loss, or damage resulting from such actions. AT&T-21STATE shall give CLEC not less than thirty (30) calendar days' prior written notice of its intent to remove CLEC's Facilities pursuant to this Section.

15.7 Removal of Facilities by AT&T-21STATE:

15.7.1 If AT&T-21STATE removes any of CLEC's Facilities pursuant to this Section, CLEC shall reimburse AT&T-21STATE for AT&T-21STATE's Costs in connection with the removal, storage, delivery, or other disposition of the removed Facilities.

**16.0 Rates, Fees, Charges and Billing**

16.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders:

16.1.1 All rates, charges and fees outlined in this Appendix will be set forth in the Pricing Schedule, as modified from time to time pursuant to Section 16.3 and made available on AT&T's CLEC Online web site.

16.2 CLEC agrees that in the event CLEC fails to pay an amount due and payable within the period of time set forth for payment interest shall accrue on the unpaid balance thereof at the rate of 1 ½% per month for each month from the expiration of such period until payment is received by AT&T-21STATE or the maximum interest rate permitted by law, whichever is the lesser amount.

16.3 Changes to Rates, Charges and Fees:

16.3.1 At its option and subject to applicable federal and state laws, rules, regulations and orders, AT&T-21STATE shall have the right to change the rates, charges and fees outlined in this Appendix. AT&T-21STATE will provide the CLEC sixty (60) calendar days written Notice, advising the CLEC of the specific changes being made and the effective date of the change.

16.4 For all states that have not established their own unauthorized Attachment fees, the following shall apply:

16.4.1 Upon AT&T-21STATE's discovery of unauthorized Attachments in a joint audit or CLEC's self-report of unauthorized Attachments and written notice of said unauthorized Attachments (including location), CLEC shall pay AT&T-21STATE the back-rent, including interest, that would have been due for these Attachments, plus an additional amount of five (5) times the annual rent per Attachment for each unauthorized Attachment.

16.4.2 If CLEC declines to participate in an inspection, by providing the locations of its existing Attachments, and AT&T-21STATE discovers an unauthorized Attachment by CLEC, AT&T-21STATE will also be entitled to invoice CLEC a sanction of one hundred dollars (\$100) for each such unauthorized Attachment that is discovered.

16.4.3 Amounts for unauthorized Attachments will be invoiced by AT&T-21STATE and CLEC shall pay the invoice in full within thirty (30) days of the invoice date.

16.4.4 CLEC can avoid the one hundred dollar (\$100) sanction by submitting a plan of correction within sixty (60) calendar days of receiving written notice or invoice from AT&T-21STATE and correcting any safety violations within one hundred eighty (180) calendar days.

16.5 In the state of California, each individual unauthorized Attachment shall be assessed a five hundred dollar (\$500) penalty in addition to all other costs which are part of Attaching Party's responsibility.

**17.0 Indemnification**

17.1 In addition to the Indemnification clauses in the General Terms & Conditions to this Agreement, the following shall



apply to this Appendix:

- 17.1.1 AT&T-21STATE shall exercise precaution to avoid damaging the Facilities of CLEC and shall make an immediate report to CLEC of the occurrence of any such damage caused by its employees, agents or contractors. AT&T-21STATE agrees to reimburse CLEC for all reasonable Costs incurred by CLEC for the physical repair of such Facilities damaged by the negligence of AT&T-21STATE, its employees, agents, contractors, subcontractors or invitees. However, AT&T-21STATE shall not be liable to CLEC for any interruption of CLEC's service or for interference with the operation of CLEC's Facilities, or for any special, indirect, or consequential damages arising in any manner, including AT&T-21STATE's negligence, out of the use of Pole(s) or Conduit Systems or AT&T-21STATE's actions or omissions in regard thereto and CLEC shall indemnify and save harmless AT&T-21STATE from and against any and all claims, demands, causes of action, costs and reasonable attorneys' fees with respect to such special, indirect or consequential damages.
- 17.1.2 CLEC shall exercise precaution to avoid damaging the Facilities of AT&T-21STATE and of others attached to Pole(s) or occupying a Conduit System and shall make an immediate report to the Owner of the occurrence of any such damage caused by CLEC's employees, agents or contractors. CLEC agrees to reimburse AT&T-21STATE for all reasonable Costs incurred by AT&T-21STATE for the physical repair of such Facilities damaged by the negligence of CLEC.
- 17.1.3 CLEC shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees and agents, and other parties attached to AT&T-21STATE's Structure from and against any and all claims, demands, causes of action, damages and Costs, including reasonable attorneys' fees through appeals incurred by AT&T-21STATE, and other parties attached to AT&T-21STATE's Structure, as a result of acts by the CLEC, its employees, agents or contractors, including but not limited to the Costs of relocating Pole(s) or Conduit Systems resulting from a loss of ROW or property owner consents and/or the Costs of defending those rights and/or consents.
- 17.1.4 The CLEC shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees and agents, and other parties attached to AT&T-21STATE's Structure from and against any and all claims, demands, causes of actions and Costs, including reasonable attorneys' fees, through appeals for damages to property and injury or death to persons, including but not limited to payments under any Worker's Compensation Law or under any plan for employee's disability and death benefits, caused by, arising from, incident to, connected with or growing out of the erection, rearrangement, maintenance, presence, use or removal of CLEC's Facilities, or by their proximity to the Facilities of all parties attached to a Pole or placed in a Conduit System, or by any act or omission of the CLEC's employees, agents or contractors in the vicinity of AT&T-21STATE's Pole(s) or Conduit System.
- 17.1.5 The CLEC shall indemnify, protect and save harmless AT&T-21STATE, its directors, officers, employees, and agents, and other parties attached to AT&T-21STATE's Structure from any and all claims, demands, causes of action and Costs, including attorneys' fees through appeals, which arise directly or indirectly from the construction and operation of CLEC's Facilities, including but not limited to taxes, special charges by others, claims and demands for damages or loss from infringement of copyrights, for libel and slander, for unauthorized use of television or radio broadcast programs and other program material, and from and against all claims, demands and Costs, including attorneys' fees through appeals for infringement of patents with respect to the construction, maintenance, use and operation of CLEC's Facilities in combination with Pole(s), Conduit Systems or otherwise.
- 17.1.6 CLEC shall promptly advise AT&T-21STATE of all claims relating to damage of property or injury to or death of persons, arising or alleged to have arisen in any manner, directly or indirectly, by the erection, maintenance, repair, replacement, presence, use or removal of the CLEC's Facilities. CLEC shall promptly notify AT&T-21STATE in writing of any suits or causes of action which may involve AT&T-21STATE and, upon the request of AT&T-21STATE copies of all relevant accident reports and statements made to CLEC's insurer by CLEC or others shall be furnished promptly to AT&T-21STATE.

## **18.0 Radio Frequency Requirements for Any Wireless Attachments**

- 18.1 CLEC is solely responsible for the radio frequency ("RF") emissions emitted by its equipment and will comply with all Federal Communications Commission (FCC) regulations regarding RF exposure limitations. To the extent required by FCC rules and any applicable state rules, CLEC shall install appropriate signage to notify workers and the public of the potential for exposure to RF emissions.
- 18.2 CLEC is under a duty and obligation in connection with the operation of its own Facilities, now existing or in the future, to protect against RF interference to the RF signals of any other party legally utilizing AT&T Structure, as applicable, as may emanate or arise. CLEC shall endeavor to correct any interference to the RF signals of any other party legally utilizing AT&T Structure, created by its RF emissions. In the event AT&T-21STATE's operations interfere with CLEC's RF signals, AT&T-21STATE and CLEC shall cooperate to stop such interference.
- 18.3 CLEC shall install a power cut-off switch on every AT&T-21STATE Pole to which it has attached Facilities that can emit RF energy. AT&T-21STATE's authorized field personnel will contact the CLEC's designated point of contact not less than 24 hours in advance to inform the CLEC of the need for a temporary power shut-down. In the event of an unplanned power outage or other unplanned cut-off of power, or an emergency, the power-down will be with such advance notice as may be practicable. In all instances, once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform CLEC as soon as possible that power has been restored.
- 18.4 Emergency After Hours Contact Information. CLEC shall provide emergency after hours contact information to AT&T-21STATE. CLEC shall be required to include signage which indicates CLEC's emergency contact information and NESC-required information.
- 18.5 Installation and Upkeep of Sign(s). CLEC is responsible for the installation and upkeep of its sign(s) on each Pole. The signage will be placed so that it is clearly visible to workers who climb the Pole or ascend by mechanical means. The sign(s) will contain the information approved for such signs by the FCC or applicable state agency, or in the absence of such standards, the information commonly used in the industry for such sign(s).

## **ATTACHMENT 04 - LOCAL NUMBER PORTABILITY AND NUMBERING**

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## 1.0 Introduction

- 1.1 Nothing in this Attachment shall be construed to limit or otherwise adversely impact in any manner either Party's right to employ or to request and be assigned any North American Numbering Plan (NANP) number resources from the numbering administrator including, but not limited to, central office (NXX) codes pursuant to the Central Office Code (NXX) Assignment Guidelines (most current version specified on Telcordia's website) or thousand-blocks (NXX-X) pursuant to the Thousands-Blocking Pooling Administration Guidelines (most current version specified on Telcordia's website), or to establish, by tariff or otherwise, Exchanges and Rate Centers corresponding to such NXX codes. Each Party is responsible for administering the NXX codes it is assigned.
- 1.2 Prior to providing local service in an AT&T-21STATE local Exchange Area, CLEC shall obtain a separate numbering resource (NXX or NXX-X) for each AT&T-21STATE Rate Center to ensure compliance with the industry-approved Central Office Code (NXX) Assignment Guidelines (most current version) or other industry approved numbering guidelines and the FCC's Second Report & Order in CC Docket 95-116, released August 18, 1997 (Local Number Portability). This will enable the Parties to identify the jurisdictional nature of traffic for Intercompany compensation until such time as both Parties have implemented billing and routing capabilities to determine traffic jurisdiction on a basis other than an NXX or an NXX-X.
- 1.3 Parties shall assign telephone numbers only to those End Users that are physically in the Rate Center to which the NXX is assigned, subject to exceptions as noted in the numbering resource guidelines.
- 1.4 Each Party is responsible to program and update its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose fees or charges on the other Party for such required programming and updating activities.
- 1.5 Each Party is responsible to input required data into the Routing Data Base Systems (RDBS) and into the Telcordia Business Integrated Routing and Rating Database System (BIRRS) or other appropriate system(s) necessary to update the Local Exchange Routing Guide (LERG), unless negotiated otherwise.
- 1.6 Neither Party is responsible for notifying the other Party's End Users of any changes in dialing arrangements, including those due to NPA relief.
- 1.7 NXX Migration:
  - 1.7.1 Where either Party has activated an entire NXX for a single End User, or activated more than half of an NXX for a single End User with the remaining numbers in that NXX either reserved for future use or otherwise unused, and such End User chooses to receive service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party provided that the requested rate center is the same rate center that physically serves the End User in a non-Foreign Exchange arrangement. Such transfer will require development of a transition process to minimize impact on the Network and on the End User(s)' service and will be subject to appropriate industry lead times (currently forty-five (45) calendar days) for movements of NXXs from one switch to another. The Parties shall not charge each other as a means for the other to recover costs associated with NXX Migration.

## 2.0 Definitions

- 2.1 "Foreign Exchange" or "FX", as used in this Attachment, refers to number assignments and moves outside the Rate Centers with which a telephone number is ordinarily associated, and is different from the term "FX" in Attachment 02 - Network Interconnection, which refers to number assignment and moves outside of a mandatory local calling area.
- 2.2 "Service Management System" or "SMS", as used in the Attachment, is a database or computer system not part of the public switched network that, (1) interconnects to a Service Control Point (SCP), and sends to that SCP the information and call processing instructions needed for a network switch to process and complete a telephone call; and (2) provides telecommunications carriers with the capability of entering and storing data regarding the processing and completing of a telephone call.

- 2.3 “Service Provider Number Portability (SPNP) Data Base Query” means the End User terminating calls from the “N-1” Network to numbers in the Telephone Company’s network with NXX codes that have been designated as number portable and the NXX has at least one number ported. AT&T-21STATE may be responsible for making a query to a database containing information necessary to route calls to number portable NXX codes.
- 2.4 “Intermediate Numbers” means the numbers provided for use by resellers, numbers in dealer numbering pools, numbers preprogrammed into End User premises equipment offered for retail sale, and numbers assigned to messaging service providers.
- 2.5 “Safety Valve Request” means a mechanism for carriers to request numbering resources apart from the general waiver process.

### **3.0 General Provisions**

#### **3.1 Requirements for LNP:**

- 3.1.1 The Parties shall provide to each other, on a reciprocal basis, number portability in accordance with requirements of the Act and FCC Rules and Orders.
- 3.1.2 The Parties shall follow industry guidelines, including but not limited to North American Numbering Council (NANC) Inter Service Provider Operations Flows, located on the Number Portability Administration Center’s (NPAC) website, regarding LNP for all aspects of number portability, including the time frames for providing porting services to one another.
- 3.1.3 Either Party shall be permitted to block default-routed calls to protect the public switched telephone network from overload, congestion, or failure propagation.
- 3.1.4 When a ported telephone number becomes vacant (e.g., the telephone number is no longer in service with the original End User), the ported telephone number will be released back to the carrier owning the switch (after aging if any) in which the telephone number’s NXX-X is native.
- 3.1.5 Each Party shall be responsible for the End User’s other Telecommunications related services and features, (e.g., Directory Listings, E911, Line Information Database (LIDB), Operator Services), once that Party has ported the End User’s telephone number to the Party’s switch.
- 3.1.6 When purchasing the SPNP Database Query, CLEC will access AT&T-21STATE facilities via an SS7 link.
- 3.1.7 Where triggers are not set, the Parties shall coordinate the porting of the number between service providers so as to minimize service interruptions to the End User.

#### **3.2 Limitations of Service for LNP:**

- 3.2.1 Telephone numbers can be ported only within the Toll Message Rate Centers (TMRCs) as approved by the Commissions. “Porting within Rate Centers” refers to a limitation of changing service providers while the physical location of the End User remains within the wireline footprint of the Rate Center. If the End User changes his, her or its physical location from one Rate Center to another, the End User may not retain his, her or its telephone number (which is associated with the End User’s previous Rate Center) as a basic network (non-FX) offering. An End User may retain his, her or its telephone number when moving from one Rate Center to another by the use of a tariff FX or Remote Call Forwarding offering from the new service provider.
- 3.2.2 Telephone numbers of the following types shall not be ported:
  - 3.2.2.1 AT&T-21STATE Official Communications Services (OCS) NXXs;
  - 3.2.2.2 555, 950, 956, 976 and 900 numbers;
  - 3.2.2.3 N11 numbers (e.g., 411 and 911);

3.2.2.4 Toll-free service numbers (e.g., 800, 888, 877 and 866); and

3.2.2.5 Disconnected or unassigned numbers.

3.2.3 Telephone numbers with NXXs dedicated to choke/High Volume Call-In (HVCI) networks are not portable via LRN. Choke numbers will be ported as described in Section 4.4.7.2 below of this Attachment.

### 3.3 Numbering:

3.3.1 If fulfilling CLEC's request for intermediate numbers results in AT&T-21STATE having to submit a request for additional telephone numbers to a national numbering administrator (either NANPA CO Code Administration, NeuStar Pooling Administration or their successors), AT&T-21STATE will submit the required numbering request to the national numbering administrator to satisfy CLEC's request for intermediate numbers. AT&T-21STATE will also pursue all appropriate steps (including submitting a Safety Valve Request (petition) to the Commission if the numbering request is denied by the national administrator) to satisfy CLEC's request for intermediate numbers. In these cases, AT&T-21STATE is not obligated to fulfill the request by CLEC for intermediate numbers unless, and until, AT&T-21STATE's request for additional numbering resources is granted.

3.3.2 CLEC agrees to supply supporting information for any numbering request and/or Safety Valve Request that AT&T-21STATE files pursuant to Section 3.3.1 above.

3.3.3 Each Party is responsible for providing to the other, valid test numbers; one number terminating to a voice announcement identifying the Company and one number terminating to a milliwatt tone providing answer supervision and allowing simultaneous connection from multiple test lines. Both numbers should remain in service indefinitely for regressive testing purposes.

### 3.4 Local Number Portability (LNP) and Numbering:

#### 3.4.1 Porting of Resale Numbers:

3.4.1.1 As the network provider, AT&T-21STATE will port telephone numbers, both in and out, on behalf of CLEC at the request of an End User. CLEC will provide to AT&T-21STATE such information as required to issue Local Service Requests (LSR) to port numbers in.

### 3.5 Non-discriminatory Access to Telephone Numbers:

3.5.1 Where AT&T-21STATE provides Resale services, AT&T-21STATE will provide telephone numbers as defined by applicable FCC rules and regulations on a first come first served basis. CLEC acknowledges that such access to telephone numbers shall be in accordance with the appropriate FCC rules, regulations and industry guidelines.

## 4.0 **Product Specific Service Delivery Provisions**

### 4.1 Service Description for LNP:

4.1.1 The LRN software of the switch in which the assigned numbering resource (e.g., NXX or NXX-X) is native determines if the called party is in a portable NXX. When a calling Party places a telephone call, if the called party is in a portable NXX, a query will be launched to the LNP database to determine whether or not the called number has been ported.

4.1.2 When the called number has been ported, an LRN will be returned to the switch that launched the query. Following the query, the LRN of the called number will appear in the Called Party Number (CdPN) field of the SS7 message and the called number will appear in the Generic Address Parameter (GAP) field.

4.1.3 When the query does not return an LRN, the call will be completed based upon the dialed digits.

4.1.4 When the LNP database is queried, the Forward Call Identifier (FCI) field's entry will be changed from 0 to 1 by the switch triggering the query, regardless of whether the called number has been ported or not.

- 4.1.5 Where technically feasible, the Parties shall populate the Jurisdiction Information Parameter (JIP) field with the first six (6) digits (NPA NXX format) of the appropriate LRN of the originating switch.

#### 4.2 “N-1” Query Methodology for LNP:

- 4.2.1 The Parties shall follow the “N-1” query methodology in performing queries of the LNP database, as provided below. As provided by Industry standards, the “N-1” carrier is the carrier in the call routing sequence immediately prior to the terminating carrier’s End Office, or the terminating carrier’s End Office tandem. The “N-1” carrier shall perform the LNP database query. If the “N-1” carrier fails to perform the LNP database query, the terminating carrier shall perform a query of the LNP database, and shall be permitted to charge the “N-1” carrier for the query. Refer to the LNP Working Group Best Practice for additional information, located in the Local Number Portability Administration section of the NPAC website.
- 4.2.2 For interLATA or intraLATA toll calls carried by another carrier, the originating carrier will pass the call to the appropriate toll carrier, which will perform a query of the LNP database and efficiently route the call to the appropriate terminating local carrier, either directly or through an access tandem office. Where one carrier is the originating local service provider (LSP) and the other carrier is the designated toll carrier, the designated toll carrier is the “N-1” carrier. The originating LSP will not query toll calls delivered to the toll carrier or charge the toll carrier for such queries.
- 4.2.3 For local calls to ported numbers, the originating carrier is the “N-1” carrier. The originating carrier will query the LNP database and route the call to the appropriate terminating carrier.
- 4.2.4 For local calls to any NXX from which at least one number has been ported, the Party that owns the originating switch shall query an LNP database as soon as the call reaches the first LNP-capable switch in the call path. The Party that owns the originating switch shall query on a local call to an NXX in which at least one number has been ported via LNP prior to any attempts to route the call to any other switch. Prior to the first number in an NXX being ported via LNP, AT&T-21STATE may query all calls directed to that NXX, provided that AT&T-21STATE’s queries shall not adversely affect the quality of service to CLEC’s End Users as compared to the service AT&T-21STATE provides its own End Users, and that queries to NXXs where the first number has not been ported are not charged to the “N-1” Carrier.
- 4.2.5 A Party shall be charged for an LNP query by the other Party only if the Party to be charged is the N-1 carrier and was obligated to perform the LRN query but failed to do so, pursuant to conditions set forth in CFR 47, Section 52.33. The only exception will be if the FCC rules (Docket No. 95-116) that the terminating carrier may charge the “N-1” carrier for queries initiated before the first number is ported in an NXX.
- 4.2.6 Rates, terms and conditions for LNP queries performed by AT&T-21STATE are set forth in the applicable FCC Tariff.

#### 4.3 Ordering for LNP:

- 4.3.1 Porting of numbers from NXXs marked as portable in the LERG will be initiated via LSRs based on Ordering and Billing Forum (OBF) guidelines and in accordance with the provisions of Attachment 07 - Operations Support System (OSS).
- 4.3.2 For the purposes of this Attachment, the Parties may use a project management approach for the implementation of LSRs for large quantities of ported numbers or for complex porting processes. With regard to such managed projects, the Parties may negotiate implementation details such as, but not limited to: Due Date, Cutover Intervals and Times, Coordination of Technical Resources, and Completion Notice.

#### 4.4 Provisioning for LNP:

- 4.4.1 The Parties will remove a ported number from the End Office from which the number is being ported as close to the requested time as reasonably practicable, except under the conditions listed in Section 4.4.3 below and Section 4.4.4 below, respectively. The Parties recognize that it is in the best interest of the End User for this removal to be completed in the most expedient manner possible.



- 4.4.2 Unconditional Ten-Digit Trigger. If the Unconditional Ten-Digit Trigger is set, calls originating from the old switch will query the database and route to the new switch without the number being disconnected. The ported number must be removed at the same time that the Unconditional Ten-Digit Trigger is removed.
  - 4.4.2.1 The Parties agree to provide Unconditional Ten-Digit Trigger wherever technically feasible.
- 4.4.3 Project Orders. For project requests, the Parties will negotiate time frames for the disconnection of the numbers in the old switch.
- 4.4.4 Coordinated Orders. Orders worked on a coordinated basis will be coordinated by the Parties until the numbers are disconnected in the old switch.
- 4.4.5 The Parties shall cooperate in the process of porting numbers from one carrier to another so as to limit service outage for the affected End User. The Parties will use their best efforts to update their respective Local Service Management Systems (LSMS) from the NPAC SMS data within fifteen (15) minutes after receipt of a download from the NPAC SMS (the current NANC goal for such updating).
- 4.4.6 At the time a telephone number is ported via LNP, the Party from which the number is being ported shall insure that the LIDB entry for that number is de-provisioned.
- 4.4.7 Mass Calling:
  - 4.4.7.1 The HVCI Network is designed to ease the network congestion that occurs when large numbers of incoming telephone calls are solicited by an End User, such as a radio station or a ticket agency.
    - 4.4.7.1.1 HVCI is also known as:
      - 4.4.7.1.1.1 Choke Network
      - 4.4.7.1.1.2 Mass Calling
      - 4.4.7.1.1.3 Public Response Choke Network
  - 4.4.7.2 Using a non-LRN process, AT&T-21STATE will offer the ability to port telephone numbers with mass calling NXX codes via the use of pseudo codes or route index numbers.
- 4.4.8 Operator Services, LIDB and Directory Assistance:
  - 4.4.8.1 The Provisions of this Agreement pertaining to Operator Services, LIDB and Directory Assistance shall also apply when LNP is in place.
- 4.4.9 Porting of Direct Inward Dialing (DID) Block Numbers:
  - 4.4.9.1 DID block numbers shall be portable in the same manner as other local telephone numbers, subject to the modifications and/or limitations provided herein.
  - 4.4.9.2 The Parties shall offer LNP to End Users for any portion of an existing DID block without being required to port the entire block of DID numbers.
  - 4.4.9.3 The Parties shall permit End Users which port a portion of DID numbers to retain DID service on the remaining portion of the DID numbers, provided such is consistent with applicable tariffs.
- 5.0 Other
- 5.1 Pricing for LNP:
  - 5.1.1 With the exception of lawful query charges, the Parties shall not charge each other for the porting of telephone numbers as a means for the other to recover the costs associated with LNP.

## **ATTACHMENT 05 – 911-E911**

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## **1.0 Introduction**

- 1.1 This Attachment sets forth terms and conditions by which AT&T-21STATE will provide CLEC with access to AT&T-21STATE's 911 and E911 Databases and provide Interconnection and Call Routing for purposes of 911 call completion to a Public Safety Answering Point (PSAP) as required by Section 251 of the Act.
- 1.2 The Parties acknowledge and agree that AT&T-21STATE can only provide E911 Service in a territory where an AT&T-21STATE is the E911 network provider, and that only said service configuration will be provided once it is purchased by the E911 Customer and/or PSAP. Access to AT&T-21STATE's E911 Selective Routers and E911 Database Management System will be by mutual agreement between the Parties.
- 1.3 For CLEC's own switches, AT&T-21STATE shall provide access to its E911 Selective Routers as described herein only where the PSAP and/or E911 Customer served by the E911 Selective Routers has approved CLEC to carry E911 Emergency Services calls, which approval is subject to being revoked, conditioned, or modified by the PSAP and/or E911 Customer at any time.

## **2.0 Definitions**

- 2.1 "911 System" means the set of network, database and customer premise equipment (CPE) components required to provide 911 service.
- 2.2 "911 Trunk" or "E911 Trunk" means a trunk capable of transmitting Automatic Number Identification (ANI) associated with a call to 911 from CLEC's End Office to the E911 system.
- 2.3 "Automatic Location Identification (ALI)" means the automatic display at the PSAP of the caller's telephone number, the address/location of the telephone and, in some cases, supplementary emergency services information.
- 2.4 "Automatic Number Identification (ANI)" means the telephone number associated with the access line from which a call to 911 originates.
- 2.5 "Company Identifier" or "Company ID" means a three (3) to five (5) character identifier chosen by the Local Exchange Carrier that distinguishes the entity providing dial tone to the End User. The Company Identifier is maintained by NENA in a nationally accessible database.
- 2.6 "Database Management System (DBMS)" means a system of manual procedures and computer programs used to create, store and update the data required to provide Selective Routing (SR) and/or ALI for 911 systems.
- 2.7 "E911 Customer" means a municipality or other state or local government unit, or an authorized agent of one (1) or more municipalities or other state or local government units to whom authority has been lawfully delegated to respond to public emergency telephone calls, at a minimum, for emergency police and fire services through the use of one (1) telephone number, 911.
- 2.8 "E911 Universal Emergency Number Service (E911)" (also referred to as "Expanded 911 Service" or "Enhanced 911 Service") or "E911 Service" means a telephone Exchange communications service whereby a public safety answering point (PSAP) answers telephone calls placed by dialing the number 911. E911 includes the service provided by the lines and equipment associated with the service arrangement for the answering, transferring, and dispatching of public emergency telephone calls dialed to 911. E911 provides completion of a call to 911 via dedicated trunking facilities and includes ANI, ALI, and/or SR.
- 2.9 "Emergency Services" means police, fire, ambulance, rescue, and medical services.
- 2.10 "Emergency Service Number (ESN)" means a three (3) to five (5) digit number representing a unique combination of Emergency Services agencies designated to serve a specific range of addresses within a particular geographical area. The ESN facilitates SR and selective transfer, if required, to the appropriate PSAP and the dispatching of the proper Emergency Services agency (ies).
- 2.11 "National Emergency Number Association (NENA)" is a not-for-profit corporation established in 1982 to further the goal of "One Nation-One Number". NENA is a networking source and promotes research, planning, and training.

NENA strives to educate, set standards and provide certification programs, legislative representation and technical assistance for implementing and managing 911 systems.

- 2.12 "Public Safety Answering Point (PSAP)" means an answering location for 911 calls originating in a given area. The E911 Customer may designate a PSAP as primary or secondary, which refers to the order in which calls are directed for answering. Primary PSAPs answer calls; secondary PSAPs receive calls on a transfer basis. PSAPs are public safety agencies such as police, fire, emergency medical, etc., or a common bureau serving a group of such entities.
- 2.13 "Selective Routing" (SR) means the routing and "E911 Selective Router" (E911 SR) means the equipment used to route a call to 911 to the proper PSAP based upon the number and location of the caller. SR is controlled by an ESN, which is derived from the location of the access line from which the 911 call was placed.

### **3.0 AT&T Responsibilities**

- 3.1 AT&T-21STATE shall provide and maintain such equipment at the E911 SR and the DBMS as is necessary to provide CLEC with nondiscriminatory access to E911 Emergency Service as described in this Attachment.

#### **3.2 Call Routing:**

- 3.2.1 AT&T-21STATE will route 911 calls from the AT&T-21STATE SR to the designated primary PSAP or to designated alternate locations, according to routing criteria specified by the PSAP.
- 3.2.2 AT&T-21STATE will forward the ANI to the calling party number it receives from CLEC and the associated 911 ALI to the PSAP for display. If no ANI is forwarded by CLEC, AT&T-21STATE will forward an Emergency Service Central Office (ESCO) identification code for display at the PSAP. If ANI is forwarded by the CLEC, but no ALI record is found in the E911 DBMS, AT&T-21STATE will report this "No Record Found" condition to the CLEC in accordance with NENA standards.

#### **3.3 Facilities and Trunking:**

- 3.3.1 AT&T-21STATE shall provide and maintain sufficient dedicated E911 Trunks from AT&T-21STATE's E911 SR to the PSAP of the E911 Customer, according to provisions of the appropriate state Commission-approved tariff and documented specifications of the E911 Customer.
- 3.3.2 AT&T-21STATE will provide facilities to interconnect the CLEC to the AT&T-21STATE's E911SR, as specified in Attachment 02 -Network Interconnection of this Agreement or per the requirements set forth via the applicable state tariff. Additionally, CLEC has the option to secure interconnection facilities from another provider or provide such interconnection using their own facilities. If diverse facilities are requested by CLEC, AT&T-21STATE will provide such diversity where technically feasible, at standard applicable tariff rates.

#### **3.4 Database:**

- 3.4.1 Where AT&T-21STATE manages the E911 Database, AT&T-21STATE shall provide CLEC access to the E911 Database to store CLEC's End User "911 Records" (i.e., the name, address, and associated telephone number(s) for each of CLEC's End Users). CLEC or its representative(s) is responsible for electronically providing End User 911 Records and updating this information.
- 3.4.2 Where AT&T-21STATE manages the E911 Database, AT&T-21STATE shall coordinate access to the AT&T-21STATE DBMS for the initial loading and updating of CLEC End User 911 Records.
- 3.4.3 Where AT&T-21STATE manages the E911 Database, AT&T-21STATE's E911 Database shall accept electronically transmitted files that are based upon NENA standards. Manual (i.e., facsimile) entry shall be utilized only in the event that the DBMS is not functioning properly.

### **4.0 CLEC Responsibilities**

- 4.1 Call Routing (for CLEC's own switches):

4.1.1 CLEC will transport the appropriate 911 calls from each Point of Interconnection (POI) to the appropriate AT&T-21STATE E911 SR location.

4.1.2 CLEC will forward the ANI information of the party calling 911 to the AT&T-21STATE E911 SR.

4.2 Facilities and Trunking (for CLEC's own switches):

4.2.1 CLEC shall be financially responsible for the transport facilities to each AT&T-21STATE E911 SR that serves the Exchange Areas in which CLEC is authorized to and will provide Telephone Exchange Service.

4.2.2 CLEC acknowledges that its End Users in a single local calling scope may be served by different E911 SRs and CLEC shall be financially responsible for the transport facilities to route 911 calls from its End Users to the proper E911 SR.

4.2.3 CLEC shall order a minimum of two (2) one-way outgoing E911 Trunk(s) dedicated for originating 911 Emergency Service calls for each default PSAP or default ESN to interconnect to each appropriate AT&T-21STATE E911 SR, where applicable. Where Signaling System 7 (SS7) connectivity is available and required by the applicable E911 Customer, the Parties agree to implement Common Channel Signaling (CCS) trunking rather than Multi-Frequency (MF) trunking.

4.2.4 CLEC is responsible for ordering a separate E911 Trunk group from AT&T-21STATE for each county, default PSAP or other geographic area that the CLEC serves if the E911 Customer for such county or geographic area has a specified varying default routing condition. Where PSAPs do not have the technical capability to receive 10-digit ANI, E911 traffic must be transmitted over a separate trunk group specific to the underlying technology. CLEC will have administrative control for the purpose of issuing ASRs on this trunk group. Where the parties utilize SS7 signaling and the E911 network has the technology available, only one (1) E911 Trunk group shall be established to handle multiple NPAs within the local Exchange Area or LATA. If the E911 network does not have the appropriate technology available, a SS7 trunk group shall be established per NPA in the local Exchange Area or LATA. In addition, 911 traffic originating in one (1) NPA must be transmitted over a separate 911 Trunk group from 911 traffic originating in any other NPA 911.

4.2.5 CLEC shall maintain facility transport capacity sufficient to route 911 traffic over trunks dedicated to 911 Interconnection between the CLEC switch and the AT&T-21STATE E911 SR.

4.2.6 CLEC shall order sufficient trunking to route CLEC's originating 911 calls to the designated AT&T-21STATE E911 SR.

4.2.7 Diverse (i.e., separate) 911 facilities are highly recommended and may be required by the Commission or E911 Customer. If required by the E911 Customer, diverse 911 Trunks shall be ordered in the same fashion as the primary 911 Trunks. CLEC is responsible for initiating trunking and facility orders for diverse routes for 911 Interconnection.

4.2.8 CLEC is responsible for determining the proper quantity of trunks and transport facilities from its switch (es) to interconnect with the AT&T-21STATE E911 SR.

4.2.9 CLEC shall engineer its 911 Trunks to attain a minimum P.01 grade of service as measured using the time consistent average busy season busy hour twenty (20) day averaged loads applied to industry standard Neal-Wilkinson Trunk Group Capacity algorithms (using Medium day-to-day Variation and 1.0 Peakedness factor), or such other minimum grade of service as required by Applicable Law.

4.2.10 CLEC shall monitor its 911 Trunks for the purpose of determining originating network traffic volumes. If CLEC's traffic study indicates that additional 911 Trunks are needed to meet the current level of 911 call volumes, CLEC shall provision additional 911 Trunks for Interconnection with AT&T-21STATE.

4.2.11 CLEC is responsible for the isolation, coordination and restoration of all 911 facility and trunking maintenance problems from CLEC's demarcation (for example, collocation) to the AT&T-21STATE E911 SR(s). CLEC is responsible for advising AT&T-21STATE of the 911 Trunk identification and the fact that the trunks are dedicated for 911 traffic when notifying AT&T-21STATE of a failure or outage. The Parties agree

to work cooperatively and expeditiously to resolve any 911 outage. AT&T-21STATE will refer network trouble to CLEC if no defect is found in AT&T-21STATE's 911 network. The Parties agree that 911 network problem resolution will be managed expeditiously at all times.

- 4.2.12 CLEC will not turn up live traffic until successful testing of E911 Trunks is completed by both Parties.
- 4.2.13 Where required, CLEC will comply with Commission directives regarding 911 facility and/or 911 Trunking requirements.

#### 4.3 Database:

- 4.3.1 Once the 911 Interconnection between CLEC and all appropriate AT&T-21STATE E911 SR(s) has been established and tested, CLEC or its representatives shall be responsible for providing CLEC's End User 911 Records to AT&T-21STATE for inclusion in AT&T-21STATE's DBMS on a timely basis.
- 4.3.2 CLEC or its agent shall provide initial and ongoing updates of CLEC's End User 911 Records that are Master Street Address Guide (MSAG) valid in electronic format based upon established NENA standards.
- 4.3.3 CLEC shall adopt use of a Company/NENA ID on all CLEC End User 911 Records in accordance with NENA standards. The Company ID is used to identify the carrier of record in facility configurations.
- 4.3.4 CLEC is responsible for providing AT&T-21STATE updates to the E911 database; in addition, CLEC is responsible for correcting any errors that may occur during the entry of their data to the AT&T-21STATE 911 DBMS.

### 5.0 **Responsibilities of the Parties**

- 5.1 For CLEC's own switch(es), both Parties shall jointly coordinate the provisioning of transport capacity sufficient to route originating E911 calls from CLEC's POI to the designated AT&T-21STATE E911 SR(s).
  - 5.1.1 AT&T-21STATE and CLEC will cooperate to promptly test all trunks and facilities between CLEC's network and the AT&T-21STATE E911 SR(s).
- 5.2 911 Surcharge Remittance to PSAP:
  - 5.2.1 For CLEC's own switch(es), the Parties agree that:
    - 5.2.1.1 AT&T-21STATE is not responsible for collecting and remitting applicable 911 surcharges or fees directly to municipalities or government entities where such surcharges or fees are assessed by said municipality or government entity, and
    - 5.2.1.2 AT&T-21STATE is not responsible for providing the 911 Customer detailed monthly listings of the actual number of access lines, or breakdowns between the types of access lines (e.g., residential, business, payphone, Centrex, PBX, and exempt lines).
    - 5.2.1.3 Facility based CLECs shall be responsible for collecting and remitting all applicable 911 fees and surcharges on a per line basis to the appropriate PSAP or other governmental authority responsible for collection of such fees and surcharges.
  - 5.2.2 For Resellers, the ILEC shall serve as a clearinghouse between Resellers and PSAPs except where state law requires Reseller to collect and remit directly to the appropriate 911 Authority. The Parties agree that:
    - 5.2.2.1 AT&T-12STATE shall include Reseller information when providing the 911 Customer with detailed monthly listings of the actual number of access lines, or breakdowns between the types of access lines (e.g., residential, business, payphone, Centrex, PBX, and exempt lines).
    - 5.2.2.2 AT&T SOUTHEAST REGION 9-STATE will provide the 911 Customer a monthly settlement letter which provides the total number of access lines broken down into residence and business line totals only. If state statutes require a break out of Reseller information, the

AT&T SOUTHEAST REGION 9-STATE shall include this information upon request by the 911 Customer.

## **6.0 Methods and Practices**

- 6.1 With respect to all matters covered by this Attachment, each Party will comply with all of the following to the extent that they apply to access to 911 and E911 Databases: (i) all FCC and applicable Commission rules and regulations, (ii) any requirements imposed by any Governmental Authority other than a Commission, (iii) the terms and conditions of AT&T-21STATE's Commission-ordered tariff(s) and (iv) the principles expressed in the recommended standards published by NENA.

## **7.0 Contingency**

- 7.1 The terms and conditions of this Attachment represent a negotiated plan for providing access to 911 and E911 Databases, and providing interconnection and call routing for purposes of 911 call completion to a PSAP as required by Section 251 of the Act.

- 7.2 The Parties agree that the 911 System as provided herein is for the use of the E911 Customer, and recognize the authority of the E911 Customer to establish service specifications and grant final approval (or denial) of service configurations offered by AT&T-21STATE and CLEC.

### **7.2.1 In AT&T TEXAS only:**

- 7.2.1.1 These specifications shall be documented in Exhibit I, CLEC Serving Area Description and E911 Interconnection Details. CLEC shall complete its portion of Exhibit I and submit it to AT&T TEXAS not later than forty-five (45) Business Days prior to the passing of live traffic. AT&T TEXAS shall complete its portion of Exhibit I and return Exhibit I to CLEC not later than thirty (30) Business Days prior to the passing of live traffic.
- 7.2.1.2 CLEC must obtain documentation of the approval of the completed Exhibit I from the appropriate E911 Customer(s) that have jurisdiction in the area(s) in which CLEC's End Users are located. CLEC shall provide documentation of all requisite approval(s) to AT&T TEXAS prior to use of CLEC's E911 connection for actual emergency calls.
- 7.2.1.3 Each Party will designate a representative who has the authority to complete additional Exhibit(s) I to this Attachment when necessary to accommodate expansion of the geographic area of CLEC into the jurisdiction of additional PSAP(s) or to increase the number of 911 Trunks. CLEC must obtain approval of each additional Exhibit I, as set forth in Section 7.2 above, and shall furnish documentation of all requisite approval(s) of each additional Exhibit I in accordance with Section 7.2 above.

## **8.0 Basis of Compensation**

- 8.1 Rates for access to 911 and E911 Databases, Interconnection and call routing of E911 call completion to a PSAP as required by Section 251 of the Act are set forth in the Pricing Schedule or applicable AT&T-21STATE Commission-approved access tariff.



**ATTACHMENT 06 – OPERATOR SERVICES AND  
DIRECTORY ASSISTANCE  
(f/k/a CUSTOMER INFORMATION SERVICES)**

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## 1.0 **INTRODUCTION**

1.1 This Attachment sets forth the rates, terms and conditions under which AT&T-21STATE shall provide Operator Services/Directory Assistance (OS/DA) and Listings.

1.2 OS/DA:

1.2.1 This Attachment sets forth the rates, terms and conditions under which the Parties shall jointly carry out OS/DA on a wholesale basis for CLEC End Users residing in AT&T-21STATE's local Exchange territory, regardless of whether CLEC is serving its End Users via:

1.2.1.1 CLEC's own physical Switches; or

1.2.1.2 Resale of AT&T-21STATE Retail OS/DA service.

1.2.2 CLEC shall be the retail OS/DA provider to its End Users, and AT&T-21STATE shall be the wholesale provider of OS/DA operations to CLEC. AT&T-21STATE shall answer CLEC's End User OS/DA calls on CLEC's behalf, as follows:

1.2.2.1 When the End User dials 0- or 0+ the telephone number, AT&T-21STATE shall provide the Operator Services described in Section 3.4 below. CLEC may set its own retail OS/DA rates, and CLEC therefore acknowledges its responsibility to obtain (a) End User agreement to the OS/DA retail rates (e.g., by tariff or contract), and (b) any necessary regulatory approvals for its OS/DA retail rates.

1.2.2.2 In response to CLEC End User inquiries about OS/DA rates, where available and technically feasible, AT&T-21STATE operators shall quote CLEC retail OS/DA rates, provided by CLEC (see Section 3.6 below). If further inquiries are made about rates, billing and/or other "business office" questions, AT&T-21STATE's OS/DA operators shall direct the calling party's inquiries to a CLEC-provided contact number (also see Section 3.6 below).

1.2.3 CLEC shall pay the applicable OS/DA rates found in the Pricing Sheet based upon CLEC's status as a Facilities-Based CLEC or a reseller. Provided however, CLEC may serve both as a reseller and as a facilities-based provider and CLEC may convert its facilities-based End Users to Resale service, or vice versa, as described below in Section 3.6.7 below.

1.2.3.1 CLEC acknowledges and understands that wholesale OS/DA rates differ between Resale and facilities-based service, and that both types of OS/DA wholesale rates are listed in the Pricing Sheet.

1.2.3.2 Billing and payment details, including the assessment of late payment charges for unpaid balances, are governed by the General Terms and Conditions in this Agreement.

1.3 Listings:

1.3.1 This Attachment sets forth terms and conditions that apply to Resale and Facility-Based CLECs for subscriber listing information provided by AT&T-21STATE.

## 2.0 **DEFINITIONS**

2.1 "Consolidated Reference Rater (CRR)" provides reference information (business office and repair numbers) and rate quotes for CLEC End Users.

2.2 "Facilities-Based CLEC" means a CLEC that provides service through its own switch or a Third Party provider's switch.

2.3 "General Assistance" means a service in which the End User dialing - 0 asks the OS operator for assistance. The operator will respond in accordance with OS methods and practices that are in effect at the time the End User makes an OS call where available and technically feasible.

2.4 "Listings" means information identifying the listed names of subscribers of carriers and subscribers' telephone numbers, addresses or primary advertising classification or any combination, and that carrier or affiliate has published, caused to be published or accepted for publication in any directory format.

2.5 "Services" means Operator Services/Directory Assistance (OS/DA) and Listings.

2.6 "Toll Center Code" means the three digit access tandem code ("ATC") that uniquely identifies a tandem switch in the Local Exchange Routing Guide (LERG) designated as providing access to operator services functions.

### **3.0 OPERATOR SERVICES (OS) / DIRECTORY ASSISTANCE (DA)**

#### **3.1 Dialing Parity:**

3.1.1 AT&T-21STATE will provide OS/DA to CLEC's End Users with no unreasonable dialing delays and at dialing parity with AT&T-21STATE retail OS/DA services.

#### **3.2 Response Parity:**

3.2.1 Where available and technically feasible, CLEC's End Users shall be answered by AT&T-21STATE's OS and DA platforms with the same priority and using the same methods as for AT&T-21STATE's End Users.

3.2.2 Any technical difficulties in reaching the AT&T-21STATE OS/DA platform (e.g., cable cuts in the OS/DA trunks, unusual OS/DA call volumes, etc.) will be experienced at parity with AT&T-21STATE End Users served via that same AT&T-21STATE End Office Switch.

#### **3.3 Requirements to Physically Interconnect:**

3.3.1 This section describes the physical interconnection and trunking requirements for a Facilities-Based CLEC to interconnect with AT&T-21STATE's OS/DA switches.

3.3.2 The demarcation point for OS/DA traffic between the Parties' networks need not coincide with the point of interconnection for the physical interconnection of all other inter-carrier voice traffic, but at a minimum must be in the Local Access and Transport Area (LATA) in which the CLEC's OS/DA traffic originates.

3.3.2.1 Because CLEC's switch may serve End Users in more than one LATA, the Parties agree that CLEC's OS/DA traffic originates from the physical location of the End User dialing 0, 411, or 555-1212 and not the physical location of CLEC's switch.

3.3.2.2 To the extent CLEC is serving via circuit-switched wireless technology, the physical location of the End User dialing 0, 411, or 555-1212 shall be deemed the End User's physical billing address, regardless of whether the End User may be roaming at the time of placing the OS/DA call.

3.3.3 The Parties will establish an OS/DA demarcation point at the AT&T-21STATE's OS/DA switch. By mutual agreement, an alternative OS/DA demarcation point may be determined based on the following factors:

3.3.3.1 The size and type of facilities needed to carry CLEC's switch-based OS/DA traffic;

3.3.3.2 Whether CLEC wishes to interconnect for OS or DA, or both;

3.3.3.3 Whether CLEC or CLEC's Affiliate is collocated in an AT&T-21STATE local tandem office and wishes to use the collocation as the OS/DA demarcation point; and

3.3.3.4 Whether CLEC or CLEC's Affiliate already has existing OS/DA facilities in place to the AT&T-21STATE's OS/DA platforms.

3.3.4 CLEC shall be financially responsible for the transport facilities to the AT&T-21STATE's switch(es). CLEC may self-provision these OS/DA facilities, lease them from Third Parties, or lease them from AT&T-21STATE's intrastate Special Access Tariff. CLEC shall remain financially responsible for the transport facilities to the AT&T-21STATE's switch(es) and/or any one-way trunk groups from its designated operator assistance and directory assistance (or OA/DA) switch to the AT&T-21STATE operator assistance switch until CLEC initiates and successfully disconnects such transport facilities and/or trunk groups.

3.3.5 General OS/DA Trunking Requirements:

- 3.3.5.1 CLEC will initiate an Access Service Request (ASR) for all OS/DA trunk groups from its switch to the appropriate AT&T-21STATE OS/DA switches as a segregated one-way trunk group utilizing Multi-Frequency (MF) signaling. Unless technically infeasible, AT&T-21STATE will provision all such one-way trunk groups in the same manner and at the same intervals as for all other interconnection trunks between the Parties.
- 3.3.5.2 CLEC will employ Exchange Access Operator Services Signaling (EAOSS) from the AT&T-21STATE End Offices to the AT&T-21STATE OS/DA switches that are equipped to accept 10-Digit Signaling for Automatic Number Identification (ANI).
- 3.3.5.3 Where EAOSS is not available, Modified Operator Services Signaling (MOSS) will be utilized, and a segregated one-way trunk group with MF signaling will be established from CLEC to each AT&T-21STATE OS/DA switch for each served Numbering Plan Area (NPA) in the LATA.
- 3.3.6 Specific OS/DA Trunk Groups and Their Requirements
  - 3.3.6.1 Operator Service Trunks:
    - 3.3.6.1.1 CLEC shall establish a one-way trunk group from CLEC's switch to the AT&T-21STATE OS switch serving OS End Users in that LATA. An OS only trunk group will be designated with the appropriate OS traffic use code and modifier. If the trunk group transports combined OS/DA/DACC over the same trunk group, then the group will be designated with a different traffic use code and modifier for combined services. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group.
  - 3.3.6.2 DA/DA Call Completion (DACC) Trunks:
    - 3.3.6.2.1 Where permitted, CLEC shall establish a one-way trunk group from CLEC's switch to the AT&T-21STATE DA switch serving DA End Users in that LATA. If the trunk group transports DA/DACC only, but not OS, then the trunk group will be designated with the appropriate DA traffic use code and modifier.
    - 3.3.6.2.2 In AT&T-12STATE, if OS/DA/DACC is transported together on a combined trunk group, then the group will be designated with a different appropriate traffic use code and modifier from that used for a DA/DACC only trunk group. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group.
    - 3.3.6.2.3 In AT&T SOUTHEAST REGION 9-STATE, if OS/DA/DACC is transported together on a combined trunk group, then the group will be designated with an appropriate traffic use code and modifier. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group.
- 3.4 Operator Services Call Processing and Rates:
  - 3.4.1 AT&T-21STATE will assess its OS charges based upon whether the CLEC End User is receiving (a) manual OS (i.e., provided via an operator), or (b) automated OS (i.e., an OS switch equipment voice recognition feature, functioning either fully or partially without operators where available and technically feasible). The Pricing Sheet contains the full set of OS recurring and nonrecurring rates.
  - 3.4.2 AT&T-21STATE will provide OS to CLEC End Users where available and technically feasible to AT&T-21STATE End Users served in accordance with OS methods and practices in effect at the time the CLEC End User makes an OS call.
- 3.5 Directory Assistance Call Processing and Rates:
  - 3.5.1 AT&T-21STATE DA charges are assessed on a flat rate per call, regardless of call duration. The Pricing Sheet contains the recurring and nonrecurring rates.
  - 3.5.2 AT&T-21STATE will provide DA Services to CLEC End Users where available and technically feasible to AT&T-21STATE End Users served in accordance with DA Services methods and practices that are in effect

at the time CLEC End User makes a DA call. AT&T-21STATE will provide the following DA services to a CLEC End User:

- 3.5.2.1 Local Directory Assistance - Consists of providing published name and telephone number.
- 3.5.2.2 Directory Assistance Call Completion (DACC) - A service in which a local or an intraLATA call to the requested number is completed.
- 3.5.2.3 National Directory Assistance (NDA) - A service whereby callers may request published name and telephone number outside their LATA or local calling area for any listed telephone number in the United States.
- 3.5.2.4 Reverse Directory Assistance (RDA) - Consists of providing listed local and national name and address information associated with a telephone number.
- 3.5.2.5 Business Category Search (BCS) - A service whereby callers may request business telephone number listings for a specified category of business, when the name of the business is not known. Telephone numbers may be requested for local and national businesses.

3.6 OS/DA Non-recurring Charges for Loading Automated Call Greeting (i.e., Brand Announcement), Rates and Reference Information:

- 3.6.1 CLEC End Users will hear silence upon connecting with the OS/DA switch. As an alternative to silence, CLEC may custom brand for which custom brand charges will apply.
  - 3.6.1.1 CLEC will provide announcement phrase information, via Operator Services Translations Questionnaire (OSTQ), to AT&T-21STATE in conformity with the format, length, and other requirements specified for all CLECs on the AT&T CLEC Online website.
  - 3.6.1.2 AT&T-21STATE will then perform all of the loading and testing of the announcement for each applicable OS/DA switch prior to live traffic. CLEC may also change its pre-recorded announcement at any time by providing a new announcement phrase in the same manner. CLEC will be responsible for paying subsequent loading and testing charges.
  - 3.6.1.3 CLEC understands that End Users may not perceive silent announcements as ordinary mechanical handling of OS/DA calls.
  - 3.6.1.4 CLEC agrees that if it does not brand the call, CLEC shall indemnify and hold AT&T-21STATE harmless from any regulatory violation, consumer complaint, or other sanction for failing to identify the OS/DA provider to the dialing End User.
- 3.6.2 AT&T-21STATE will be responsible for loading the CLEC provided recording into all applicable OS and/or DA switches prior to live traffic, testing the announcement for sound quality at parity with that provided to AT&T-21STATE End Users. CLEC will be responsible for paying the initial recording announcement loading charges, and thereafter, the per-call charge as well as any subsequent loading charges if new recordings or silent announcements are provided as specified above.
- 3.6.3 Branding load charges are assessed per loaded recording, per OCN, per switch. For example, a CLEC Reseller may choose to brand under a different name than its facilities-based operations, and therefore two separate recordings could be loaded into each switch, each incurring the branding or silent load charge. These charges are mandatory, nonrecurring, and are found in the Pricing Sheet.
- 3.6.4 Where Consolidated Reference Rater ("CRR") is available and technically feasible, the applicable CLEC-charged retail OS/DA rates and a CLEC-provided contact number (e.g., reference to a CLEC business office or repair center) are loaded into the system utilized by the OS operator.
- 3.6.5 Where CRR is available and technically feasible, AT&T-21STATE will be responsible for loading the CLEC-provided OS/DA retail rates and the CLEC provided contact number(s) into the OS/DA switches. CLEC will be responsible for paying the initial reference and rate loading charges.

- 3.6.6 CRR load charges are assessed per loaded set of rates/references, where CRR is available and technically feasible, per OCN, per state. For example, a CLEC reseller may choose to rate differently than its Facilities-Based CLEC operations, or may change its rates/references during the life of the contract, and therefore separate sets of rates/references could be loaded for each OCN, per state, with each loading incurring the rate/reference charge. These charges are mandatory, nonrecurring and are found in the Pricing Sheet.
- 3.6.7 Converting End Users from prior branded service to CLEC or silent-branded service, or between Resale and facilities-based service:
  - 3.6.7.1 To the extent that CLEC has already established the branding/silent announcement recording in AT&T-21STATE OS/DA switches for both Resale and facilities-based service, then no non-recurring charges apply to the conversion of End Users from prior Resale OS/DA wholesale service to facilities-based OS/DA wholesale service, or vice versa.
  - 3.6.7.2 To the extent that CLEC has not established the branding announcement recording in AT&T-21STATE OS/DA switches for Resale and/or facilities-based service, then non-recurring charges apply to set up the OS/DA call for the new type of service, as is described in Section 3.6 above, and at the rates set forth in the Pricing Sheet.

## 4.0 LISTINGS

### 4.1 General Provisions:

- 4.1.1 Subject to state requirements and AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of listings, AT&T-21STATE will make available to CLEC, for CLEC End Users, non-discriminatory access to listings in the same manner as AT&T-21STATE makes listings available to AT&T-21STATE retail End Users.

### 4.2 Responsibilities of the Parties:

- 4.2.1 Subject to AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of white page directories, AT&T-21STATE will include in appropriate white pages directories the primary alphabetical listings of CLEC End Users located within the AT&T-21STATE ILEC Territory. When CLEC provides its subscriber listing information to AT&T-21STATE listings database, CLEC will receive for its End User, one primary listing in AT&T-21STATE white pages directory and a listing in AT&T-21STATE's DA database at no charge, other than applicable service order charges as set forth in the Pricing Sheet.
  - 4.2.1.1 Except in the case of a Local Service Request (LSR) submitted solely to port a number from AT&T SOUTHEAST REGION 9-STATE, if such listing is requested on the initial LSR associated with the request for services, a single manual service order charge or electronic service order charge, as appropriate, will apply to both the request for service and the request for the directory listing. Where a subsequent LSR is placed solely to request a directory listing, or is placed to port a number and request a directory listing, separate service order charges as set forth in AT&T-21STATE's tariffs shall apply, as well as the manual service order charge or the electronic service order charge, as appropriate.
  - 4.2.1.2 Listing Information Confidentiality:
    - 4.2.1.2.1 AT&T-21STATE will afford CLEC's directory listing information the same level of confidentiality that AT&T-21STATE affords its own directory listing information.
  - 4.2.1.3 Unlisted/Non-Published End Users:
    - 4.2.1.3.1 CLEC will provide to AT&T-21STATE the names, addresses and telephone numbers of all CLEC End Users who wish to be omitted from directories. Non-listed/Non-Published listings will be subject to the rates as set forth in AT&T-21STATE's tariffs and/or service guidebooks. AT&T-21STATE does not provide a resale discount for any listings.

#### 4.2.1.4 Additional Listings:

4.2.1.4.1 Where a CLEC End User requires listings in addition to the primary listing to appear in the white pages directory, AT&T-21STATE will offer such listings at rates as set forth in AT&T-21STATE's tariffs and/or service guidebooks. AT&T-21STATE does not provide a resale discount for any listings. CLEC shall furnish to AT&T-21STATE subscriber listing information pertaining to CLEC End Users located within the AT&T-21STATE ILEC Territory, along with such additional information as AT&T-21STATE may be required to include in the alphabetical listings of said directory. CLEC shall refer to the AT&T CLEC Online website for methods, procedures and ordering information.

4.2.2 CLEC will provide accurate subscriber listing information of its subscribers to AT&T-21STATE via a mechanized feed of the directory listing information to AT&T-21STATE's Directory Listing database. CLEC agrees to submit all listing information via a mechanized process within six (6) months of the Effective Date of this Agreement, or upon CLEC reaching a volume of two hundred (200) listing updates per day, whichever comes first. CLEC's subscriber listings will be interfiled (interspersed) in the directory among AT&T-21STATE's subscriber listing information. CLEC will submit listing information within one (1) business day of installation, disconnection or other change in service (including change of non-listed or non-published status) affecting the DA database or the directory listing of a CLEC End User. CLEC must submit all listing information intended for publication by the directory close (a/k/a last listing activity) date.

#### 4.2.3 White Page Directories:

4.2.3.1 Subject to state requirements and AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of white page directories, each CLEC subscriber may receive one copy per primary End User listing, as provided by CLEC, of the appropriate AT&T-21STATE white pages directory in the same manner, format and at the same time that they are delivered to AT&T-21STATE's retail End Users.

#### 4.2.4 Use of Subscriber Listing Information:

4.2.4.1 Subject to AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of white page directories, AT&T-21STATE agrees to serve as the single point of contact for all independent and Third Party directory publishers who seek to include CLEC's subscriber (i.e., End User) listing information in an area directory, and to handle the CLEC's subscriber listing information in the same manner as AT&T-21STATE's subscriber listing information. In exchange for AT&T-21STATE serving as the single point of contact and handling all subscriber listing information equally, CLEC authorizes AT&T-21STATE to include and use the CLEC subscriber listing information provided to AT&T-21STATE DA databases, and to provide CLEC subscriber listing information to directory publishers. Included in this authorization is release of CLEC listings to requesting competing carriers as required by Section 271(c)(2)(B)(vii)(II) and Section 251(b)(3) and any applicable state regulations and orders. Also included in this authorization is AT&T-21STATE's use of CLEC's subscriber listing information in AT&T-21STATE's DA, DA related products and services, and directory products and services.

4.2.4.2 AT&T-21STATE further agrees not to charge CLEC for serving as the single point of contact with independent and Third Party directory publishers, no matter what number or type of requests are fielded. In exchange for the handling of CLEC's subscriber list information to directory publishers, CLEC agrees that it will receive no compensation for AT&T-21STATE's receipt of the subscriber list information or for the subsequent release of this information to directory publishers. Such CLEC subscriber list information shall be interfiled (interspersed) with AT&T-21STATE's subscriber list information and the subscriber list information of other companies that have authorized a similar release of their subscriber list information by AT&T-21STATE.



- 4.2.5 Upon identification and notice of non-compliance by AT&T-21STATE, CLEC agrees to pay all direct costs incurred by AT&T-21STATE as a result of CLEC not complying with the terms of this Attachment and in accordance with the Limitations of Liability section in the General Terms and Conditions Attachment of this Agreement.
- 4.2.6 This Attachment shall not establish, be interpreted as establishing, or be used by either Party to establish or to represent their relationship as any form of agency, partnership or joint venture.
- 4.2.7 Breach of Contract:
  - 4.2.7.1 If either Party is found to have materially breached the Listings terms of this Attachment, the non-breaching Party may terminate the Listings terms of this Attachment by providing written Notice to the breaching Party, whereupon this Attachment shall be null and void with respect to any issue of white pages directory published sixty (60) or more calendar days after the date of receipt of such written Notice. CLEC further agrees to pay all costs incurred by AT&T-21STATE and/or its Affiliates and vendor as a result of such CLEC breach.
- 4.2.8 General Conditions for Listings:
  - 4.2.8.1 Notwithstanding the foregoing, AT&T-21STATE reserves the right to suspend, modify or terminate, without penalty, any Listings Service offerings that are provided under this Attachment on ninety (90) days' written notice in the form of an Accessible Letter.
  - 4.2.8.2 CLEC shall be solely responsible for any and all legal or regulatory requirements for the modification or discontinuance of Listings products and/or services to CLEC End Users under this Section.

## **5.0 GENERAL CONDITIONS FOR OPERATOR SERVICES (OS), DIRECTORY ASSISTANCE (DA)**

- 5.1 Notwithstanding the foregoing, AT&T-21STATE reserves the right to suspend, modify or terminate, without penalty, any OS and/or DA feature of Service(s) offerings that are provided under this Attachment on one hundred eighty (180) days' written notice in the form of an Accessible Letter.
- 5.2 Termination:
  - 5.2.1 If the CLEC terminates OS and/or DA service prior to the expiration of the term of this Agreement, CLEC shall pay AT&T-21STATE, within thirty (30) calendar days of the issuance of any bills by AT&T-21STATE, all amounts due for actual services provided under this Attachment, plus estimated monthly charges for the remainder of the term. Estimated charges will be based on an average of the actual monthly amounts billed by AT&T-21STATE pursuant to this Attachment prior to its termination. The rates applicable for determining the amount(s) under the terms outlined in this Section are those specified in the Pricing Sheet.
- 5.3 CLEC shall be solely responsible for any and all legal or regulatory requirements for the modification or discontinuance of OS and/or DA products/services to CLEC End Users under this Attachment.

## **6.0 TERMINATION – ENTIRE ATTACHMENT 06 – OPERATOR ASSISTANCE AND DIRECTORY ASSISTANCE SERVICES**

- 6.1 The Parties reserve the right to suspend or terminate, without penalty, this Attachment in its entirety on one hundred eighty (180) days' written notice. The Attachment will be coterminous with the ICA or will continue until the Party desiring to terminate this Attachment provides one hundred eighty (180) days' written Notice to the other Party of the date the Attachment will terminate ("Termination Date"), whichever date is earlier.

## **ATTACHMENT 07 – OPERATIONS SUPPORT SYSTEMS**

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## **1.0 Introduction**

- 1.1 This Attachment sets forth terms and conditions for nondiscriminatory access to Operations Support Systems (OSS) "functions" to CLEC for pre-ordering, ordering, provisioning, maintenance/repair, and billing provided by AT&T-21STATE. CLEC represents and covenants that it will only use OSS furnished pursuant to this Agreement for activities related to 251(c)(3) UNEs (as provided in Attachment 13 - 251(c)(3) UNEs, resold services, or other services covered by this Interconnection Agreement ICA Service(s)).
- 1.2 Should AT&T-21STATE no longer be obligated to provide a 251(c)(3) UNE or other ICA Service under the terms of this Agreement, AT&T-21STATE shall no longer be obligated to offer access and use of OSS for that ICA Service.

## **2.0 Definitions**

- 2.1 "Service Bureau Provider (SBP)" means a company which has been engaged by a CLEC to act on its behalf for purposes of accessing AT&T-21STATE OSS application-to-application interfaces via a dedicated connection over which multiple CLEC's local service transactions are transported.

## **3.0 General Provisions**

- 3.1 AT&T-21STATE's OSS are comprised of systems and processes that are in some cases region-specific (hereinafter referred to as "Regional OSS"). Regional OSS is available only in the regions where such systems and processes are currently operational.
- 3.2 AT&T-21STATE will provide electronic access to OSS via web-based GUIs and application-to-application interfaces. These GUIs and interfaces will allow CLEC to perform pre-order, order, provisioning, maintenance and repair functions. AT&T-21STATE will follow industry guidelines and the Change Management Process (CMP) in the development of these interfaces.
- 3.3 AT&T-21STATE will provide all relevant documentation (manuals, user guides, specifications, etc.) regarding business rules and other formatting information, as well as practices and procedures, necessary to handle OSS related requests. All relevant documentation will be readily accessible at AT&T's CLEC Online website. Documentation may be amended by AT&T-21STATE in its sole discretion from time to time. All Parties agree to abide by the procedures contained in the then-current documentation.
- 3.4 AT&T-21STATE's OSS are designed to accommodate requests for both current and projected demands of CLEC and other CLECs in the aggregate.
- 3.5 CLEC shall advise AT&T-21STATE no less than seven (7) Business Days in advance of any anticipated ordering volumes above CLEC's normal average daily volumes.
- 3.6 It is the sole responsibility of CLEC to obtain the technical capability to access and utilize AT&T-21STATE's OSS interfaces. All hardware and software requirements for the applicable AT&T-21STATE Regional OSS are specified on AT&T's CLEC Online website.
- 3.7 CLEC must access the AT&T-21STATE OSS interfaces as indicated in the connectivity specifications and methods set forth on AT&T's CLEC Online website.
- 3.8 Prior to initial use of AT&T-21STATE's Regional OSS, CLEC shall attend and participate in implementation meetings to discuss CLEC access plans in detail and schedule testing.
- 3.9 The technical support function of electronic OSS interfaces can be accessed via the AT&T CLEC Online website. CLEC will also provide a single point of contact for technical issues related to CLEC's use of AT&T-21STATE's electronic interfaces.
- 3.10 CLEC agrees that there may be Resale service and 251(c)(3) UNEs available on a regional basis and that such regional offering may only be ordered where they are made available in accordance with Resale or 251(c)(3)UNE Attachments. Moreover, CLEC shall not be permitted to order ICA Services unless CLEC has a right, under this Agreement, to order such service.

- 3.11 AT&T-21STATE shall provide nondiscriminatory access to OSS processes. When OSS processes are not available electronically, AT&T-21STATE shall make manual processes available.
- 3.12 The Parties agree that a collaborative CMP will be used to manage changes to existing interfaces, introduction of new interfaces and retirement of interfaces. The CMP will cover changes to AT&T-21STATE's electronic interfaces, AT&T-21STATE's CLEC testing environment, associated manual process improvements, and relevant documentation. The process will define a procedure for resolution of CMP disputes.
- 3.13 Due to enhancements and on-going development of access to AT&T-21STATE CLEC OSS functions, certain interfaces may be modified, may be temporarily unavailable, or may be phased out after execution of this Agreement. AT&T-21STATE shall provide proper notice of interface phase-out in accordance with CMP.
- 3.14 The Parties agree to provide one another with toll-free contact numbers for the purpose of addressing ordering, provisioning and maintenance of services issues.
- 3.15 Proper Use of OSS Interfaces
- 3.15.1 CLEC shall use AT&T-21STATE electronic interfaces, as described herein, exclusively for the purposes specifically provided herein. In addition, CLEC agrees that such use will comply with AT&T-21STATE's Data Connection Security Requirements as identified in Section 9.0 below of this Attachment. Failure to comply with the requirements of this Attachment, including such security guidelines, may result in forfeiture of electronic access to OSS functionality. In addition, CLEC shall be responsible for and indemnifies AT&T-21STATE against any cost, expense or liability relating to any unauthorized entry or access into, or use or manipulation of AT&T-21STATE's OSS from CLEC systems, workstations or terminals or by CLEC employees, agents, or any Third Party gaining access through information and/or facilities obtained from or utilized by CLEC and shall pay AT&T-21STATE for any and all damages caused by such unauthorized entry.
- 3.15.2 CLEC's access to pre-order functions will only be used to view Customer Proprietary Network Information (CPNI) of another carrier's End User where CLEC has obtained an authorization from the End User for release of CPNI.
- 3.15.2.1 CLEC must maintain records of individual End Users' authorizations for change in local Exchange Service and release of CPNI which adhere to all requirements of state and federal law, as applicable.
- 3.15.2.2 CLEC is solely responsible for determining whether proper authorization has been obtained and holds AT&T-21STATE harmless from any loss on account of CLEC's failure to obtain proper CPNI consent from an End User. The Parties agree not to view, copy, or otherwise obtain access to the customer record information about any other carriers' End Users without proper permission. CLEC will obtain access to End User customer record information only in strict compliance with applicable laws, rules, or regulations of the state in which the service is provided.
- 3.15.3 AT&T-21STATE shall be free to connect an End User to any CLEC based upon that CLEC's request and that CLEC's assurance that proper End User authorization has been obtained. CLEC shall make any such authorization it has obtained available to AT&T-21STATE upon request and at no charge.
- 3.15.4 By using electronic interfaces to access OSS functions, CLEC agrees to perform accurate and correct ordering of ICA Services. CLEC is also responsible for all actions of its employees using any of AT&T-21STATE's OSS. As such, CLEC agrees to accept and pay all reasonable costs or expenses, including labor costs, incurred by AT&T-21STATE caused by any and all inaccurate ordering or usage of the OSS, if such costs are not already recovered through other charges assessed by AT&T-21STATE to CLEC. In addition, CLEC agrees to indemnify and hold AT&T-21STATE harmless against any claim made by an End User of CLEC or Third Parties against AT&T-21STATE caused by or related to CLEC's use of any AT&T-21STATE OSS.

- 3.15.5 In the event AT&T-21STATE has good cause to believe that CLEC has used AT&T-21STATE OSS in a way that conflicts with this Agreement or Applicable Law, AT&T-21STATE shall give CLEC written Notice describing the alleged misuse ("Notice of Misuse"). CLEC shall immediately refrain from the alleged misuse until such time that CLEC responds in writing to the Notice of Misuse, which CLEC shall provide to AT&T-21STATE within twenty (20) calendar days after receipt of the Notice of Misuse. In the event CLEC agrees with the allegation of misuse, CLEC shall refrain from the alleged misuse during the term of this Agreement.
- 3.15.6 In the event CLEC does not respond to the Notice of Misuse or does not agree that the CLEC's use of AT&T-21STATE OSS is inconsistent with this Agreement or Applicable Law, then the Parties agree to the following steps:
- 3.15.6.1 If such misuse involves improper access of pre-order applications or involves a violation of the security guidelines contained herein, or negatively affects another OSS user's ability to use OSS, CLEC shall continue to refrain from using the particular OSS functionality in the manner alleged by AT&T-21STATE to be improper, until CLEC has implemented a mutually agreeable remedy to the alleged misuse.
- 3.15.6.2 To remedy the misuse for the balance of the Agreement, the Parties will work together as necessary to mutually determine a permanent resolution for the balance of the term of the Agreement.
- 3.16 In order to determine whether CLEC has engaged in the alleged misuse described in the Notice of Misuse, AT&T-21STATE shall have the right to conduct an audit of CLEC's use of the AT&T-21STATE OSS. Such audit shall be limited to auditing those aspects of CLEC's use of the AT&T-21STATE OSS that relate to the allegation of misuse as set forth in the Notice of Misuse. AT&T-21STATE shall give ten (10) calendar days advance written Notice of its intent to audit CLEC ("Audit Notice") under this Section, and shall identify the type of information needed for the audit. Such Audit Notice may not precede the Notice of Misuse. Within a reasonable time following the Audit Notice, but no less than fourteen (14) calendar days after the date of the Audit Notice (unless otherwise agreed by the Parties), CLEC shall provide AT&T-21STATE with access to the requested information in any reasonably requested format, at an appropriate CLEC location, unless otherwise agreed to by the Parties. The audit shall be at AT&T-21STATE's expense. All information obtained through such an audit shall be deemed proprietary and/or confidential and subject to confidential treatment without necessity for marking such information confidential. AT&T-21STATE agrees that it shall only use employees or outside parties to conduct the audit who do not have marketing, strategic analysis, competitive assessment or similar responsibilities within AT&T-21STATE. If CLEC fails to cooperate in the audit, AT&T-21STATE reserves the right to terminate CLEC's access to electronic processes.

#### **4.0 Pre-Ordering**

- 4.1 AT&T-21STATE Regional OSS are available in order that CLEC can perform the pre-ordering functions for ICA Services, including but not limited to:
- 4.1.1 Service address validation
- 4.1.2 Telephone number selection
- 4.1.3 Service and feature availability
- 4.1.4 Due date information
- 4.1.5 Customer service information
- 4.1.6 Loop makeup information
- 4.2 Complete Regional OSS pre-order functions may be found on AT&T's CLEC Online website.
- 4.3 CLEC shall provide AT&T-21STATE with access to End User record information, including circuit numbers associated with each telephone number where applicable. CLEC shall provide such information within four (4) hours after requested via electronic access where available. If electronic access is not available, CLEC shall provide to AT&T-21STATE paper copies of End User record information, including circuit numbers associated with each

telephone number where applicable. CLEC shall provide such End User service records within twenty-four (24) hours of a valid request, exclusive of Saturdays, Sundays and holidays.

- 4.4 Data validation files provided are described on the AT&T CLEC Online website. These files provide an alternate method of acquiring pre-ordering information that is considered relatively static and are available via the pre-order GUI, AT&T's CLEC Online website, or other distribution methods.

## **5.0 Ordering**

- 5.1 AT&T-21STATE will provide ordering functionality. To order any ICA Services CLEC will format a Local Service Request (LSR) to identify the features, services or elements CLEC is requesting AT&T-21STATE to provision in accordance with applicable AT&T-21STATE ordering requirements and other terms and conditions of this Agreement. Ordering requirements are located on AT&T's CLEC Online website.
- 5.2 In ordering and provisioning, Unbundled Dedicated Transport (UDT) and local Interconnection trunks, CLEC and AT&T-21STATE will use industry Access Service Request (ASR) guidelines, based upon AT&T-21STATE ordering requirements. AT&T-21STATE's ASR guidelines are located on AT&T's CLEC Online website.
- 5.3 AT&T-21STATE product/service intervals are located on AT&T's CLEC Online website.
- 5.4 AT&T-21STATE shall return a Firm Order Confirmation (FOC) in accordance with the applicable performance intervals. CLEC shall provide to AT&T-21STATE an FOC per the guidelines located on AT&T's CLEC Online website.
- 5.5 When an AT&T-21STATE provided ICA Service is replaced by CLEC's facility-based service using any AT&T-21STATE provided ICA Services, CLEC shall issue appropriate service requests, to both disconnect the existing service and order ICA Services. These requests will be processed by AT&T-21STATE, and CLEC will be charged the applicable service order charge(s), in addition to the recurring and nonrecurring charges for each individual ICA Service and cross-connect ordered. Similarly, when an End User is served by one CLEC using AT&T-21STATE provided ICA Services is converted to another CLEC's service using any AT&T-21STATE provided ICA Services, the requesting CLEC shall issue appropriate service requests to both disconnect the existing service and connect new service to the requesting CLEC End User. These requests will be processed by AT&T-21STATE and the CLEC will be charged the applicable service order charge(s), in addition to the recurring and nonrecurring charges for each individual ICA Service and cross-connect ordered.
- 5.6 AT&T-21STATE shall bill to CLEC an LSR charge and/or appropriate service order charges based on the manner in which the order is submitted (e.g. manually, semi-mechanized, mechanized) at the rate set forth in the applicable Pricing Schedule, and/or applicable tariffs, price list or service guides to this Agreement for each LSR submitted. An individual LSR will be identified for billing purposes by its Purchase Order Number (PON).
- 5.7 The Commissions, in some states, have ordered per element manual additive nonrecurring charges for ICA Services ordered by means other than one of the interactive interfaces ("Additional Charges"). Additional Charges shall charges will apply in these states as set forth in the applicable Pricing Schedule, and/or applicable tariffs, price list or service guides.

## **6.0 Provisioning**

- 6.1 AT&T-21STATE will provide to CLEC nondiscriminatory provisioning of ICA Services. Access to order status and provisioning order status is available via the regional pre-ordering and ordering GUIs, AT&T's CLEC Online website, and application-to-application interfaces.
- 6.2 AT&T-21STATE shall provision services during its regular working hours. To the extent CLEC requests provisioning of service to be performed outside AT&T-21STATE's regular working hours, or the work so requested requires AT&T-21STATE's technicians or project managers to work outside of regular working hours, AT&T-21STATE will assess overtime charges set forth in the Pricing Schedule/AT&T-21STATE's intrastate Access Services Tariff.
- 6.3 In the event AT&T-21STATE must dispatch to the End User's location more than once for provisioning of ICA Services due to incorrect or incomplete information provided by CLEC (e.g., incomplete address, incorrect contact

name/number, etc.), AT&T-21STATE will bill CLEC for each additional dispatch required to provision the circuit due to the incorrect/incomplete information provided. AT&T-21STATE will assess the Maintenance of Service Charge/Trouble Determination Charge/Trouble Location Charge/Time and Material Charges/Additional Labor Charges from the applicable Pricing Schedule, and/or applicable tariffs, price list or service guides.

#### 6.4 Cancellation Charges:

6.4.1 If CLEC cancels an order for ICA Services subsequent to AT&T-21STATE's generation of a service order, any costs incurred by AT&T-21STATE in conjunction with provisioning of services as requested on the cancelled LSR will be recovered in accordance with the cancellation methodology set forth in the Cancellation Charge Percentage Chart found on AT&T's CLEC Online website. In addition, AT&T-21STATE reserves the right to assess cancellation charges if CLEC fails to respond within nine (9) Business Days to a Missed Appointment order notification.

6.4.1.1 Notwithstanding the foregoing, if CLEC places an LSR based upon AT&T-21STATE's loop makeup information, and such information is inaccurate resulting in the inability of AT&T-21STATE to provision the ICA Services requested and another spare compatible facility cannot be found with the transmission characteristics of the ICA Services originally requested, cancellation charges shall not apply. Where CLEC places a single LSR for multiple ICA Services based upon loop makeup information, and information as to some, but not all, of the ICA Services is inaccurate, if AT&T-21STATE cannot provision the ICA Services that were the subject of the inaccurate loop makeup information, CLEC may cancel its request for those ICA Services without incurring cancellation charges. In such instance, should CLEC elect to cancel the entire LSR, cancellation charges as shall apply to those ICA Services that were not the subject of inaccurate loop makeup.

#### 6.5 Expedite Charges:

6.5.1 For Expedite requests by CLEC, charges from the Pricing Schedule will apply for intervals less than the standard interval as outlined on the AT&T CLEC Online website.

#### 6.6 Order Modification Charges:

6.6.1 If CLEC modifies an order after being sent a FOC from AT&T-21STATE, the Order Modification Charge (OMC) or Order Modification Charge Additional Dispatch (OMCAD) will be accessed from the Pricing Schedule as applicable.

### 7.0 **Maintenance/Repair**

7.1 AT&T-21STATE will provide CLEC with access to electronic interfaces for the purpose of reporting and monitoring trouble.

7.2 The methods and procedures for trouble reporting outlined on the AT&T CLEC Online website shall be used.

7.3 AT&T-21STATE will maintain, repair and/or replace ICA Services in accordance with the FCC requirements and applicable tariffs.

7.4 CLEC shall make available at mutually agreeable times the 251(c)(3) UNEs provided pursuant to this Agreement in order to permit AT&T-21STATE to test and make adjustments appropriate for maintaining the 251(c)(3) UNEs in satisfactory operating condition. No credit will be allowed for any interruptions involved during such testing and adjustments.

7.5 Neither CLEC or its End Users shall rearrange, move, disconnect, remove or attempt to repair any facilities owned by AT&T-21STATE except with the prior written consent of AT&T-21STATE.

7.6 CLEC will be responsible for testing and isolating troubles on ICA Services. CLEC must test and isolate trouble to the AT&T-21STATE network before reporting the trouble to the Maintenance Center. Upon request from AT&T-21STATE at the time of the trouble report, CLEC will be required to provide the results of the CLEC test isolating the trouble to the AT&T-21STATE network.



- 7.7 For all ICA Services repair requests, CLEC shall adhere to AT&T-21STATE's prescreening guidelines prior to referring the trouble to AT&T-21STATE.
- 7.8 CLEC will contact the appropriate AT&T-21STATE repair centers in accordance with procedures established by AT&T-21STATE.
- 7.9 AT&T-21STATE reserves the right to contact CLEC's End Users, if deemed necessary, for provisioning or maintenance purposes.
- 7.10 Repair requests are billed in accordance with the provisions of this Agreement. If CLEC reports a trouble on a AT&T-21STATE ICA Service and no trouble is found in AT&T-21STATE's network, AT&T-21STATE will charge CLEC a Maintenance of Service Charge/Trouble Determination Charge/Trouble Location Charge/Time and Material Charges/Additional Labor Charges for any dispatching and testing (both inside and outside the Central Office) required by AT&T-21STATE in order to confirm the working status. AT&T-21STATE will assess these charges at the rates set forth in the Pricing Schedule and/or applicable tariffs.
- 7.11 In the event AT&T-21STATE must dispatch to an End User's location more than once for repair or maintenance of ICA Services due to incorrect or incomplete information provided by CLEC (e.g., incomplete address, incorrect contact name/number, etc.), AT&T-21STATE will bill CLEC for each additional dispatch required to repair the circuit due to the incorrect/incomplete information provided. AT&T-21STATE will assess the Maintenance of Service Charge/Trouble Determination Charge/Trouble Location Charge/Time and Material Charges/Additional Labor Charges at the rates set forth in the Pricing Schedule.
- 7.12 CLEC shall pay Time and Material charges when AT&T-21STATE dispatches personnel and the trouble is in equipment or communications systems provided an entity by other than AT&T-21STATE or in detariffed CPE provided by AT&T-21STATE, unless covered under a separate maintenance agreement.
- 7.13 CLEC shall pay Maintenance of Service charges when the trouble clearance did not otherwise require dispatch, but dispatch was requested for repair verification or cooperative testing, and the circuit did not exceed maintenance limits.
- 7.14 If CLEC issues a trouble report allowing AT&T-21STATE access to End User's premises and AT&T-21STATE personnel are dispatched but denied access to the premises, then Time and Material charges will apply for the period of time that AT&T-21STATE personnel are dispatched. Subsequently, if AT&T-21STATE personnel are allowed access to the premises, these charges will still apply.
- 7.15 Time and Material charges apply on a first and additional basis for each half-hour or fraction thereof. If more than one technician is dispatched in conjunction with the same trouble report, the total time for all technicians dispatched will be aggregated prior to the distribution of time between the "First Half Hour or Fraction Thereof" and "Each Additional Half Hour or Fraction Thereof" rate categories. Basic Time is work-related efforts of AT&T-21STATE performed during normally scheduled working hours on a normally scheduled workday. Overtime is work-related efforts of AT&T-21STATE performed on a normally scheduled workday, but outside of normally scheduled working hours. Premium Time is work related efforts of AT&T-21STATE performed other than on a normally scheduled workday.
- 7.15.1 If CLEC requests or approves an AT&T-21STATE technician to perform services in excess of or not otherwise contemplated by the nonrecurring charges herein, CLEC will pay Time and Material charges for any additional work to perform such services, including requests for installation or other work outside of normally scheduled working hours.

## **8.0 Billing**

- 8.1 AT&T-21STATE will provide to CLEC nondiscriminatory access to associated billing information as necessary to allow CLEC to perform billing functions.
- 8.1.1 The charges for bill data are dependent upon the manner in which such bill data is delivered to CLEC.

- 8.1.1.1 CLEC agrees to pay the applicable rates set forth in the Pricing Schedule, Tariff, or Guidebook, as applicable
- 8.1.1.2 When a CLEC elects to receive its monthly billing statements in more than one bill media format paper media shall be the primary media source and any other media formats shall be secondary media subject to the rates, terms and conditions contained in the Pricing Schedule, Tariff, or Guidebook, as applicable.

## **9.0 Data Connection Security Requirements**

- 9.1 CLEC agrees to comply with AT&T-21STATE data connection security procedures, including but not limited to procedures on joint security requirements, information security, user identification and authentication, network monitoring, and software integrity. These procedures are set forth on the AT&T-CLEC Online website.
- 9.2 CLEC agrees that interconnection of CLEC data facilities with AT&T-21STATE data facilities for access to OSS will be in compliance with AT&T-21STATE's "Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures" document current at the time of initial connection to AT&T-21STATE and available on the AT&T CLEC Online website.
- 9.3 Joint Security Requirements:
  - 9.3.1 Both Parties will maintain accurate and auditable records that monitor user authentication and machine integrity and confidentiality (e.g., password assignment and aging, chronological logs configured, system accounting data, etc.).
  - 9.3.2 Both Parties shall maintain accurate and complete records detailing the individual data connections and systems to which they have granted the other Party access or interface privileges. These records will include, but are not limited to, user ID assignment, user request records, system configuration, time limits of user access or system interfaces. These records should be kept until the termination of this Agreement or the termination of the requested access by the identified individual. Either Party may initiate a compliance review of the connection records to verify that only the agreed to connections are in place and that the connection records are accurate.
  - 9.3.3 CLEC shall immediately notify AT&T-21STATE when an employee user ID is no longer valid (e.g. employee termination or movement to another department).
  - 9.3.4 The Parties shall use an industry standard virus detection software program at all times. The Parties shall immediately advise each other by telephone upon actual knowledge that a virus or other malicious code has been transmitted to the other Party.
  - 9.3.5 All physical access to equipment and services required to transmit data will be in secured locations. Verification of authorization will be required for access to all such secured locations. A secured location is where walls and doors are constructed and arranged to serve as barriers and to provide uniform protection for all equipment used in the data connections which are made as a result of the user's access to either the CLEC's or AT&T-21STATE's network. At a minimum, this shall include access doors equipped with card reader control or an equivalent authentication procedure and/or device, and egress doors which generate a real-time alarm when opened and which are equipped with tamper resistant and panic hardware as required to meet building and safety standards.
  - 9.3.6 The Parties shall maintain accurate and complete records on the card access system or lock and key administration to the rooms housing the equipment utilized to make the connection(s) to the other Party's network. These records will include management of card or key issue, activation or distribution and deactivation.
- 9.4 Additional Responsibilities of the Parties:
  - 9.4.1 Modem/DSU Maintenance And Use Policy:

9.4.1.1 To the extent the access provided hereunder involves the support and maintenance of CLEC equipment on AT&T-21STATE's premises, such maintenance will be provided under the terms of the "Competitive Local Exchange Carrier (CLEC) Operations Support System Interconnection Procedures" document cited in Section 9.2 above.

9.4.2 Monitoring:

9.4.2.1 Each Party will monitor its own network relating to any user's access to the Party's networks, processing systems, and applications. This information may be collected, retained, and analyzed to identify potential security risks without notice. This information may include, but is not limited to, trace files, statistics, network addresses, and the actual data or screens accessed or transferred.

9.4.3 Each Party shall notify the other Party's security organization immediately upon initial discovery of actual or suspected unauthorized access to, misuse of, or other "at risk" conditions regarding the identified data facilities or information. Each Party shall provide a specified point of contact. If either Party suspects unauthorized or inappropriate access, the Parties shall work together to isolate and resolve the problem.

9.4.4 In the event that one (1) Party identifies inconsistencies or lapses in the other Party's adherence to the security provisions described herein, or a discrepancy is found, documented, and delivered to the non-complying Party, a corrective action plan to address the identified vulnerabilities must be provided by the non-complying Party within thirty (30) calendar days of the date of the identified inconsistency. The corrective action plan must identify what will be done, the Party accountable/responsible, and the proposed compliance date. The non-complying Party must provide periodic status reports (minimally monthly) to the other Party's security organization on the implementation of the corrective action plan in order to track the work to completion.

9.4.5 In the event there are technological constraints or situations where either Party's corporate security requirements cannot be met, the Parties will institute mutually agreed upon alternative security controls and safeguards to mitigate risks.

9.4.6 All network-related problems will be managed to resolution by the respective organizations, CLEC or AT&T-21STATE, as appropriate to the ownership of a failed component. As necessary, CLEC and AT&T-21STATE will work together to resolve problems where the responsibility of either Party is not easily identified.

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

9.5.1 Information security policies and guidelines are designed to protect the integrity, confidentiality and availability of computer, networks and information resources. Section 9.6 below through Section 9.12 below inclusive summarizes the general policies and principles for individuals who are not employees of the Party that provides the computer, network or information, but have authorized access to that Party's systems, networks or information. Questions should be referred to CLEC or AT&T-21STATE, respectively, as the providers of the computer, network or information in question.

9.5.2 It is each Party's responsibility to notify its employees, contractors and vendors who will have access to the other Party's network, on the proper security responsibilities identified within this Attachment. Adherence to these policies is a requirement for continued access to the other Party's systems, networks or information. Exceptions to the policies must be requested in writing and approved by the other Party's information security organization.

9.6 General Policies:

9.6.1 Each Party's resources are for approved this Agreement's business purposes only.

9.6.2 Each Party may exercise at any time its right to inspect, record, and/or remove all information contained in its systems, and take appropriate action should unauthorized or improper usage be discovered.

- 9.6.3 Individuals will only be given access to resources that they are authorized to receive and which they need to perform their job duties. Users must not attempt to access resources for which they are not authorized.
- 9.6.4 Authorized users shall not develop, copy or use any program or code which circumvents or bypasses system security or privilege mechanism or distorts accountability or audit mechanisms.
- 9.6.5 Actual or suspected unauthorized access events must be reported immediately to each Party's security organization or to an alternate contact identified by that Party. Each Party shall provide its respective security contact information to the other.
- 9.7 User Identification:
  - 9.7.1 Access to each Party's corporate resources will be based on identifying and authenticating individual users in order to maintain clear and personal accountability for each user's actions.
  - 9.7.2 User identification shall be accomplished by the assignment of a unique, permanent user ID, and each user ID shall have an associated identification number for security purposes.
  - 9.7.3 User IDs will be revalidated on a monthly basis.
- 9.8 User Authentication:
  - 9.8.1 Users will usually be authenticated by use of a password. Strong authentication methods (e.g. one-time passwords, digital signatures, etc.) may be required in the future.
  - 9.8.2 Passwords must not be stored in script files.
  - 9.8.3 Passwords must be entered by the user.
  - 9.8.4 Passwords must be at least six (6) to eight (8) characters in length, not blank or a repeat of the user ID; contain at least one (1) letter, and at least one (1) number or special character must be in a position other than the first or last position. This format will ensure that the password is hard to guess. Most systems are capable of being configured to automatically enforce these requirements. Where a system does not mechanically require this format, the users must manually follow the format.
  - 9.8.5 Systems will require users to change their passwords regularly (usually every thirty-one (31) days).
  - 9.8.6 Systems are to be configured to prevent users from reusing the same password for six (6) changes/months.
  - 9.8.7 Personal passwords must not be shared. Any user who has shared his password is responsible for any use made of the password.
- 9.9 Access and Session Control:
  - 9.9.1 Destination restrictions will be enforced at remote access facilities used for access to OSS Interfaces. These connections must be approved by each Party's corporate security organization.
  - 9.9.2 Terminals or other input devices must not be left unattended while they may be used for system access. Upon completion of each work session, terminals or workstations must be properly logged off.
- 9.10 User Authorization:
  - 9.10.1 On the destination system, users are granted access to specific resources (e.g. databases, files, transactions, etc.). These permissions will usually be defined for an individual user (or user group) when a user ID is approved for access to the system.
- 9.11 Software and Data Integrity:
  - 9.11.1 Each Party shall use a comparable degree of care to protect the other Party's software and data from unauthorized access, additions, changes and deletions as it uses to protect its own similar software and data. This may be accomplished by physical security at the work location and by access control software on the workstation.

- 9.11.2 All software or data shall be scanned for viruses before use on a Party's corporate facilities that can be accessed through the direct connection or dial up access to OSS interfaces.
  - 9.11.3 Unauthorized use of copyrighted software is prohibited on each Party's corporate systems that can be accessed through the direct connection or dial up access to OSS Interfaces.
  - 9.11.4 Proprietary software or information (whether electronic or paper) of a Party shall not be given by the other Party to unauthorized individuals. When it is no longer needed, each Party's proprietary software or information shall be returned by the other Party or disposed of securely. Paper copies shall be shredded. Electronic copies shall be overwritten or degaussed.
- 9.12 Monitoring and Audit:
- 9.12.1 To deter unauthorized access events, a warning or no trespassing message will be displayed at the point of initial entry (i.e., network entry or applications with direct entry points). Each Party should have several approved versions of this message. Users should expect to see a warning message similar to this one:

"This is a(n) (AT&T or CLEC) system restricted to Company official business and subject to being monitored at any time. Anyone using this system expressly consents to such monitoring and to any evidence of unauthorized access, use, or modification being used for criminal prosecution."
  - 9.12.2 After successful authentication, each session will display the last logon date/time and the number of unsuccessful logon attempts. The user is responsible for reporting discrepancies.

## **10.0 Miscellaneous**

- 10.1 To the extent AT&T-21STATE seeks to recover costs associated with OSS system access and connectivity, AT&T-21STATE shall not be foreclosed from seeking recovery of such costs via negotiation, arbitration, or generic proceeding during the term of this Agreement.
- 10.2 Unless otherwise specified herein, charges for the use of AT&T-21STATE's OSS, and other charges applicable to pre-ordering, ordering, provisioning and maintenance and repair, shall be at the applicable rates set forth in the Pricing Schedule.
- 10.3 Single Point of Contact:
  - 10.3.1 CLEC will be the single point of contact with AT&T-21STATE for ordering activity for ICA Services used by CLEC to provide services to its End Users, except that AT&T-21STATE may accept a request directly from another CLEC, or AT&T-21STATE, acting with authorization of the affected End User. Pursuant to a request from another carrier, AT&T-21STATE may disconnect any ICA Service being used by CLEC to provide service to that End User and may reuse such network elements or facilities to enable such other carrier to provide service to the End User. AT&T-21STATE will notify CLEC that such a request has been processed but will not be required to notify CLEC in advance of such processing.
- 10.4 Use of Facilities:
  - 10.4.1 When an End User of CLEC elects to discontinue service and to transfer service to another LEC, including AT&T-21STATE, AT&T-21STATE shall have the right to reuse the facilities provided to CLEC, regardless of whether those facilities are provided as ICA Services, and regardless of whether the End User served with such facilities has paid all charges to CLEC or has been denied service for nonpayment or otherwise. AT&T-21STATE will notify CLEC that such a request has been processed after the disconnect order has been completed.
- 10.5 AT&T-21STATE will provide loss notifications to CLEC. This notification alerts CLEC that a change requested by another Telecommunications provider has/or may result in a change in the Local Service Provider associated with a given telephone number. It will be provided via the ordering GUI and application-to-application interfaces and AT&T's CLEC Online website, as applicable.

## **11.0 Service Bureau Provider Arrangements for Shared Access to OSS**

- 11.1 Notwithstanding any language in this Agreement regarding access to OSS to the contrary, CLEC shall be permitted to access AT&T-21STATE OSS via a Service Bureau Provider as follows:
- 11.1.1 CLEC shall be permitted to access AT&T-21STATE application-to-application OSS interfaces, via a Service Bureau Provider where CLEC has entered into an agency relationship with such Service Bureau Provider, and the Service Bureau Provider has executed an Agreement with AT&T-21STATE to allow Service Bureau Provider to establish access to and use of AT&T-21STATE's OSS.
  - 11.1.2 CLEC's use of a Service Bureau Provider shall not relieve CLEC of the obligation to abide by all terms and conditions of this Agreement. CLEC must ensure that its agent properly performs all OSS obligations of CLEC under this Agreement, which CLEC delegates to Service Bureau Provider.
  - 11.1.3 It shall be the obligation of CLEC to provide Notice in accordance with the Notice provisions of the General Terms and Conditions of this Agreement whenever it establishes an agency relationship with a Service Bureau Provider or terminates such a relationship. AT&T-21STATE shall have a reasonable transition time to establish a connection to a Service Bureau Provider once CLEC provides Notice. Additionally, AT&T-21STATE shall have a reasonable transition period to terminate any such connection after Notice from CLEC that it has terminated its agency relationship with a Service Bureau Provider.
- 11.2 AT&T-21STATE shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measurement to the extent that such noncompliance was the result of actions or events beyond AT&T-21STATE's control associated with Third Party systems or equipment including systems, equipment and services provided by a Service Bureau Provider (acting as CLEC's agent for connection to AT&T-21STATE's OSS) which could not be avoided by AT&T-21STATE through the exercise of reasonable diligence or delays or other problems resulting from actions of a Service Bureau Provider, including Service Bureau provided processes, services, systems or connectivity.

## **ATTACHMENT 08 – BONA FIDE REQUEST**

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## **1.0 Introduction**

- 1.1 The Parties agree that CLEC is entitled to order any Section 251 or 251(c)(3) element required to be made available by FCC requirements pursuant to the Act. A Bona Fide Request (BFR) is to be used when CLEC makes a request of AT&T-21STATE to provide a new or modified Section 251 or 251(c)(3) element that is not currently offered by AT&T-21STATE but is required to be made available via the Act.

## **2.0 Definitions**

- 2.1 "BFR" means a Bona Fide Request pursuant to the Act.
- 2.2 "Complex Request Evaluation Fee" means an Individual Case Basis (ICB) fee to compensate AT&T-21STATE for the extraordinary expenses directly related to the CLEC's BFR which is a complex request that requires the allocation and engagement of additional resources above the existing allocated resources used on BFR cost development which include, but are not limited to, expenditure of funds to develop feasibility studies, specific resources that are required to determine request requirements (such as operation support system analysts, technical managers, software developers), software impact analysis by specific software developers; software architecture development, hardware impact analysis by specific system analysts, etc.
- 2.3 "Development Rate" means the estimated cost for AT&T-21STATE to develop the new or modified 251(c)(3) element and other network elements.

## **3.0 Responsibilities of the Parties**

- 3.1 A BFR shall be submitted by CLEC on the BFR Application Form, located on the AT&T CLEC Online website to their designated AT&T-21STATE Senior Carrier Accounts Manager (SrCAM) and shall specifically identify the requested service date, technical requirements, and/or such other specifications that clearly define the request such that AT&T-21STATE has sufficient information to analyze and prepare a response. Such a request shall also include CLEC's designation of the BFR being pursuant to the Act.
- 3.1.1 CLEC shall include with its BFR Application Form a "BFR Deposit" to cover preliminary evaluation costs. See Pricing Schedule for the BFR Deposit amount.
- 3.1.2 If the BFR Deposit amount identified in the Pricing Schedule is not made at the time of the BFR Application, CLEC shall be responsible for all preliminary evaluation costs incurred by AT&T-21STATE to complete the preliminary analysis (regardless of whether such costs are greater or lesser than the BFR Deposit amount in the Pricing Schedule).
- 3.1.3 If CLEC submits a BFR Deposit with its BFR, and AT&T-21STATE is not able to process the request or determines that the request does not qualify for BFR treatment, then AT&T-21STATE will credit the BFR Deposit amount to the CLEC's account. Similarly, if the costs incurred to complete the Preliminary Analysis are less than the BFR Deposit, the balance of the deposit will, at the option of CLEC, either be credited toward the CLEC's account or credited toward any additional developmental costs authorized by CLEC.
- 3.2 Within two (2) Business Days of AT&T-21STATE's receipt of a fully complete and valid BFR, AT&T-21STATE shall acknowledge, in writing, its receipt and identify a single point of contact responsible for responding to the BFR and shall request any additional information needed to process the BFR to the extent known at that time. Notwithstanding the foregoing, AT&T-21STATE may reasonably request additional information from CLEC at any time during the processing of the BFR.
- 3.3 For any new or modified Section 251 or 251(c)(3) element required to be unbundled by Act, if AT&T-21STATE determines that the preliminary analysis of the requested BFR is of such complexity that it will cause AT&T-21STATE to expend extraordinary resources to evaluate the BFR, AT&T-21STATE shall notify CLEC within ten (10) Business Days of AT&T-21STATE's receipt of the BFR that a Complex Request Evaluation Fee will be required prior to the preliminary analysis of the BFR being performed by AT&T-21STATE. If CLEC accepts the Complex Request Evaluation Fee proposed by AT&T-21STATE, CLEC shall submit such fee within thirty (30) Business Days of AT&T-21STATE's notice that a Complex Request Evaluation Fee is required. AT&T-21STATE will not be obligated to further process the BFR until such Complex Request Evaluation Fee is received by AT&T-21STATE. Within thirty

(30) Business Days of AT&T-21STATE's receipt of the Complex Request Evaluation Fee, AT&T-21STATE shall respond to CLEC by providing a preliminary analysis.

- 3.4 If AT&T-21STATE is not required to expend extraordinary resources to evaluate the BFR as described in Section 3.3 above, then within thirty (30) Business Days of AT&T-21STATE's receipt of CLEC's fully complete and valid BFR, AT&T-21STATE shall respond to CLEC by providing a preliminary analysis of the new or modified Section 251 or 251(c)(3) element. The preliminary analysis shall confirm either that AT&T-21STATE will or will not offer the new or modified Section 251 or 251(c)(3) element.
- 3.5 CLEC may cancel a BFR at any time up until thirty (30) Business Days after receiving AT&T-21STATE's preliminary analysis. If CLEC cancels the BFR within thirty (30) Business Days after receipt of AT&T-21STATE's preliminary analysis, AT&T-21STATE shall be entitled to retain the BFR Deposit or any Complex Request Evaluation Fee, minus those costs that have not been incurred by AT&T-21STATE as of the date of cancellation.
- 3.6 CLEC will have thirty (30) Business Days from receipt of the preliminary analysis to accept the preliminary analysis. CLEC must provide acceptance of the preliminary analysis in writing and provide the payment of the estimated Development Rate for the new or modified network element quoted in the preliminary analysis. If CLEC fails to respond within this thirty (30) Business Day period, the BFR will be deemed cancelled.
- 3.7 As soon as feasible, but not more than ninety (90) calendar days after AT&T-21STATE's receipt of CLEC's written acceptance of the preliminary analysis and payment of the estimated Development Rate, AT&T-21STATE shall provide to CLEC a firm price quote. The firm price quote will include any additional Development Rates, the nonrecurring rate and the recurring rate, and a detailed implementation plan. The firm nonrecurring rate will not include any of the Development Rate or the Complex Request Evaluation Fee, if required, in the calculation of this rate.
- 3.8 CLEC shall have thirty (30) Business Days from receipt of the firm price quote to accept or deny the firm price quote in writing and submit any additional Development Rates or nonrecurring rates quoted in the firm price quote. If AT&T-21STATE does not receive Notice of any of the foregoing within such thirty (30) Business Day period, the BFR shall be deemed canceled. CLEC shall be responsible to reimburse AT&T-21STATE for its costs incurred up to the date of cancellation (whether affirmatively canceled or deemed canceled by AT&T-21STATE).
- 3.9 Unless CLEC agrees otherwise, all prices shall be consistent with the applicable pricing principles and provisions of the Act.
- 3.10 If CLEC believes that AT&T-21STATE's firm price quote is not consistent with the requirements of the Act, either Party may seek dispute resolution in accordance with the Dispute Resolution provisions set forth in the General Terms and Conditions of this Agreement.
- 3.11 Upon agreement to the rates, terms and conditions of the BFR, an amendment to this Agreement may be required and the Parties shall negotiate such amendment in good faith.

# **ATTACHMENT 09 – PERFORMANCE MEASUREMENTS**

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## 1.0 General Provisions

- 1.1 The Performance Measurements Plans referenced herein, notwithstanding any provisions in any other attachment in this Agreement, are not intended to create, modify or otherwise affect Parties' rights and obligations. The existence of any particular performance measure, or the language describing that measure, is not evidence that CLEC is entitled to any particular manner of access, nor is it evidence that AT&T-21STATE is limited to providing any particular manner of access. The Parties' rights and obligations to such access are defined elsewhere, including the relevant laws, FCC and Commission decisions/regulations and within this Agreement.
- 1.2 AT&T-21STATE's implementation of the Performance Measurements Plans addressed by this Attachment (Performance Measurement Plan(s), the Plan(s)) 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. The Parties agree that CLEC may not use the existence of such Plans as evidence that AT&T-21STATE 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. AT&T-21STATE's conduct underlying its performance, and the performance data provided under the Performance Measurements Plans, however, are not made inadmissible by these terms. AT&T-21STATE's performance as measured by these plans may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation.
- 1.3 Nothing herein shall be interpreted to be a waiver of AT&T-21STATE's right to argue and contend in any forum, in the future, that Sections 251 and 252 of the Telecommunications Act of 1996 do not impose any duty or legal obligation to negotiate and/or mediate or arbitrate a self-executing liquidated damages or remedy plan.

## 2.0 Region-Specific Provisions

- 2.1 AT&T MIDWEST REGION 5-STATE Requirements:
  - 2.1.1 Except as otherwise provided herein, the Performance Measurements in the Performance Measurements Plans most recently adopted or ordered, in a generic/non-CLEC specific proceeding, by the Commission that approved this Agreement under Section 252(e) of the Act are incorporated herein. Modifications and/or deletions to Performance Measurements in that proceeding or any successor proceeding shall be automatically incorporated into this Agreement by reference in the month indicated by the Commission's order. The list of proceedings, by state, in which a Performance Measurements Plan has been adopted or ordered, is included in Section 2.1.3 below. For the purpose of this Agreement in Michigan, these measurements will be effective with the first full month of performance after Commission approval of the measurements.
  - 2.1.2 The Performance Measurements Plans may include a remedy plan providing liquidated damages payments where such a plan was also approved by the Commission in a generic/non-CLEC specific proceeding. Any subsequent Commission-ordered additions, modifications and/or deletions to the remedies provisions of the Performance Measurements Plans, in that proceeding or any successor proceeding, to which no participating party has objected, shall be automatically incorporated into this Agreement by reference in the month indicated by the Commission's order. The list of proceedings, by state, in which a Performance Measurements (Remedy) Plan has been adopted or ordered, is included in Section 2.1.3 below. For the purpose of this Agreement, in Michigan, the Remedy Plan will be effective with the first full month of performance after Commission approval of the Remedy Plan.
  - 2.1.3 Proceedings, by state, in which a Performance Measurements Plan has been adopted or ordered by the respective Commission under the specific authority identified herein, or under any successor authority or docket, shall be the effective plan under this Agreement. Currently, such dockets are as follows:
    - 2.1.3.1 Illinois – 83 IL. Administrative Code Part 731
    - 2.1.3.2 Indiana – Cause No. 41657
    - 2.1.3.3 Michigan – Case No. U-11830
    - 2.1.3.4 Ohio – Case No. 00-942-TP-COI

- 2.1.3.5 Wisconsin – Docket No. 6720-TI-198 (Performance Measurements only)
  - 2.1.3.6 Wisconsin – AT&T Midwest Remedy Plan as approved by the Commission in CLEC-specific ICA.
- 2.2 Provisions of this Performance Measurements Attachment will terminate in accordance with Section 6.5 of the AT&T MIDWEST REGION 5-STATE Remedy Plan.
- 2.3 AT&T SOUTHEAST REGION 9-STATE Requirements:
  - 2.3.1 Except as otherwise provided herein, the Performance Measurements Plans most recently adopted or ordered by the respective Commission that approved this Agreement under Section 252(e) of the Act are incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plans (and supporting documents) in that proceeding or any successor proceeding shall be automatically incorporated into this Agreement by reference effective with the date of implementation by AT&T SOUTHEAST REGION 9-STATE pursuant to Commission order.
- 2.4 AT&T SOUTHWEST REGION 5-STATE Requirements:
  - 2.4.1 The Performance Measurements Plans most recently approved, adopted or ordered by the respective Commission in the state 271 successor Agreement (X2A) proceedings are incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plans (and supporting documents), to which the Parties have agreed, shall be automatically incorporated into this Agreement by reference in the first full month following the effective date of the Commission order.
- 2.5 AT&T CALIFORNIA Requirements:
  - 2.5.1 Except as otherwise provided herein, the Performance Measurements Plan ordered/approved by the California Public Commission in Decision No. 99-08-020 (dated August 5, 1999 and subsequent modifying decisions) in Docket No. R. 97-10-016/l. 97-10-017 (filed October 9, 1997) is incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plan (and its supporting documents) in that proceeding or any successor proceeding, to which the Parties have agreed, shall be automatically incorporated into this Agreement by reference in the first full month following the effective date of the Commission's order.
- 2.6 AT&T NEVADA Requirements:
  - 2.6.1 Except as otherwise provided herein, the Performance Measurements Plan ordered/approved by the Nevada Public Utilities Commission in Docket 06-01039 (approved August 29, 2006) is incorporated herein. Any subsequent Commission-ordered additions, modifications and/or deletions to such plan (and its supporting documents) in that proceeding or any successor proceeding, to which the Parties have agreed, shall be automatically incorporated into this Agreement by reference in the first full month following the effective date of the Commission's order.

# **ATTACHMENT 10SW – ABT-BILLING-COLLECTING-REMITTING AND CLEARINGHOUSE**

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**1.0 Introduction**

- 1.1 This Attachment sets forth the terms and conditions that apply to those Telecommunications Services for which Charges are billed and collected by one Local Exchange Carrier (LEC) or CLEC but earned by another LEC; and to establish procedures for the Billing, Collecting and Remitting (BCR) of such Charges and for Compensation for the services performed in connection with the BCR of such Charges and for the settlement of Alternately Billed Traffic (ABT) utilizing the Clearinghouse (CH) process. This Attachment is only applicable to the AT&T SOUTHWEST REGION 5-STATE.

**2.0 Definitions**

- 2.1 "Billing, Collecting and Remitting" or "Bill, Collect and Remit" (BCR) means the process and support systems used in AT&T SOUTHWEST REGION 5-STATE for which intrastate/intraLATA local ABT calls are settled among participating LECs and CLECs.
- 2.2 "Alternately Billed Traffic (ABT)" means the service that allows either Party's End Users to bill LEC-carried calls to accounts that may not be associated with the originating line, and may include all of the following LEC-carried call types for the purpose of this Attachment:
- 2.2.1 Local and/or intraLATA toll Collect calls
  - 2.2.2 Local and/or intraLATA toll Bill-to-Third Number calls
  - 2.2.3 Local and intraLATA toll Calling Card calls
- 2.3 "Charges" for BCR only, means the amount approved or allowed by the appropriate regulatory authority to be billed to an End User for any of the services described in Section 3.0 below, rendered by a LEC to an End User.
- 2.4 "Clearinghouse" (CH) means the process and support system used in AT&T SOUTHWEST REGION 5-STATE for which intrastate/intraLATA toll ABT calls are settled among participating LECs and CLECs.
- 2.5 "Clearinghouse Record" or "CH Record" means the call detail attributed to a single completed toll message.
- 2.6 "Compensation" means the amount to be paid by one Party to the other Party for BCR of Charges.
- 2.7 "Local Exchange Carrier (LEC)" as used in this Attachment, means those Local Exchange Carriers or Competitive Local Exchange Carriers that participate in the BCR process contained herein.
- 2.8 "Local Message" means those messages that originate and terminate within the area defined as the local service area of the station from which the message originates.
- 2.9 "Revenues" means the sum of all or part of the Charges.

**3.0 BCR General Provisions**

- 3.1 This Attachment shall apply to AT&T SOUTHWEST REGION 5-STATE procedures for the BCR of revenues (and Compensation to either Party for BCR of such revenues) derived from the following services:
- 3.1.1 LEC-carried local messages of the following types:
    - 3.1.1.1 Local Message service Charges billed to a calling card or to a third number.
    - 3.1.1.2 Directory Assistance calls charged to a calling card or to a third number.
    - 3.1.1.3 Public Land Mobile Radiotelephone Transient-Unit Local Message Service (Mobile Channel Usage Link Charge).
    - 3.1.1.4 Maritime Mobile Radiotelephone Service and Aviation Radiotelephone Service (Marine, Aircraft, High Speed Train Radio Link Charges).

**4.0 BCR Responsibilities of the Parties**

- 4.1 CLEC agrees to BCR, to AT&T SOUTHWEST REGION 5-STATE the Charges for the services described in Section 3.1.1 above which Charges are earned by any LEC (including AT&T SOUTHWEST REGION 5-STATE) but which are to be billed to End Users of the CLEC by the CLEC.
- 4.2 In those cases in which the Charges for the services, listed in Section 3.1.1 above, are due any LEC other than AT&T SOUTHWEST REGION 5-STATE, AT&T SOUTHWEST REGION 5-STATE will arrange to transfer these Charges to the appropriate LEC in accordance with accepted industry standards.
- 4.3 Charges for the services listed in Section 3.1.1 above to be billed, collected and remitted by CLEC for AT&T SOUTHWEST REGION 5-STATE's benefit, shall be remitted by CLEC to AT&T SOUTHWEST REGION 5-STATE

within thirty (30) calendar days of the date of AT&T SOUTHWEST REGION 5-STATE's bill to CLEC for such services.

- 4.4 AT&T SOUTHWEST REGION 5-STATE agrees to bill and collect (or when another LEC agrees to bill and collect), and to remit to CLEC, the Charges for the services described in Section 3.1.1 above, which Charges are earned by CLEC, but which are to be billed by another LEC (including AT&T SOUTHWEST REGION 5-STATE to the End Users of that LEC).
- 4.5 Charges for the services listed in Section 3.1.1 above to be billed, collected and remitted by AT&T SOUTHWEST REGION 5-STATE or another LEC for CLEC's benefit, shall be remitted by AT&T SOUTHWEST REGION 5-STATE to CLEC within thirty (30) calendar days of the date of CLEC's bill to AT&T SOUTHWEST REGION 5-STATE for such services.
- 4.6 The full amount of the Charges transmitted to either Party for BCR shall be remitted by the other Party, without setoff, abatement or reduction for any purpose, other than to deduct the Compensation due the Party for performing the End User billing function, as described in Section 5.0 below. The Party billing the End User shall be responsible for all uncollectible amounts related to the services described remitted in Section 3.1.1 above. Notwithstanding this paragraph, AT&T SOUTHWEST REGION 5-STATE may net amounts due to CLEC under this Attachment against amounts owed to AT&T SOUTHWEST REGION 5-STATE when AT&T SOUTHWEST REGION 5-STATE renders a bill to CLEC hereunder.
- 4.7 Each Party will furnish to the other such information as may be required for monthly billing and remitting purposes.
- 4.8 AT&T SOUTHWEST REGION 5-STATE assumes no responsibility with regard to the accuracy of the data supplied by CLEC when this data is accessed and used by a Third Party.

#### **5.0 BCR Product Specific Service Delivery Provisions**

- 5.1 A Party performing the services described in Section 3.1.1 above will compensate the other Party for each charge billed at the rates set forth in the Pricing Schedule. Such Compensation shall be paid (unless a Party has collected such Compensation as described in Section 4.6 above) within thirty (30) calendar days of the date of a bill for such Compensation by the Party performing (or which has another LEC perform for it), the BCR functions described in Section 4.0 above.

#### **6.0 CH General Provisions**

- 6.1 ABT does not include any interLATA and/or intraLATA long distance charges assessed by an Interexchange Carrier (IXC).
- 6.2 The settlement of ABT revenues, owed by and among participating LECs, via CH in another AT&T-Owned ILEC region is technically infeasible.
- 6.3 The only toll call messages that qualify for submission to AT&T SOUTHWEST REGION 5-STATE for CH processing are:
  - 6.3.1 intrastate intraLATA sent collect (including calling card, collect and third number) messages which are originated in one LEC or CLEC Exchange, exclusively carried by a LEC or CLEC over LEC or CLEC facilities and billed to an End User located in a second LEC's or CLEC Exchange within the same state; or
  - 6.3.2 intrastate intraLATA sent collect (but limited to calling card and third number) messages originated in one (1) of AT&T SOUTHWEST REGION 5-STATE's local exchange operating areas, exclusively carried by a LEC or CLEC over LEC or CLEC facilities, and billed to an End User located in a second LEC's or CLEC Exchange and not in the originating State.
- 6.4 CLEC agrees to pay AT&T SOUTHWEST REGION 5-STATE a processing charge in consideration of AT&T SOUTHWEST REGION 5-STATE's performance of CH services. This charge is located in the Pricing Schedule.
- 6.5 CLEC agrees to pay a per message charge to the LEC responsible for billing the message, including AT&T SOUTHWEST REGION 5-STATE when AT&T SOUTHWEST REGION 5-STATE bills the message. This charge is located in the Pricing Schedule.
- 6.6 The Parties agree that processing of retroactive messages through the CH is acceptable, if such messages utilize the industry standard format for call records, pursuant to 6.3 above. The Parties agree that lost messages are the complete responsibility of the originating LEC or CLEC. If messages are lost by any Party, and cannot be recreated or retransmitted, the originating LEC or CLEC will estimate messages, minutes, and associated revenues based on

the best available data. No estimate will be made for messages, which are more than two (2) years old at the time the estimate is made. The estimates will be off-line calculations (i.e., not part of the routine CH processing) and will be included as a supplement to the monthly settlement report.

## **7.0 CH Responsibilities of the Parties**

- 7.1 CLEC agrees that it will provide AT&T SOUTHWEST REGION 5-STATE billing records for CH processing that are in industry standard format acceptable to AT&T SOUTHWEST REGION 5-STATE. The records shall at minimum display the telephone number of the End User to whom the call is to be billed, and data about the call sufficient for a carrier to comply with all applicable state regulatory billing requirements. CH Records will detail intraLATA toll calls which were originated by use of the single digit access code (i.e., 0+ and 0-) in one LEC or CLEC Exchange but are to be billed to an End User in a second LEC's or CLEC Exchange. Such records are referred to as category ninety-two (92) records for CH processing purposes.
- 7.2 CLEC agrees that all CH Records it generates will display indicators denoting whether category ninety-two (92) Records should be forwarded to CH. CLEC will retain its originating records for ninety (90) calendar days such that the category ninety-two (92) Records can be retransmitted to AT&T SOUTHWEST REGION 5-STATE for CH processing, if needed.
- 7.3 AT&T SOUTHWEST REGION 5-STATE will provide and maintain such systems it believes are required to furnish the CH service described herein. AT&T SOUTHWEST REGION 5-STATE, in its capacity as operator of the CH, agrees to retain all CH Records processed through the CH for two (2) years.
- 7.4 CLEC will timely furnish to AT&T SOUTHWEST REGION 5-STATE all CH Records required to provide the CH service.
- 7.5 Presently, in operating the CH, AT&T SOUTHWEST REGION 5-STATE relies upon NXX codes to identify messages for transmission to participating billing companies. To the extent any sub-processes are required to settle CH messages due to the use of ported numbers, such sub-processing will be the responsibility of the porting entity.

## **8.0 CH Product Specific Service Delivery Provisions**

- 8.1 AT&T SOUTHWEST REGION 5-STATE will issue monthly reports containing the results of the processing of CH Records to each participating LEC and CLEC. These reports list the:
  - 8.1.1 amounts owed by CLEC for billing messages originated by others;
  - 8.1.2 amounts due to CLEC for CLEC originated messages billed by others;
  - 8.1.3 applicable billing charges; and
  - 8.1.4 processing charges.

## **9.0 Limitation of Liability**

- 9.1 Except as otherwise provided herein, Limitation of Liability will be governed by the General Terms and Conditions of this Agreement.
- 9.2 AT&T SOUTHWEST REGION 5-STATE assumes no liability for any LEC's or CLEC's receipt of appropriate revenues due to it from any other entity. CLEC agrees that AT&T SOUTHWEST REGION 5-STATE will not be liable to it for damages (including, but not limited to, lost profits and exemplary damages) which may be owed to it as a result of any inaccurate or insufficient information resulting from any entity's actions, omissions, mistakes, or negligence and upon which AT&T SOUTHWEST REGION 5-STATE may have relied in preparing settlement reports or performing any other act under this Attachment.
- 9.3 AT&T SOUTHWEST REGION 5-STATE will not be liable for any losses or damages arising out of errors, interruptions, defects, failures, or malfunction of services provided pursuant to this Attachment, including those arising from associated equipment and data processing systems, except such losses or damages caused by the sole negligence of AT&T SOUTHWEST REGION 5-STATE. Any losses or damage for which AT&T SOUTHWEST REGION 5-STATE is held liable under this Attachment for CH will in no event exceed the amount of processing charges incurred by CLEC for the services provided hereunder during the period beginning at the time AT&T SOUTHWEST REGION 5-STATE receives notice of the error, interruption, defect, failure or malfunction, to the time service is restored.
- 9.4 CLEC agrees to indemnify and hold AT&T SOUTHWEST REGION 5-STATE harmless against and with respect to any and all Third Party claims, demands, liabilities or court actions arising from any of its actions, omissions,

mistakes or negligence occurring during the course of AT&T SOUTHWEST REGION 5-STATE's performance pursuant to this Attachment.

## **ATTACHMENT 10W – ABT: DATA EXCHANGE (DEX)**

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## **1.0 Introduction**

- 1.1 This Attachment sets forth the terms and conditions that apply to the Settlement of Non-Calling Card and Third Number Settlement System Messages under the Data Exchange (DEX) process and procedures in AT&T WEST REGION 2-STATE. This Attachment specifies the rights and obligations of the Parties with respect to (i) the distribution and/or settlement of Customer Non-CATS Messages where AT&T WEST REGION 2-STATE is the Transporting LEC and (ii) the settlement of AT&T WEST REGION 2-STATE Non-CATS Messages where the Customer is the Transporting LEC, as defined below.

## **2.0 Definitions**

- 2.1 "AT&T WEST REGION 2-STATE Calling Card Messages" means messages where:
- 2.1.1 the charges are billed to a Telecommunications line number based calling card issued by AT&T WEST REGION 2-STATE,
  - 2.1.2 the Transporting LEC is the CLEC,
  - 2.1.3 the originating number and the line number on the calling card are located in the same Telcordia Client Company territory.
- 2.2 "AT&T WEST REGION 2-STATE Collect Messages" means messages where the charges are billed to the called End User who is an AT&T WEST REGION 2-STATE End User and where the Transporting LEC is the CLEC.
- 2.3 "AT&T WEST REGION 2-STATE Non-CATS Messages" means AT&T WEST REGION 2-STATE Collect Messages, AT&T WEST REGION 2-STATE Calling Card Messages and/or AT&T WEST REGION 2-STATE Third Number Billed Messages as those terms are defined herein.
- 2.4 "AT&T WEST REGION 2-STATE End User" means an End User who has authorized AT&T WEST REGION 2-STATE to provide the End User with local Exchange Service or who has billed an intraLATA call to a Telecommunications calling card issued by AT&T WEST REGION 2-STATE.
- 2.5 "AT&T WEST REGION 2-STATE Third Number Billed Messages" means messages where:
- 2.5.1 the charges are billed to a AT&T WEST REGION 2-STATE End User's telephone number that is not the originating or terminating telephone number,
  - 2.5.2 the Transporting LEC is the CLEC,
  - 2.5.3 the originating and billed telephone numbers are located in the same Telcordia Client Company territory.
- 2.6 "Telcordia Client Company" means AT&T WEST REGION 2-STATE and any Bell Operating Company as defined in Section 153 of the Communications Act of 1934, as amended.
- 2.7 "Centralized Message Distribution System (CMDs) Host" or "CMDs Host" means the Telcordia Client Company that is a CMDs direct participant that acts on behalf of a LEC to distribute End User message detail through CMDs and, where applicable, to settle End User message detail through BOC CATS.
- 2.8 "California 900 Messages" means 900 calls transported by AT&T-CALIFORNIA pursuant to Schedule Cal. P.U.C. No. A.9.5.3 but which are billed to a CLEC End User.
- 2.9 "California 976 Messages" means 976 calls transported by AT&T-CALIFORNIA pursuant to Schedule Cal. P.U.C. No. A.9.5.2 but which are billed to a CLEC End User.
- 2.10 "Calling Card and Third Number Settlement (CATS)" means the part of CMDs which is a mechanized computer process used to maintain records regarding intercompany settlements through which revenues collected by the billing company are distributed to the originating company. Records included in this process are intraLATA Calling Card Messages and/or Third Number Billed Messages that originate in one Telcordia Client Company territory and is billable to an End User in another Telcordia Client Company territory.
- 2.11 "CLEC Calling Card Messages" means messages where:
- 2.11.1 the charges are billed to a Telecommunications line number based calling card issued by CLEC,
  - 2.11.2 the Transporting LEC is AT&T WEST REGION 2-STATE,
  - 2.11.3 the originating number and the line number on the calling card are located in the same Telcordia Client Company territory.

- 2.12 "CLEC Collect Messages" means messages where the charges are billed to the called End User who is a CLEC End User and where the Transporting LEC is AT&T WEST REGION 2-STATE.
- 2.13 "CLEC End User" means an End User who has authorized CLEC to provide the End User with local Exchange Service or who has billed an intraLATA call to a Telecommunications calling card that is based on a telephone number issued by the CLEC.
- 2.14 "CLEC Non-CATS Messages" means CLEC Collect Messages, CLEC Calling Card Messages and/or CLEC Third Number Billed Messages as those terms are defined herein.
- 2.15 "CLEC Third Number Billed Messages" means messages where:
  - 2.15.1 the charges are billed to a CLEC End User's telephone number that is not the originating or terminating telephone number,
  - 2.15.2 the Transporting LEC is AT&T WEST REGION 2-STATE,
  - 2.15.3 the originating and billed telephone numbers are located in the same Telcordia Client Company territory.
- 2.16 "Transporting LEC" means the LEC on whose network an End User originates a call.

### **3.0 Responsibilities of the Parties**

- 3.1 AT&T WEST REGION 2-STATE shall forward CLEC Non-CATS Messages to CLEC. AT&T WEST REGION 2-STATE shall forward Rejected Messages, Unbillable Messages and Unratable Messages as defined in Section 4.2 below, to CLEC. All message detail shall be EMI industry standard format and shall be exchanged at agreed upon intervals.
- 3.2 CLEC shall obtain a dedicated Revenue Accounting Office code (RAO). The RAO code will be used to exchange messages between CLEC and AT&T WEST REGION 2-STATE. CLEC shall inform AT&T WEST REGION 2-STATE whether CLEC is designating itself or an agent for receipt of CLEC's messages by completing AT&T WEST REGION 2-STATE's IS Call Center Flat File Form as found on the AT&T CLEC Online website in the CLEC Handbook. Thereafter, CLEC may change its designation only by completing a new AT&T WEST REGION 2-STATE IS Call Center Flat File Form. CLEC may not designate more than one entity to receive its Messages under this Agreement. CLEC expressly understands that all of its messages under this Attachment - Data Exchange and Attachment 02 – Network Interconnection must be directed to a single entity.
- 3.3 CLEC shall record and forward to AT&T CALIFORNIA all 900 and 976 calls transported by AT&T CALIFORNIA pursuant to Schedule Cal. P.U.C. Nos. A.9.5.3 and A.9.5.2 respectively that originate from a CLEC End User's telephone number. The 900/976 messages shall be in unrated Exchange Message Interface (EMI) industry standard format and shall be exchanged at agreed upon intervals. AT&T CALIFORNIA shall rate the 900/976 messages and forward to CLEC all such messages billed to CLEC End Users.
- 3.4 CLEC may block access of its End Users to 900/976 numbers. CLEC shall be liable for the value of all completed 900/976 Messages originating from a CLEC End User's telephone number. AT&T WEST REGION 2-STATE shall include the value of all such completed 900/976 Messages in the Amount Due calculation set forth in Section 4.1 below.
- 3.5 CLEC shall forward AT&T WEST REGION 2-STATE Non-CATS Messages to AT&T WEST REGION 2-STATE. CLEC shall forward Unbillable Messages and Recharges as defined in Section 4.2 below, to AT&T WEST REGION 2-STATE. All message detail shall be EMI industry standard format and shall be exchanged at agreed upon intervals.
- 3.6 AT&T WEST REGION 2-STATE and CLEC shall exercise good faith efforts to bill and collect all amounts due from its End Users for messages distributed under this Attachment. AT&T WEST REGION 2-STATE and CLEC warrant that the billing and collection for messages distributed under this Attachment shall be at a performance level no less than the Party uses for the billing of its own local Exchange Services, which in no event shall be inconsistent with generally accepted industry standards of operation for the provision of billing and collection services. AT&T WEST REGION 2-STATE and CLEC further agree that the billing and collection process for messages distributed under this Attachment shall comply with all relevant legal, regulatory and legislative authorities. CLEC further agrees that the billing and collection services performed for California 900/976 Messages shall comply with CPUC Decision No. 91-03-021 and Decision No. 96-02-072. AT&T WEST REGION 2-STATE and CLEC agree to work together to



determine whether blocking access to 900/976 numbers is necessary in the event fraudulent use from a End User's line is suspected.

- 3.7 When invoicing an End User for messages distributed under this Attachment, the Billing Party shall be responsible for the billing to, and collection from, the End User and/or payment to the appropriate taxing agency of all sales taxes, municipal fees, or other taxes of any nature, including interest and penalties, that may apply to the charges billed to the End User under this Attachment.

#### 4.0 **Product Specific Service Delivery Provisions**

- 4.1 For CLEC Non-CATS Messages and California 900/976 Messages billed to CLEC End Users that AT&T WEST REGION 2-STATE forwards to CLEC, AT&T WEST REGION 2-STATE shall calculate the amount due based on the following formula:

Rated Value of Non-CATS Messages and California 900/976 Messages

- Rejected/Unbillable Messages
  - Recharges
  - Billing Charges
- 

= Amount Due AT&T WEST REGION 2-STATE

- 4.2 As used in Section 4.1 above the following terms are defined as set forth below:

- 4.2.1 Rated Value of Non-CATS Messages and California 900/976 Messages means the total computed charges for Non-CATS Messages and California 900/976 Messages based on the Transporting LEC's schedule of rates.
- 4.2.2 Rejected Messages means the rated value of Non-CATS Messages and California 900/976 Messages that failed to pass the industry standard edits and were returned to AT&T WEST REGION 2-STATE.
- 4.2.3 Unbillable Messages means the rated value of Non-CATS Messages and California 900/976 Messages that were not billable to a CLEC End User because of missing information in the billing record or other billing error, not the result of an error by CLEC or CLEC's CMDS Host, that are returned in a timely fashion to AT&T WEST REGION 2-STATE.
- 4.2.4 Recharges means the rated value of California 900/976 Messages billed to a CLEC End User but which CLEC adjusts off the End User's bill consistent with the allowable adjustments set forth in AT&T CALIFORNIA's Tariff Schedule Cal. P.U.C. No. 9.5.3.C.4.d (1),(2),(3). Recharges shall be returned to AT&T WEST REGION 2-STATE on the next scheduled transmission following the issuance of the adjustment to the End User and shall be in EMI industry standard format. CLEC acknowledges that AT&T WEST REGION 2-STATE shall be recouping all such Recharges to the underlying provider of the information service being adjusted. CLEC agrees to reasonably cooperate with AT&T WEST REGION 2-STATE in response to requests from the underlying information provider for additional information concerning an adjustment issued by the CLEC.
- 4.2.5 Billing Charges means the CLEC per message billing rate, as set forth in the Pricing Schedule, times the number of Non-CATS Messages and California 900/976 Messages forwarded by AT&T WEST REGION 2-STATE.

- 4.3 For AT&T WEST REGION 2-STATE Non-CATS messages billed to AT&T WEST REGION 2-STATE End Users that CLEC forwards to AT&T WEST REGION 2-STATE, CLEC shall calculate the amount due based on the following formula:

Rated Value of AT&T WEST REGION 2-STATE Non-CATS Messages

- Unbillable Messages
  - Unratable California 900/976 Messages
  - Billing Charges
- 
- = Amount Due CLEC

4.4 As used in Section 4.3 above the following terms are defined as set forth below:

- 4.4.1 Rated Value of AT&T WEST REGION 2-STATE Non-CATS Messages means the total computed charges for AT&T WEST REGION 2-STATE Non-CATS Messages based on CLEC's schedule of tariffed rates.
- 4.4.2 Unbillable Messages means the rated value of AT&T WEST REGION 2-STATE Non-CATS Messages that were not billable to a AT&T WEST REGION 2-STATE End User because of missing information in the billing record or other billing error, not the result of an error by AT&T WEST REGION 2-STATE, that are returned by AT&T WEST REGION 2-STATE in a timely fashion to CLEC.
- 4.4.3 Unratable California 900/976 Messages means the estimated value of California 900/976 Messages, originating from a CLEC End User's Telephone Number that:
  - 4.4.3.1 CLEC fails to record and/or transmit to AT&T WEST REGION 2-STATE or
  - 4.4.3.2 AT&T WEST REGION 2-STATE cannot rate because of missing or inaccurate information in the unrated billing record due to an error by CLEC. The Parties agree to exercise good faith efforts to estimate the value of such messages within 30 calendar days of discovery of the unratable condition.
- 4.4.4 Billing Charges means the AT&T WEST REGION 2-STATE per message billing rate, as set forth in the Pricing Schedule, times the number of AT&T WEST REGION 2-STATE Non-CATS Messages received by AT&T WEST REGION 2-STATE.
- 4.5 Within fifteen (15) Business Days following the end of each calendar month, AT&T WEST REGION 2-STATE shall provide CLEC with a Non-CMDS Outcollect Report. The report shall include the following information:
  - 4.5.1 CLEC Non-CATS Messages and California 900/976 Messages (by number and associated rated value) forwarded by AT&T WEST REGION 2-STATE;
  - 4.5.2 CLEC Non-CATS Messages and California 900/976 (by number and associated rated value) returned to AT&T WEST REGION 2-STATE as Rejected, Unbillable Messages or Recharges;
  - 4.5.3 Amount due AT&T WEST REGION 2-STATE, as set forth in Section 4.1 above.
- 4.6 Within fifteen (15) Business Days following the end of each calendar month, CLEC shall provide AT&T WEST REGION 2-STATE with a report. The report shall include the following information:
  - 4.6.1 AT&T WEST REGION 2-STATE Non-CATS Messages and California 900/976 Messages (by number and associated rated value) forwarded by CLEC;
  - 4.6.2 AT&T WEST REGION 2-STATE Non-CATS Messages and California 900/976 (by number and associated rated value) returned to CLEC as Rejected, Unbillable Messages or Recharges;
  - 4.6.3 Amount due CLEC, as set forth in Section 4.3 above.
- 4.7 Each Party shall have thirty (30) calendar days from receipt of their respective Reports to pay the Amount Due without being subject to a Late Payment Charge. Payments shall be made by check unless otherwise agreed by the Parties.
  - 4.7.1 If the due date falls on a Saturday, Sunday or bank holiday, the due date shall be the first non-holiday day following such Saturday, Sunday or bank holiday.
- 4.8 Taxes On Non-CATS Messages:
  - 4.8.1 The Party rating calls shall not add on any sales taxes, municipal fee surcharges, or other similar taxes to Non-CATS Messages it sends to the Billing Party on either the daily usage feed or the monthly invoice.

**5.0 Limitation of Liability**

- 5.1 Except as otherwise provided herein, Limitation of Liability will be governed by the General Terms and Conditions of this Agreement.
- 5.2 AT&T WEST REGION 2-STATE assumes no liability for any LEC's or CLEC's receipt of appropriate revenues due to it from any other entity. CLEC agrees that AT&T WEST REGION 2-STATE will not be liable to it for damages (including, but not limited to, lost profits and exemplary damages) which may be owed to it as a result of any inaccurate or insufficient information resulting from any entity's actions, omissions, mistakes, or negligence and upon which AT&T WEST REGION 2-STATE may have relied in preparing settlement reports or performing any other act under this Attachment.
- 5.3 AT&T WEST REGION 2-STATE will not be liable for any losses or damages arising out of errors, interruptions, defects, failures, or malfunction of services provided pursuant to this Attachment, including those arising from associated equipment and data processing systems, except such losses or damages caused by the sole negligence of AT&T WEST REGION 2-STATE. Any losses or damage for which AT&T WEST REGION 2-STATE is held liable under this Attachment will in no event exceed the amount CLEC would have billed AT&T WEST REGION 2-STATE per CLEC's existing tariff for the services provided hereunder during the period beginning at the time AT&T WEST REGION 2-STATE receives notice of the error, interruption, defect, failure or malfunction, to the time service is restored.
- 5.4 AT&T WEST REGION 2-STATE assumes no responsibility with regard to the correctness of the data supplied by CLEC when accessed and used by a Third Party.

# **ATTACHMENT 10MWSE – ABT: NON-INTERCOMPANY SETTLEMENTS (NICS)**

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## 1.0 **Introduction**

- 1.1 This Attachment sets forth the terms and conditions under which AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE will perform the revenue settlement of LEC-carried intrastate/intraLATA or interstate/intraLATA local/toll alternately billed calls between each of the aforementioned regions and the CLEC via the Centralized Message Distribution System (CMDS) Non-Intercompany Settlement (NICS) reports.

## 2.0 **Definitions**

- 2.1 “Non-Intercompany Settlement (NICS)” means a revenue settlement process for messages which originate from CLEC and bill to AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE and messages which originate from AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE and bill to CLEC. NICS messages must originate and bill within the same AT&T-Owned ILEC across the fourteen (14) individual states which make up these two regions.
- 2.2 “Non-Intercompany Settlements System” or “NICS System” means the national system administered by Telcordia that is used in the settlement of revenues for calls that are originated and billed by two (2) different Local Exchange Carriers (LECs) within a single CMDS Direct Participant’s territory to another for billing. NICS applies to calls involving another LEC where the Earning Company and the Billing Company are located within both AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE.

## 3.0 **General Provisions**

- 3.1 NICS shall apply only to alternately billed messages (calling card, third number billed and collect calls) originated by AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE billed by CLEC (when the CLEC is using its own End Office Switch), or messages originated by CLEC and billed by AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE within the same AT&T MIDWEST REGION 5-STATE and AT&T SOUTHEAST REGION 9-STATE State (i.e., messages for intrastate/intraLATA traffic only).
- 3.1.1 For example, an alternately billed call originating within AT&T-ILLINOIS territory and billed to a CLEC within AT&T-ILLINOIS would be covered by this section; a call originating within AT&T-ILLINOIS but billing outside of AT&T-ILLINOIS would not be covered by NICS.
- 3.2 AT&T SOUTHEAST REGION 9-STATE will also collect the revenue earned by CLEC within the AT&T SOUTHEAST REGION 9-STATE territory from another LEC also within the AT&T SOUTHEAST REGION 9-STATE where the messages are billed, less a per message billing and collection fee indicated in the Pricing Schedule, on behalf of CLEC. AT&T SOUTHEAST REGION 9-STATE will remit the revenue billed by CLEC within region to the LEC also within region, where the messages originated, less a per message billing and collection fee indicated in the Pricing Schedule. These two amounts will be netted together by AT&T SOUTHEAST REGION 9-STATE and the resulting charge or credit issued to CLEC via a monthly invoice in arrears.
- 3.3 NICS does not extend to 900 or 976 calls or to other pay per call services.
- 3.4 The Telcordia Technologies NICS report is the source for revenue to be settled between AT&T MIDWEST REGION 5-STATE, AT&T SOUTHEAST REGION 9-STATE and CLEC. NICS settlement will be incorporated into the CLEC’s monthly invoice.
- 3.5 This Attachment does not cover calls originating and billing within a state outside of AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE.
- 3.6 NICS does not include any interLATA and/or intraLATA long distance charges assessed by an Interexchange Carrier (IXC).
- 3.7 The Party billing the End User shall be responsible for all uncollectible amounts.
- 3.8 Net payment shall be due within thirty (30) calendar days of the date of the invoice.

## 4.0 **Responsibilities of the Parties**

- 4.1 Each Party is responsible for submitting the appropriate Exchange Message Interface (EMI) End User billable record (as defined in the Telcordia Technologies NICS System Specifications document) to Telcordia CMDS for inclusion in the NICS report when an alternately billed call originates from its End User.

## 5.0 **Limitation of Liability**

5.1 Except as otherwise provided herein, Limitation of Liability will be governed by the General Terms & Conditions of this Agreement:

- 5.1.1 AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE assume no liability for any LEC's or CLEC's receipt of appropriate revenues due to it from any other entity. CLEC agrees that AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE will not be liable to it for damages (including, but not limited to, lost profits and exemplary damages) which may be owed to it as a result of any inaccurate or insufficient information resulting from any entity's actions, omissions, mistakes, or negligence and upon which AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE may have relied in preparing settlement reports or performing any other act under this Attachment.
- 5.1.2 AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE will not be liable for any losses or damages arising out of errors, interruptions, defects, failures, or malfunction of services provided pursuant to this Attachment, including those arising from associated equipment and data processing systems, except such losses or damages caused by the sole negligence of AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE. Any losses or damage for which AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE is held liable under this Attachment will in no event exceed the amount that CLEC would have billed AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE per CLEC's existing tariff for the services provided hereunder during the period beginning at the time AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE receives notice of the error, interruption, failure or malfunction, to the time service is restored.
- 5.1.3 AT&T MIDWEST REGION 5-STATE and/or AT&T SOUTHEAST REGION 9-STATE assumes no responsibility with regard to the correctness of the data supplied by CLEC when this data is accessed and used by a Third Party.

## **ATTACHMENT 11 – DAILY USAGE FILE (DUF)**



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## **1.0 Introduction**

- 1.1 Upon written request from CLEC, AT&T-21STATE will provide CLEC a Daily Usage File (DUF) for services provided hereunder. A DUF will be provided by AT&T-21STATE in accordance with Exchange Message Interface (EMI) guidelines supported by the Ordering and Billing Forum (OBF). Any exceptions to the supported formats will be noted in the DUF implementation requirements documentation. The DUF will include (i) specific daily usage, including both Section 251(b)(5) Traffic (if and where applicable) and LEC-carried IntraLATA Toll Traffic, in EMI format for usage sensitive services furnished in connection with each service to the extent that similar usage sensitive information is provided to retail End Users of AT&T-21STATE within that state, (ii) with sufficient detail to enable CLEC to bill its End Users for usage sensitive services furnished by AT&T-21STATE in connection with service provided by AT&T-21STATE, and (iii) operator handled calls provided by AT&T-21STATE. Procedures and processes for implementing the interfaces with AT&T-21STATE will be included in implementation requirements documentation.

## **2.0 General Provisions**

- 2.1 Where available, DUF may be requested on flat-rated Resale lines as well as measured-rated Resale lines. DUF provided in this instance is labeled as Enhanced DUF (EDUF). In order to receive EDUF on flat-rated Resale lines, CLEC must also request and receive DUF on its measure-rated Resale lines.
- 2.2 File transmission for DUF is requested by each unique State and OCN combination. CLEC must provide to AT&T-21STATE a separate written request for each unique State and OCN combination no less than sixty (60) calendar days prior to the desired first transmission date for each file.
- 2.3 AT&T-21STATE will bill CLEC for DUF in accordance with the applicable rates set forth in the Pricing Schedule under "Electronic Billing Information Data (Daily Usage) per message", "Provision of Message Detail a.k.a. Daily Usage File (DUF)", "FB-CLEC Operator Recording (Daily Usage) per message", and "Daily Usage File (DUF) Data Transmission, per Message." There will be individual rates listed for DUF provided for measure-rated Resale lines and for EDUF provided on flat-rated Resale lines.
- 2.4 Call detail for LEC-carried calls that are alternately billed to CLEC End Users' lines provided by AT&T-21STATE through Resale will be forwarded to CLEC as rated call detail on the DUF.
- 2.5 Interexchange call detail on Resale Services that is forwarded to AT&T-21STATE for billing, which would otherwise be processed by AT&T-21STATE for its retail End Users, will be returned to the IXC and will not be passed through to CLEC. This call detail will be returned to the IXC with a transaction code indicating that the returned call originated from a resold account. Billing for Information Services and other ancillary services traffic on Resale Services will be passed through when AT&T-21STATE records the message.
- 2.6 Where CLEC is operating its own switch-based service and has contracted with AT&T-21STATE to provide operator services, upon written request from CLEC, AT&T-21STATE will provide CLEC a DUF for operator handled calls handled by AT&T-21STATE.

## **ATTACHMENT 12 – COLLOCATION**

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