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**PATRICK W. DURICK**  
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May 29, 2008

**RECEIVED**

**MAY 29 2008**

**PUBLIC SERVICE COMMISSION**

HAND DELIVERED

Illona Jeffcoat-Sacco  
Executive Director  
North Dakota Public Service Commission  
Capitol  
600 East Boulevard, Ninth Floor  
Bismarck, North Dakota 58505

Re: Midcontinent Communications/United Telephone Mutual Aid Corporation  
Notice of Bona Fide Request for Services  
PETITION FOR APPROVAL OF INTERIM AGREEMENT  
PU-08-25

Dear Illona:

Enclosed for filing are the original and seven copies of MIDCONTINENT COMMUNICATION'S PETITION FOR APPROVAL OF INTERIM AGREEMENT. Please put this matter on the Commission's agenda for the issuing of a Notice of Hearing and subsequent action for approval of the Interim Agreement.


This document is also being transmitted electronically to your office. Also enclosed is an extra copy of the petition to be filed stamped and returned in the self-addressed, stamped envelope.

Thank you for your attention to this matter.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

PEARCE & DURICK

  
Patrick W. Durick  
Counsel to Midcontinent Communications

1 **PU-08-229** Filed: 5/29/2008 Pages: 79  
**Petition for Approval of Interim Agreement**

Midcontinent Communications / United Telephone Mutual Aid Corporation  
Pearce & Durick, Patrick Durick

PWD/ak

Enclosures

cc: Donald Negaard (via email and regular mail w/attachment)  
William Binek (via email)  
Mary Lohnes (via email)  
J.G. Harrington (via email)

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

Case No. PU 08-25

Midcontinent Communications, a	)
South Dakota Partnership,	)
	)
Complainant,	)
	)
vs.	)
	)
United Telephone Mutual Aid,	)
	)
Respondent.	)

**MIDCONTINENT COMMUNICATION'S PETITION FOR APPROVAL OF**  
**INTERM AGREEMENT**

On February 4, 2008, Midcontinent Communications ("Midcontinent") filed a NOTICE OF BONA FIDE REQUEST FOR SERVICES in this matter. Thereafter, Midcontinent and Consolidated Telcom voluntarily entered into a settlement agreement and on May 23, 2008, filed a Notice of Settlement. Under the terms of the aforementioned settlement, the parties agreed to enter into an interim interconnection agreement and submit said interim agreement to the Commission for approval. Said interim agreement is marked as Exhibit "A" and attached hereto.

WHEREFORE, Midcontinent requests that the Commission enter an Order approving the attached interim agreement pursuant to 47 U.S.C. § 252(e)(1).

Dated this 29th day of May, 2008.

PEARCE & DURICK

A handwritten signature in black ink, appearing to read 'Patrick W. Durick', is written over a horizontal line.

PATRICK W. DURICK, ND #03141

Individually and as a Member of the Firm

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*Attorneys for Midcontinent Communications*

# EXHIBIT A

General Terms and Conditions

Page i

## **GENERAL TERMS AND CONDITIONS**

### **BETWEEN**

**United Telephone Mutual Aid Corporation**

### **AND**

**Midcontinent Communications**

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**ATTACHMENTS:**

Resale Attachment	Attachment 1
Pre-Ordering and Ordering Attachment	Attachment 2
Pricing Attachment	Attachment 3
Interconnection Attachment	Attachment 4
Local Number Portability Attachment	Attachment 5
Ancillary Services Attachment	Attachment 6

## **AGREEMENT**

THIS AGREEMENT ("Agreement") is effective as of the 1<sup>st</sup> day of June, 2008 (the "Effective Date"), except as specified in Section 29 below, by and between Midcontinent Communications, a South Dakota Partnership ("Midcontinent") with offices at 3901 N. Louise Avenue, Sioux Falls, SD 57106 and United Telephone Mutual Aid Corporation ("United") with offices at P.O. Box 729, Langdon, ND 58249-0729. This Agreement may refer to either United or Midcontinent or both as a "Party" or "Parties."

## **WITNESSETH**

WHEREAS, United is a local exchange telecommunications company authorized to provide telecommunications services in the state of North Dakota; and

WHEREAS, Midcontinent is a competitive local exchange telecommunications company ("CLEC") authorized to provide telecommunications services in the state of North Dakota; and

WHEREAS, the Parties wish to resale specifically for the purposes of fulfilling their obligations pursuant to Sections 251 of the Telecommunications Act of 1996 ("the Act").

WHEREAS, the Parties wish to interconnect their facilities and exchange Telecommunications Traffic specifically for the purposes of fulfilling their obligations pursuant to Sections 251 of the Act.

NOW THEREFORE, in consideration of the mutual agreements contained herein, United and Midcontinent agree as follows:

1. Purpose

- 1.1 The Parties agree that the rates, terms and conditions contained within this Agreement, including all Attachments, comply and conform to each Party's obligations under Sections 251 of the Act.
- 1.2 ILEC has no obligation to establish interconnection service arrangements to enable CLEC to solely exchange Information Services traffic. CLEC agrees that it is requesting and will use this arrangement for the primary purposes of exchanging Telecommunications Traffic, whether originated by CLEC or a Third Party Telecommunications Carrier, and that any exchange of Information Service traffic will be incidental to the Parties' exchange of Telecommunications Traffic. The FCC has not determined whether IP-Enabled Traffic is a Telecommunications Service or an Information Service. For the purposes of this Agreement, IP-Enabled Traffic shall be treated as Telecommunications Service voice traffic. If IP-Enabled Traffic is exchanged under this Agreement and the FCC determines that IP-Enabled Traffic is other than Telecommunications Service and determines that IP-Enabled Traffic is not subject to interconnection requirements that are the same as those applicable to telecommunications services in all material respects, the terms of this Agreement shall remain in effect until

such time as this Agreement is modified under the change in law provisions of Section 28 of the General Terms and Conditions of this Agreement.

- 1.3 Except as specifically provided in this Agreement and any attachments hereto, CLEC agrees that it is requesting and will use the arrangements under this Agreement for the sole purpose of exchanging Local/EAS Traffic and that any exchange of toll traffic will be subject to the appropriate access per each Party's tariffs.

## 2. Term of the Agreement

- 2.1 Subject to Section 2.2, the initial term of this Agreement shall be two years ("Initial Term"), beginning on the above Effective Date and shall apply to the State of North Dakota. If, as of the expiration of this Agreement, a subsequent agreement has not been executed by the Parties, this Agreement shall automatically renew for successive six-month periods, unless, not less than one hundred twenty (120) days prior to the end of the Initial Term or any renewal term, either Party notifies the other Party of its intent to renegotiate a new agreement. In the event of such renegotiation, this Agreement shall remain in effect until such time that a subsequent agreement becomes effective. If the Parties cease to order services under this Agreement, then either Party may terminate this Agreement upon thirty (30) days written notice.
- 2.2 The Parties agree that this agreement shall be replaced by a permanent interconnection agreement in accordance with the terms of the Notice of Settlement filed by the Parties with the Commission on May 21, 2008.

## 3. Termination of the Agreement

### 3.1 Termination Upon Default

Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party; provided however, that the non-defaulting Party has notified the defaulting Party in writing of the alleged default and the defaulting Party has not cured the alleged default within thirty (30) calendar days of receipt of written notice thereof. Default is defined to include:

- 3.1.1 A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or
- 3.1.2 A Party's refusal or failure in any material respect to properly perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement.
- 3.1.3 A Party's assignment of any right, obligation, or duty, in whole or in part, or of any interest, under this Agreement without any consent required under Section 6 below.



### 3.2 Liability Upon Termination

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

### 4. Contact Exchange

The Parties agree to exchange and to update contact and referral numbers for order inquiry, trouble reporting, billing inquiries, and information required to comply with law enforcement and other security agencies of the government.

### 5. Amendments

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

### 6. Assignment

This Agreement shall be binding upon the Parties and shall continue to be binding upon all such entities regardless of any subsequent change in their ownership. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. Each Party covenants that, if it sells or otherwise transfers to a third party, unless the Party which is not the subject of the sale or transfer reasonably determines that the legal structure of the transfer vitiates any such need, it will require as a condition of such transfer that the transferee agree to be bound by this Agreement with respect to services provided over the transferred facilities. Except as provided in this paragraph, neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party which consent will not be unreasonably withheld; provided that either Party may assign this Agreement to a corporate Affiliate or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party. Any attempted assignment or transfer that is not permitted is void *ab initio*. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

7. Authority

Each person whose signature appears on this Agreement represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement. Each Party represents he or she has had the opportunity to consult with legal counsel of his or her choosing.

8. Responsibility for Payment

United will render to Midcontinent monthly bill(s) for interconnection and facilities provided hereunder at the rates set forth in United's applicable tariffs. Midcontinent shall pay bills in accordance with terms of this Agreement. In the event that Midcontinent defaults on its payment obligation to United, United's service to Midcontinent will be terminated and any security deposits held will be applied to the outstanding balance owed by Midcontinent to United.

9. Billing and Payment

9.1 In consideration of the services and facilities provided under this Agreement, the Parties shall bill the other Party on a monthly basis all applicable charges set forth in this Agreement or in United's applicable tariff. The Party billed ("Billed Party") shall pay to the invoicing Party ("Billing Party") all undisputed amounts within twenty (20) days from the bill date. If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the prior business day.

9.2 Billing Disputes Related to Unpaid Amounts:

9.2.1 If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall, within thirty (30) days of its receipt of the invoice containing such disputed amount, give written notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due all undisputed amounts to the Billing Party. The Parties will work together in good faith to resolve issues relating to the disputed amounts. If the dispute is resolved such that payment is required, the Non-Paying Party shall pay the disputed amounts with interest at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under North Dakota's applicable law. In addition, the Billing Party may cease terminating traffic for the Non-Paying Party after undisputed amounts not paid become more than 90 days past due, provided the Billing Party gives an additional 30 days' written notice and opportunity to cure the default.

9.2.2 Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent

(1-1/2%) per month or (ii) the highest rate of interest that may be charged under North Dakota's applicable law.

9.2.3 Issues related to Disputed Amounts shall be resolved in accordance with all of the applicable procedures identified in the Dispute Resolution provisions set forth in Section 13 of this Agreement.

9.3 Except for amounts disputed pursuant to Section 9.2 herein, the following shall apply:

9.3.1 If payment is not received within thirty (30) days from the bill date, United may provide written notice to Midcontinent that additional applications for service will be refused, and that any pending orders for service will not be completed if payment is not received by the fifteenth (15<sup>th</sup>) day following the date of the notice. If United does not refuse additional application for service on the date specified in the notice, and Midcontinent's noncompliance continues, nothing contained herein shall preclude United's right to refuse additional application for service without further notice.

9.3.2 If Midcontinent should fail to make any payment following the notice under Section 9.3.1, United may on thirty (30) days written notice to Midcontinent discontinue the provision of existing services to Midcontinent at any time thereafter. Notice shall be as provided in Section 26 below. In the case of such discontinuance, all billed charges, as well as applicable termination charges, shall become due. If United does not discontinue the provision of the services involved on the date specified in the thirty (30) days notice, and Midcontinent noncompliance continues, nothing contained herein shall preclude United's right to discontinue the provision of the services to Midcontinent without further notice.

9.3.3 If payment is not received within sixty (60) days of notice under Section 9.3.2, United may terminate this Agreement.

9.3.4 After disconnect procedures have begun, United shall not accept service orders from Midcontinent until all unpaid charges are paid in full in immediately available funds.

9.4 Audits:

Either Party may conduct an audit of the other Party's books and records pertaining to the services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing, data, and invoicing in accordance with this Agreement. Any audit shall be performed as follows: (i) following at least thirty (30) days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense;

(iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.

10. Compliance with Laws and Regulations

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

11. Confidential Information

11.1 Any information such as specifications, drawings, sketches, business information, forecasts, models, samples, data, computer programs and other software and documentation of one Party (a Disclosing Party) that is furnished or made available or otherwise disclosed to the other Party or any of its employees, contractors, or agents (its "Representatives" and with a Party, a "Receiving Party") pursuant to this Agreement ("Proprietary Information") shall be deemed the property of the Disclosing Party. Proprietary Information, if written, shall be clearly and conspicuously marked "Confidential" or "Proprietary" or other similar notice, and, if oral or visual, shall be confirmed in writing as confidential by the Disclosing Party to the Receiving Party within ten (10) days after disclosure. Unless Proprietary Information was previously known by the Receiving Party free of any obligation to keep it confidential, or has been or is subsequently made public by an act not attributable to the Receiving Party, or is explicitly agreed in writing not to be regarded as confidential, such information: (i) shall be held in confidence by each Receiving Party; (ii) shall be disclosed to only those persons who have a need for it in connection with the provision of services required to fulfill this Agreement and shall be used by those persons only for such purposes; and (iii) may be used for other purposes only upon such terms and conditions as may be mutually agreed to in advance of such use in writing by the Parties. Notwithstanding the foregoing sentence, a Receiving Party shall be entitled to disclose or provide Proprietary Information as required by any governmental authority or applicable law, upon advice of counsel, only in accordance with §11.2 of this Agreement.

11.2 If any Receiving Party is required by any governmental authority or by applicable law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. The Disclosing Party may then seek appropriate protective relief from all or part of such requirement. The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief that such Disclosing Party chooses to obtain.

11.3 In the event of the expiration or termination of this Agreement for any reason whatsoever, each Party shall return to the other Party or destroy all Proprietary

Information and other documents, work papers and other material (including all copies thereof) obtained from the other Party in connection with this Agreement and shall use all reasonable efforts, including instructing its employees and others who have had access to such information, to keep confidential and not to use any such information, unless such information is now, or is hereafter disclosed, through no act, omission or fault of such Party, in any manner making it available to the general public.

## 12. Fraud

Neither Party shall bear responsibility for, nor be required to make adjustments to the other Party's account in cases of fraud by the other Party's end-users or on the other Party's end-user customer accounts. The Parties agree to reasonably cooperate with each other to detect, investigate, and prevent fraud and to reasonably cooperate with law enforcement investigations concerning fraudulent use of the other Party's services or network. The Parties' fraud minimization procedures are to be cost effective and implemented so as not to unduly burden or harm one Party as compared to the other.

## 13. Dispute Resolution

Except as provided under Section 252 of the Act with respect to the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without, to the extent possible, litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following dispute resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

### 13.1 Informal Resolution of Disputes.

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative, empowered to resolve such dispute, to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

### 13.2 Formal Dispute Resolution.

If negotiations fail to produce an agreeable resolution within ninety (90) days, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanisms; provided, that upon mutual agreement of the Parties such disputes may also be submitted to binding arbitration. In the case of an arbitration, each Party shall bear its own costs. The Parties shall equally split the fees of any mutually agreed upon arbitration procedure and the associated arbitrator.

### 13.3 Continuous Service.

The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure (other than a dispute related to payment for service), and the Parties shall continue to perform their payment obligations including making payments in accordance with this Agreement.

## 14. Entire Agreement

This Agreement and applicable attachments, constitute the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied have been made or relied upon in the making of this Agreement other than those specifically set forth herein. In the event there is a conflict between any term of this Agreement, the provisions shall be construed to give the greatest possible effect to the intent of this Agreement.

## 15. Expenses

Except as specifically set out in this Agreement, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

## 16. Force Majeure

Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). If any Force Majeure condition occurs, the Party delayed or unable to perform shall give immediate notice to the other Party and shall take all reasonable steps to correct the Force Majeure condition. During the pendency of the Force Majeure, the

duties of the Parties under this Agreement affected by the Force Majeure condition shall be abated and shall resume without liability thereafter.

17. Good Faith Performance

In the performance of their obligations under this Agreement, the Parties shall act in good faith. In situations in which notice, consent, approval, or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be conditional, unreasonably withheld, or delayed.

18. Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Dakota without regard to its conflict of laws principles and, when applicable, in accordance with the requirements of the Act and the FCC's implementing regulations.

19. Headings

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

20. Independent Contractor Relationship

Neither this Agreement, nor any actions taken by Midcontinent or United in compliance with this Agreement, shall be deemed to create an agency or joint venture relationship between Midcontinent and United, or any relationship other than that of co-carriers. Neither this Agreement, nor any actions taken by Midcontinent or United in compliance with this Agreement, shall create a contractual, agency, or any other type of relationship or third party liability between Midcontinent and United End Users Customers or others.

21. Law Enforcement Interface

21.1 With respect to requests for call content interception or call information interception directed at Midcontinent's End User Customer, United will have no direct involvement in law enforcement interface. In the event a Party receives a law enforcement surveillance request for an end-user of the other Party, the Party initially contacted shall direct the agency to the other Party.

21.2 Notwithstanding 21.1, the Parties agree to work jointly in security matters to support law enforcement agency requirements for call content interception or call information interception.

## 22. Liability

### 22.1 DISCLAIMER

**EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, EACH PARTY MAKES NO REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES OR FACILITIES IT PROVIDES UNDER THIS AGREEMENT. EACH PARTY DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE**

### 22.2 Limitation of Liability

22.2.1 No liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants, employees, officers, directors, or partners for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, or providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of gross negligence or willful misconduct.

22.2.2 Except as otherwise provided in Section 22, no Party shall be liable to the other Party for any loss, defect or equipment failure caused by the conduct of the first Party, its agents, servants, contractors or others acting in aid or concert with that Party, except in the case of gross negligence or willful misconduct.

22.2.3 In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages.

### 22.3 Intellectual Property

Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision or use of any facilities by either Party under this Agreement constitutes direct or contributory infringement, or misuse or



misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any third party.

23. Joint Work Product

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

24. Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

25. No Third Party Beneficiaries

This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any third-party beneficiary rights hereunder. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a party as a legal representative or agent of the other Party; nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name of, or on behalf of the other Party, unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

26. Notices

Notices given by one Party to the other Party under this Agreement shall be in writing and shall be: (i) delivered personally; (ii) delivered by express delivery service; or (iii) mailed, certified mail, return receipt to the following addresses of the Parties:

To: **Midcontinent**

To: **United**

Mary Lohnes Midcontinent Communications 3901 N. Louise Avenue Sioux Falls, SD 57106	Perry Oster United Telephone Mutual Aid Corporation P.O. Box 729 411 7 <sup>th</sup> Street Langdon, ND 58249-0729
With a copy to:  J.G. Harrington Dow Lohnes P.L.L.C.	With a copy to:  Don Negaard Pringle & Herigstad

1200 New Hampshire Avenue, N.W. Suite 800 Washington, DC 20036	2525 Elk Drive PO Box 1000 Minot, North Dakota 58702-1000
--	---

Or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of: (i) the date of actual receipt; (ii) the next business day when notice is sent *via* overnight express mail or personal delivery; or (iii) three (3) days after mailing in the case of certified U.S. mail.

27. Impairment of Service

The characteristics and methods of operation of any circuits, facilities or equipment of Midcontinent connected with the services, facilities or equipment of United pursuant to this Agreement shall not interfere with or impair service over any facilities of United, its affiliated companies, or its connecting and concurring carriers involved in its services, cause damage to its plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over United's facilities or create hazards to the employees of United or to the public (each hereinafter referred to as an "Impairment of Service").

28. Change in Law

The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Telecommunications Act of 1996 and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment to the Telecommunications Act of 1996, any effective legislative action or any effective, final regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Telecommunications Act to the Parties or in which the FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, Amended Rules), either Party may, to the extent permitted or required, by providing written notice to the other party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

29. Regulatory Approval and Effective Date

29.1 Regulatory Approval

The Parties understand and agree that this Agreement will be filed with the Commission, and to the extent required by FCC rules may thereafter be filed with the FCC. Each Party covenants and agrees to fully support approval of this

Agreement by the Commission or the FCC under §252(e) of the Act without modification. The Parties, however, reserve the right to seek regulatory relief and otherwise seek redress from each other regarding performance and implementation of this Agreement. In the event the Commission or FCC rejects this Agreement in whole or in part, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion(s).

## 29.2 Effective Date

Notwithstanding any other provision of this Agreement:

- a. This Agreement shall be effective as to Langdon as of the date of approval by the Commission.
- b. United shall make resale available to Midcontinent in Langdon on or before June 1, 2008.
- c. United shall make facilities based interconnection available to Midcontinent in Langdon on August 1, 2008.
- d. This Agreement shall be effective as to Walhalla on February 1, 2009.

## 30. Taxes and Fees

Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to provide in a timely manner such sale for resale tax exemption certificate will result in no exemption being available to the purchasing Party. If either party (Contesting Party) contests the application of any tax collected by the other party (the Collecting party), the Collection party shall reasonably cooperate in good faith with the Contesting party's challenge, provided that the Contesting Party pays any costs incurred by the Collecting party. The Contesting party is entitled to the benefit of any refund or recovery resulting from the contests, provided that the Contesting Party is liable for and has paid the tax contested.

Midcontinent is responsible for collecting and remitting directly to the proper agency the 911/E911 fees and telecommunication relay service fees and applicable taxes. United will not pay these fees for the resold services.

31. Trademarks and Trade Names

No patent, copyright, trademark or other proprietary right is licensed, granted, or otherwise transferred by this Agreement. Each Party is strictly prohibited from any use, including but not limited to in sales, in marketing or advertising of telecommunications services, of any name, copyrighted material, service mark, or trademark of the other Party.

32. Non-Waiver

Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

33. Bankruptcy

If any voluntary or involuntary petition or similar pleading under any Section or Sections of any bankruptcy act shall be filed by or against a Party, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare the Party insolvent or unable to pay the Party's debts, or the Party makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for the Party or for the major part of the Party's property, the other Party may, if that Party so elects but not otherwise, and with or without notice of such election or other action by that Party, forthwith terminate this Agreement.

34. Operations Handbook

Each Party's Operations Manual will contain its standard operating procedures. It will not supersede this Agreement and if contrary to the terms of the contract, the contract shall control.

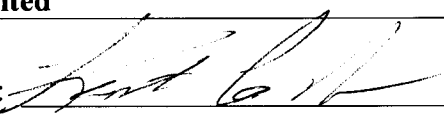
35. Intercept Messaging

Each party will make available the following intercept messaging services:

- i. Temporary Disconnects for Non-Pay. United will have control of the customer's line and will be responsible to provide the intercept message. Both service order and central office non-recurring charges are not applicable but a restoral of service charge will be applied if and when service is restored.
- ii. Transfer of Service Announcements. For services other than United resold and ported number services, when an end user customer transfers service from one Party to the other Party, and does not retain its original telephone number, the Party formerly providing service to the end user will provide, upon request and if such service is provided to its own customers, a referral announcement on the original telephone number. This announcement will provide the new number of the end user customer and will remain in effect for the

same time period this service is provided to Party's own end users. For United resold, United shall provide an intercept referral on behalf of Midcontinent

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written below.

United	Midcontinent
By: 	By: _____
Name: Ken Carlson _____	Name: _ Nancy Vogel _____
Title: General Manager _____	Title: __ Director of Revenue Assurance __
Date: <u>5-22-08</u>	Date: _____

same time period this service is provided to Party's own end users. For United resold, United shall provide an intercept referral on behalf of Midcontinent

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written below.

United	Midcontinent Communications
By: _____	By Midcontinent Communications Investor, LLC, Managing Partner of Midcontinent Communications
Name: Ken Carlson_____	By: <u>Nancy Vogel</u>
Title: General Manager_____	Name: _ Nancy Vogel _____
Date: _____	Title: _ Director of Revenue Assurance _
	Date: May 27, 2008

## GLOSSARY

### 1. General Rule

Special meanings are given to common words in the telecommunications industry, and coined words and acronyms are common in the custom and usage in the industry. Words used in this agreement are to be understood according to the custom and usage of the telecommunications industry, as an exception to the general rule of contract interpretation that words are to be understood in their ordinary and popular sense. In addition to this rule of interpretation, the following terms used in this Agreement shall have the meanings as specified below:

### 2. Definitions

#### 2.1 ACCESS SERVICE REQUEST (ASR).

An industry standard form, which contains data elements and usage rules used by the Parties to add, establish, change or disconnect services or trunks for the purposes of interconnection.

#### 2.2 ACT.

The Communications Act of 1934 (47 U.S.C. §151 et. seq.), as from time to time amended (including, without limitation by the Telecommunications Act of 1996, Public Law 104-104 of the 104th United States Congress effective February 8, 1996), and as further interpreted in the duly authorized and effective rules and regulations of the FCC or the Commission.

#### 2.3 AFFILIATE.

Shall have the meaning set forth in the Act.

#### 2.4 APPLICABLE LAW.

All effective laws, government regulations and orders, applicable to each Party's performance of its obligations under this Agreement.

#### 2.5 AUTOMATIC NUMBER IDENTIFICATION (ANI).

The signaling parameter which refers to the number transmitted through the network identifying the billing number of the calling Party.

#### 2.6 CALLING PARTY NUMBER (CPN).

A Signaling System 7 (SS7) parameter that identifies the calling party's telephone number.

2.7 CENTRAL OFFICE.

A local switching system for connecting lines to lines, lines to trunks, or trunks to trunks for the purpose of originating/terminating calls over the public switched telephone network. A single Central Office may handle several Central Office codes ("NXX"). Sometimes this term is used to refer to a telephone company building in which switching systems and telephone equipment are installed.

2.8 CENTRAL OFFICE SWITCH.

A switch used to provide Telecommunications Services including but not limited to an End Office Switch or a Tandem Switch. A Central Office Switch may also be employed as combination End Office/Tandem Office Switch.

2.9 COMMISSION.

Means the North Dakota Public Service Commission.

2.10 COMMON CHANNEL SIGNALING (CCS).

A method of transmitting call set-up and network control data over a digital signaling network separate from the public switched telephone network facilities that carry the actual voice or data content of the call.

2.11 COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC).

Any corporation or other person legally able to provide Local Exchange Service in competition with United.

2.12 CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI).

Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. § 222.

2.13 DIGITAL SIGNAL LEVEL 1 (DS1).

The 1.544 Mbps first-level signal in the time-division multiplex hierarchy.

2.14 DIGITAL SIGNAL LEVEL 3 (DS3).

The 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

2.15 DIRECT INTERCONNECTION FACILITIES.

Dedicated one-way or two-way transport facilities installed between CLEC's switch (or its equivalent) and ILEC's switch.



2.16 END OFFICE SWITCH OR END OFFICE.

End Office Switch is a switch in which the End User Customer station loops are terminated for connection to trunks. The End User Customer receives terminating, switching, signaling, transmission, and related functions for a defined geographic area by means of an End Office Switch.

2.17 END USER CUSTOMER.

A retail business or residential end-user subscriber to Telephone Exchange Service provided by either of the Parties.

2.18 END USER CUSTOMER LOCATION

The physical location of the premise where an End User Customer makes use of Telephone Exchange Service.

2.19 EXCHANGE AREA.

Means the geographic area that has been identified by United for its provision of Telephone Exchange Service.

2.20 FCC.

The Federal Communications Commission.

2.21 INCUMBENT LOCAL EXCHANGE CARRIER (ILEC).

Shall have the meaning stated in the Act. For purposes of this Agreement, United is an ILEC .

2.22 INTEREXCHANGE CARRIER (IXC).

A Telecommunications Carrier that provides, directly or indirectly, InterLATA or IntraLATA telephone toll services.

2.23 INTERLATA TRAFFIC.

Telecommunications traffic that originates in one LATA and terminates in another LATA.

2.24 INTERCEPT MESSAGE

An Intercept Message is an announcement on the abandoned telephone number which provides the Customer's new number or other appropriate information.

2.25 INTRALATA TRAFFIC

Telecommunications traffic that originates and terminates in the same LATA.

## 2.26 INTERNET PROTOCOL CONNECTION

The IPC is the connection between the ISP and the customer where end user information is originated or terminated utilizing internet protocol.

## 2.27 ISDN USER PART (ISUP).

A part of the SS7 protocol that defines call setup messages and call takedown messages.

## 2.28 ISP-BOUND TRAFFIC.

ISP-Bound Traffic means traffic that originates from or is directed, either directly or indirectly, to or through an information service provider or Internet Service Provider (ISP) that is physically located in an area within the local/EAS exchange of the originating End User Customer. Traffic originated from, directed to or through an ISP physically located outside the originating End User Customer's local/EAS exchange will be considered switched toll traffic and subject to access charges. IP-Enabled Traffic is not ISP-Bound Traffic.

## 2.29 JURISDICTIONAL INDICATOR PARAMETER (JIP).

JIP is a six-digit number that provides a unique identifier representing the originating carrier. JIP is defined in the Alliance for Telecommunications Industry Solutions Reference Document ATIS-0300011.

## 2.30 LOCAL ACCESS AND TRANSPORT AREA (LATA).

Shall have the meaning set forth in the Act.

## 2.31 LOCAL NUMBER PORTABILITY (LNP)

LNP is the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

## 2.32 LINE INFORMATION DATABASE (LIDB).

One or all, as the context may require, of the Line Information databases used by United and owned by other entities which provide, among other things, calling card validation functionality for telephone line number cards issued by United and other entities. A LIDB also contains validation data for collect and third number-billed calls; i.e., Billed Number Screening.

### 2.33 LOCAL EXCHANGE CARRIER (LEC).

The term "local exchange carrier" means any company that is authorized by the state public utility commission to provide local exchange and exchange access services. Such term does not include a company engaged in the provision of a commercial mobile service.

### 2.34 LOCAL EXCHANGE ROUTING GUIDE (LERG).

The Telcordia Technologies reference customarily used to identify NPA/NXX routing and homing information, as well as network element and equipment designation.

### 2.35 LOCAL/EAS TRAFFIC.

Any call that originates from an End User Customer physically located in one exchange and terminates to an End User Customer physically located in either the same exchange, or other mandatory local calling area associated with the originating End User Customer's exchange as defined and specified in United's tariff. The exchanges and NPA-NXX of each Party in the United tariff are listed in Exhibit 1. As clarification of this definition and for reciprocal transport and termination compensation, Local/EAS Traffic does not include traffic that originates from or is directed to or through an ISP.

### 2.36 NEW SERVICE PROVIDER (NSP).

When an End-User Customer is changing its local exchange service from one provider to another, the NSP is the provider with whom the customer will reside at the completion of the change.

### 2.37 NORTH AMERICAN NUMBERING PLAN (NANP).

The system of telephone numbering employed in the United States, Canada, Bermuda, Puerto Rico and certain Caribbean islands. The NANP format is a 10-digit number that consist of a 3-digit NPA Code (commonly referred to as area code), followed by a 3-digit NXX code and 4 digit line number.

### 2.38 NUMBERING PLAN AREA (NPA).

Also sometimes referred to as an area code, is the first three-digit indicator of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized Telecommunications Service that may be

provided across multiple geographic NPA areas. 500, 700, 800, 888 and 900 are examples of Non-Geographic NPAs.

2.39 NXX, NXX CODE, CENTRAL OFFICE CODE OR CO CODE.

The three-digit switch entity indicator (i.e. the first three digits of a seven-digit telephone number). Each NXX Code contains 10,000 station numbers.

2.40 OLD SERVICE PROVIDER (OSP).

When an End-User Customer is changing its local exchange service from one provider to another, the OSP is the provider from whom the End-User Customer is disconnecting.

2.41 POINT OF INTERCONNECTION (POI).

The physical location(s) within United's network, at which the Parties' networks meet for the purpose of exchanging Local/EAS Traffic.

2.42 RATE CENTER AREA.

A Rate Center Area is a geographic location, which has been designated by United as being associated with a particular NPA-NXX code, which has been assigned to United for its provision of Telephone Exchange Service. Rate Center Area is normally the same as the boundary of the United Exchange Area as defined by the Commission.

2.43 RATE CENTER

A Rate Center is the finite geographic point identified by a specific V&H coordinate which is used by United to measure, for billing purposes, distance sensitive transmission services associated with the specific rate center; provided that a Rate Center cannot exceed the boundaries of the United Exchange Area as defined by the Commission.

2.44 SIGNALING SYSTEM 7 (SS7).

The common channel out-of-band signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI). United and Midcontinent currently utilize this out-of-band signaling protocol.

2.45 SWITCHED ACCESS SERVICE.

The offering of transmission and switching services for the purpose of the origination or termination of Toll Traffic. Switched Access Services include but may not be limited to: Feature Group A, Feature Group B, Feature Group D, 700 access, 8XX access, and 900 access.

2.46 TANDEM SWITCH.

A switching entity that has billing and recording capabilities and is used to connect and switch trunk circuits between and among end office switches and between and among end office switches and carriers' aggregation points, points of termination, or point of presence, and to provide Switched Exchange Access Services.

2.47 TANDEM TRANSIT TRAFFIC OR TRANSIT TRAFFIC.

Telephone Exchange Service traffic that originates on Midcontinent's network, and is transported through an United Tandem to the Central Office of a Midcontinent, Interexchange Carrier, Commercial Mobile Radio Service ("CMRS") carrier, or other LEC, that subtends the relevant United Tandem to which Midcontinent delivers such traffic. Subtending Central Offices shall be determined in accordance with and as identified in the Local Exchange Routing Guide ("LERG"). Switched Exchange Access Service traffic is not Tandem Transit Traffic.

2.48 TARIFF.

Any applicable Federal or State tariff of a Party, as amended from time to time.

For purposes of this agreement, the term tariff shall also be deemed to include any policies or terms and conditions of service that has been adopted by United and filed with a regulatory or governmental agency.

2.49 TELCORDIA TECHNOLOGIES.

Formerly known as Bell Communications Research. The organization conducts research and development projects for its owners, including development of new Telecommunications Services. Telcordia Technologies also provides generic requirements for the telecommunications industry for products, services and technologies.

2.50 TELECOMMUNICATIONS CARRIER.

The term "telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services. A telecommunications carrier shall be treated as a common carrier under the Telecommunications Act only to the extent that it is engaged in providing telecommunications services.

2.51 TELECOMMUNICATIONS SERVICE.

The term "telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

2.52 TELECOMMUNICATIONS TRAFFIC.

“Telecommunications Traffic” means Telecommunications Service traffic exchanged between an ILEC and a Telecommunications Carrier other than a CMRS provider, except for Telecommunications Service traffic that is interstate or intrastate exchange access, information access, or exchange services for such access.

2.53 TELEPHONE EXCHANGE SERVICE.

The term "telephone exchange service" means shall have the meaning set forth in 47 U.S.C. Section 3 (47) of the Act.

2.54 VOIP or IP-ENABLED TRAFFIC.

VoIP means any IP-enabled, real-time, multidirectional voice call, including, but not limited to, service that mimics traditional telephony. IP-Enabled Voice Traffic includes:

- (i) Voice traffic originating on Internet Protocol Connection (IPC), and which terminates on the Public Switched Telephone Network (PSTN); and
- (ii) Voice traffic originated on the PSTN, and which terminates on IPC.

## Exhibit 1

**EAS INTERCONNECTION NETWORK ARRANGEMENTS TABLE**

## LOCAL CALLING SCOPE AND NPA/NXXS

<b>Exchanges in Local Calling Area</b>	<b>Midcontinent NPA/NXX</b>	<b>United NPA/NXX</b>
Langdon	N/A	Langdon (701-256, 701-305, 701-370, 701-382)  Milton (701-496)  Munich (701-682)  Rock Lake (701-266)  Sarles (701-697)  Wales (701-283)  Walhalla (701-549)
Walhalla	N/A	Langdon (701-256, 701-305, 701-370, 701-382)  Milton (701-496)  Munich (701-682)  Rock Lake (701-266)  Sarles (701-697)  Wales (701-283)  Walhalla (701-549)

## **Attachment 1**

### **Resale**



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## **RESALE**

### **1. Scope**

- 1.1 For the Purposes of the Agreement, Resale shall be provided under Section 251
- 1.2 The telecommunications services available for purchase by Midcontinent for the purposes of resale to Midcontinent's End User Customers shall be available at United's tariffed rates less the wholesale discount and subject to the exclusions and limitations set forth in Exhibit A to this Agreement.

### **2. General Provisions**

- 2.1 All of the negotiated rates, terms and conditions set forth in this Attachment pertain to the resale of United's retail telecommunications services and other services specified in this Attachment. Subject to effective and applicable FCC and Commission rules and orders, United shall make available to Midcontinent for resale those telecommunications services United makes available, pursuant to its Local Exchange Services Tariff (LEST) to End User Customer customers who are not telecommunications carriers as listed in Exhibit A. When the provisions of the LEST conflict with the provisions of this Agreement, the provisions of this Agreement shall take precedence.
- 2.2 Midcontinent may purchase resale services from United for its own use in operating its business.
  - 2.2.1 Midcontinent must resell services to other End User Customers.
  - 2.2.2 Midcontinent cannot be a CLEC for the single purpose of selling to itself.
- 2.3 Midcontinent will be the Customer of Record for all services purchased from United. Except as specified herein, United will take orders from, bill and receive payment from Midcontinent for said services.
- 2.4 Midcontinent (not Midcontinent agents or third parties hired by Midcontinent) will be United's single point of contact for all services purchased pursuant to this Agreement. United shall have no contact with the End User Customer except to the extent provided for herein. Each Party shall provide to the other a North Dakota toll-free contact number for purposes of repair and maintenance.

- 2.5 United will continue to bill the End User Customer for any services that the End User Customer specifies it wishes to receive directly from United. United maintains the right to serve directly any End User Customer within the service area of Midcontinent. United will continue to market directly its own telecommunications products and services and in doing so may establish independent relationships with End User Customers of Midcontinent. Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.
- 2.6 When an End User Customer of Midcontinent or United elects to change his/her carrier to the other Party, both Parties agree to release the End User Customer's service to the other Party concurrent with the due date of the service order, which shall be established based on the standard interval for the End User Customer's requested service as set forth in the United Operations Handbook.
- 2.7 Except where otherwise required by law, Midcontinent shall not, without United's prior written authorization, offer the services covered by this Appendix using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of United's or its Affiliates, nor shall Midcontinent state or imply that there is any joint business association or similar arrangement with United in the provision of Telecommunications Services to Midcontinent's customers.
- 2.8 Current telephone numbers may normally be retained by the End User Customer and are assigned to the service furnished. However, neither Party nor the End User Customer has a property right to the telephone number or any other call number designation associated with services furnished by United, and no right to the continuance of service through any particular central office. United reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever United deems it necessary to do so in the conduct of its business and in accordance with United practices and procedures on a nondiscriminatory basis.
- 2.9 If Midcontinent or its End User Customers utilize a United resold telecommunications service in a manner other than that for which the service was originally intended as described in United's retail tariffs, Midcontinent has the responsibility to notify United. United will only provision and maintain said service consistent with the terms and conditions of the tariff describing said service.
- 2.10 Facilities and/or equipment utilized by United to provide service to Midcontinent remain the property of United.

2.11 Service Ordering

2.11.1 Midcontinent must order services according to the Pre-ordering and Ordering Attachment to this Agreement.

2.11.2 Denial/Restoral Charge. In the event Midcontinent provides a list of customers to be denied and restored, rather than a Local Service Request (LSR), each location on the list will require a separate PON and therefore will be billed as one LSR per location.

2.11.3 Cancellation Charge. Midcontinent will incur a charge for an accepted LSR that is later canceled.

2.12 Midcontinent shall pay, the End User Customer common line charges and any other appropriate Commission approved charges. These charges are set forth in the appropriate United federal and applicable state tariffs(s) and will apply to each local exchange line furnished to Midcontinent. This charge is not subject to the wholesale discount.

2.13 To the extent allowable by law, Midcontinent shall be responsible for Primary Interexchange Carrier (both PIC and LPIC) change charges associated with each local exchange line furnished to Midcontinent for resale.

2.14 Midcontinent is solely responsible for the payment of charges for all service furnished under this Agreement.

2.15 If Midcontinent does not wish to be responsible for toll, collect, third number billed, 900 calls, last call return, caller originated trace, directory assistance inquiries, and operator assistance charges, Midcontinent must order blocking services as outlined in United's local exchange tariff and pay any applicable charges.

**3. United's Provision of Services to Midcontinent**

3.1 Resale of United services shall be as follows:

3.1.1 The resale of telecommunications services shall be limited to users and uses conforming to the class of service restrictions. Midcontinent shall not use resold local exchange telephone service to provide access services to Interexchange Carriers (IXCs), wireless carriers, competitive access providers (CAPs), or other telecommunication service providers or voice over internet protocol companies.

3.1.2 Service is furnished subject to the condition that it will not be used for any unlawful purpose.

- 3.1.3 Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.
- 3.1.4 United can refuse service when it has grounds to believe that service will be used in violation of the law.
- 3.1.5 United will cooperate with law enforcement agencies with subpoenas and court orders relating to Midcontinent's End User Customers, pursuant to Section 21 of the General Terms and Conditions.
- 3.1.6 United is authorized, but not required to cooperate with law enforcement agencies with respect to their investigation of any alleged unlawful activity of Midcontinent or its End User Customers. Law enforcement agency subpoenas and court orders regarding the End User Customers of Midcontinent will be directed to Midcontinent. United shall be entitled to bill Midcontinent for any cost associated with complying with any requests by law enforcement agencies regarding Midcontinent or Midcontinent's End User Customers.
- 3.1.7 United reserves the right to periodically audit services purchased by Midcontinent to establish authenticity of use. Such audit shall not occur more than once in a calendar year. Midcontinent shall make any and all records and data available to United or United's auditors on a reasonable basis. United shall bear the cost of said audit. Any information provided by Midcontinent for purposes of such audit shall be deemed Confidential Information pursuant to the General Terms and Conditions of this Agreement.
- 3.2 Subject to Exhibit A hereto, resold services can only be used in the same manner as specified in United's Tariffs. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual End User Customer of United in the appropriate section of United's Tariffs. Specific tariff features (e.g. a usage allowance per month) shall not be aggregated across multiple resold services or End User Customers.
- 3.3 Midcontinent may resell services only within the specific service area as defined in Exhibit B. Midcontinent must have a certificate of operation approved by the Commission to operate in such areas.
- 3.4 Promotions of ninety (90) days or less are not available to CLEC for resale. Promotions of ninety-one (91) days or more are available to CLEC for resale.
- 3.5 If Midcontinent cancels an order for resold services, any costs incurred by United in conjunction with provisioning of such order will be recovered in accordance with United's LEST.

**3.6 Service Jointly Provisioned within Third Party Company Areas**

- 3.6.1 United will in some instances provision resold services in accordance with the LEST jointly with a third party telecommunications company.
- 3.6.2 When Midcontinent assumes responsibility for such service, all terms and conditions defined in the Tariff will apply for services provided within the United service area only.
- 3.6.3 Midcontinent must establish a billing arrangement with the third party prior to assuming an End User Customer account where such circumstances apply.

**4. Establishment of Service**

- 4.1 After receiving certification as a local exchange carrier from the applicable regulatory agency, Midcontinent will provide United the necessary documentation to enable United to establish accounts for resold services (master account) according to the United Operations Handbook.
- 4.2 Requests for customer service records and local service requests shall be accepted in accordance with the Ordering Attachment.
- 4.3 United will accept a request directly from the End User Customer for conversion of the End User Customer's service from Midcontinent to United or will accept a request from another CLEC/CMRS for conversion of the End User Customer's service from Midcontinent to such other CLEC/CMRS. Upon completion of the conversion United will notify Midcontinent that such conversion has been completed.

**5. Discontinuance of Service**

- 5.1 The procedures for discontinuing service to an End User Customer are as follows:
  - 5.1.1 United will deny service to Midcontinent's End User Customer on behalf of, and at the request of, Midcontinent. Upon restoration of the End User Customer's service, denial/restoral charges will apply and will be the responsibility of Midcontinent.
  - 5.1.2 At the request of Midcontinent, United will disconnect a Midcontinent End User Customer.
  - 5.1.3 All requests by Midcontinent for denial or disconnection of an End User Customer for nonpayment must be in writing.

- 5.1.4 Midcontinent will be made solely responsible for notifying the End User Customer of the proposed disconnection of the service.
- 5.1.5 United may report annoyance calls to Midcontinent when it is determined that annoyance calls are originated from one of its End User Customer's locations. United shall be indemnified, defended and held harmless by Midcontinent and/or the End User Customer against any claim, loss or damage arising from providing this information to Midcontinent. It is the responsibility of Midcontinent to take the corrective action necessary with its End User Customers who make annoying calls. (Failure to do so will result in United's disconnecting the End User Customer's service.)
- 5.2 Permanent Disconnects. Midcontinent will return the disconnected resale number immediately following the disconnect. United will be responsible for the message and aging of the number. Both service order and central office non-recurring charges are not applicable.

## **6. Maintenance of Services**

- 6.1 Services resold pursuant to this Agreement and United's LEST and facilities and equipment provided by United shall be maintained by United.
- 6.2 Midcontinent or its End User Customers may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by United except with the written consent of United.
- 6.3 Midcontinent accepts responsibility to notify United of situations that arise that may result in a service problem.
- 6.4 Maintenance and repair process is addressed in the Ordering Attachment.
- 6.5 For all repair requests, Midcontinent shall adhere to United's prescreening guidelines prior to referring the trouble to United.
- 6.6 Midcontinent shall be United's single point of contact for all repair calls on behalf of Midcontinent's End User Customers with respect to resold services.
- 6.6 For purposes of this Section, Telecommunications Services is considered restored or a trouble resolved when the quality of services is equal to that provided before the outage or trouble occurred.
- 6.7 United reserves the right to contact Midcontinent's End User Customers, if deemed necessary, for maintenance purposes.
- 6.8 In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use these repair calls as the basis for internal referrals or

to solicit customers to market services. Either Party may respond with accurate information in answering customer questions.

## **7. Ancillary Services**

7.1 United shall provide 911/E911 for Midcontinent customers in the same manner that it is provided to United customers. United shall provide and validate Midcontinent customer information to the Public Service Answering Point (PSAP). United shall use its service order process to update and maintain, on the same schedule that it uses for its customers, the Midcontinent customer service information in the ALI/DMS (Automatic Location Identification/Location Information) databases used to support 911/E911 services. United shall not be responsible for any failure of Midcontinent to provide accurate End User Customer information for 911 or listings in any databases in which United is required to retain and/or maintain such information.

### **7.2 Directory**

7.2.1 Subject to United's practices, as well as the rules and regulations applicable to the provision of White Pages directories, United will include in appropriate White Pages directories the primary alphabetical listings of all Midcontinent End User Customers located within the local directory scope. The rules, regulations and United practices are subject to change from time to time.

7.2.2 Additional Listing services, as set forth in Appendix Pricing, may be purchased by Midcontinent for its End User Customers on a per listing basis.

#### **7.2.3 Liability relating to End User Customer Listings**

7.2.3.1 Midcontinent hereby releases United from any and all liability for damages due to errors or omissions in Midcontinent's End User Customer listing information as provided to United under this Attachment, and/or Midcontinent's End User Customer listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, consequential, punitive or incidental damages.

7.2.3.2 Midcontinent shall indemnify, protect, save harmless and defend United and United's officers, employees, agents, representatives and assigns from and against any and all losses, liability, damages and expense arising out of any demand, claim, suit or judgment by a Third Party in any way related to any error or omission in Midcontinent's End User Customer listing information, including any error or omission related to non-published or non-listed End User Customer listing information. Midcontinent shall so indemnify regardless of whether the demand, claim or suit by the



third party is brought jointly against Midcontinent and United, and/or against United alone. However, if such demand, claim or suit specifically alleges that an error or omission appears in Midcontinent's End User Customer listing information in the White Pages directory, United may, at its option, assume and undertake its own defense, or assist in the defense of Midcontinent, in which event Midcontinent shall reimburse United for reasonable attorney's fees and other expenses incurred by United in handling and defending such demand, claim and/or suit.

- 7.2.4 Each Midcontinent subscriber will receive one copy per primary End User Customer listing of United's White Pages directory in the same manner and at the same time that they are delivered to United's subscribers.

### 7.3 Operator Services (Operator Call Processing and Directory Assistance)

- 7.3.1 United Contracts with a Third Party for Operator Call Processing, (OCP) which provides operator handling for call completion (for example, collect, third number billing, and manual calling-card calls).

- 7.3.2 Upon request from Midcontinent for OCP, United shall route calls to the Third Party Operator Services Provider for Call Processing. United shall charge Midcontinent the same rates as other United local service customers are charged for the following OCP services:

- 7.3.2.1 Process calls that are billed to Midcontinent End User Customer's calling card.

- 7.3.2.2 Process person-to-person calls.

- 7.3.2.3 Process collect calls.

- 7.3.2.4 Provide the capability for callers to bill a third party and shall also process such calls.

- 7.3.2.5 Process station-to-station calls.

- 7.3.2.6 Process operator-assisted DA calls.

- 7.3.2.7 Adhere to equal access requirements, providing Midcontinent local End User Customers the same IXC access that United provides its own operator service.

- 7.3.2.8 Exercise at least the same level of fraud control in providing Operator Service to Midcontinent that United provides for its own operator service.

7.3.2.9 Perform Billed Number Screening when handling Collect, Person-to-Person, and Billed-To-Third-Party calls.

7.4 Directory Assistance Service

7.4.1 DA Service provides local and non-local End User Customer telephone number listings with the option to complete the non-local call at the caller's direction separate and distinct from local switching.

7.4.2 DA Service shall provide up to two listing requests per call, if available and if requested by Midcontinent's End User Customer at rates charged to other United customers. United shall provide caller-optional directory assistance call completion service at rates set by third party service provider.

7.4.3 Directory Assistance Service Updates

7.4.3.1 United shall update End User Customer listings changes on the same schedule as United updates its own customer listings. These changes include:

7.4.3.1.1 New End User Customer connections

7.4.3.1.2 End user disconnections

7.4.3.1.3 End user address changes

7.4.3.2 These updates shall also be provided for non-listed and non-published numbers for use in emergencies.

7.5 Selective Call Routing using Line Class Codes (SCR-LCC)

United is capable of providing SCR-LCC to Midcontinent so that Midcontinent can directly provide operator services to the resold customers. If Midcontinent decides to purchase this service, terms and conditions and pricing shall be negotiated between the Parties.

7.5.1 The interface requirements shall conform to the interface specifications for the platform used to provide Operator Services as long as the interface conforms to industry standards.

**8. Line Information Database**

8.1 United will store in its Line Information Database (LIDB) records relating to service only in the United region. The LIDB Storage Agreement is included in this Attachment as Exhibit C.

8.2 United will provide LIDB Storage upon written request to Midcontinent's Account Manager stating a requested activation date.

**9. Usage Records**

- 8.3 United shall bill Midcontinent for all the usage of operator assistance or directory services generated by their End User Customers.
- 8.4 United will provide Usage Data for completed calls only for service offerings that United records for itself (e.g., Local Measured Services) and recordings performed on behalf of United for operator services and directory assistance.
- 8.5 The usage information shall be provided once per month on a paper bill.

**EXCLUSIONS & LIMITATIONS ON SERVICES AVAILABLE FOR RESALE**

Type of Service		North Dakota	
		Resale	Discount
1	Grandfathered Services (Note 1)	Yes	Yes
2	Promotions - > 90 Days (Note 2)	Yes	Yes
3	Promotions - ≤ 90 Days (Note 2)	No	No
4	N11 Services	No	No
5	Federal Subscriber Line Charges	Yes	No
6	Nonrecurring Charges	Yes	No
7	Public Telephone Access Svc (PTAS)	Yes	Yes
8	Voice Mail	No	No
9	Private Line including FX (Note 3)	No	No
10	Employee Discount	No	No
11	Centrex	No	No
12	Alarm Circuits	No	No
13	Listings	No	No
14	Lifeline (Note 4)	No	No
15	Deregulated services – Inside wire, ISP, Toll, etc.	No	No
16	Volume Discounts	No	No

**Applicable Notes:**

1. Grandfathered services can be resold only to existing subscribers of the grandfathered service.
2. Where available for resale, promotions will be made available only to End User Customers who would have qualified for the promotion had it been provided by United directly.
3. Midcontinent can order services from the access tariff
4. Midcontinent would apply directly for Lifeline support

### 9.1.1 AREA OF RESALE

**Exchange Name**

Langdon, North Dakota (effective June 1, 2008)  
Walhalla, North Dakota (effective February 1, 2009)

## **LINE INFORMATION DATA BASE (LIDB)**

### **RESALE STORAGE AGREEMENT**

#### **I. Definitions (from Exhibit)**

- A. Billing number - a number used by United for the purpose of identifying an account liable for charges. This number may be a line or a special billing number.
- B. Line number - a ten-digit number assigned by United that identifies a telephone line associated with a resold local exchange service.
- C. Special billing number - a ten-digit number that identifies a billing account established by United in connection with a resold local exchange service.
- D. Calling Card number - a billing number plus PIN number assigned by United.
- E. PIN number - a four-digit security code assigned by United that is added to a billing number to compose a fourteen-digit calling card number.
- F. Toll billing exception indicator - associated with a billing number to indicate that it is considered invalid for billing of collect calls or third number calls or both, by Midcontinent.
- G. Billed Number Screening - refers to the query service used to determine whether a toll billing exception indicator is present for a particular billing number.
- H. Calling Card Validation - refers to the query service used to determine whether a particular calling card number exists as stated or otherwise provided by a caller.
- I. Billing number information - information about billing number or Calling Card number as assigned by United and toll billing exception indicator provided to United by Midcontinent.
- J. Get-Data - refers to the query service used to determine, at a minimum, the Account Owner and/or Regional Accounting Office for a line number. This query service may be modified to provide additional information in the future.
- K. Originating Line Number Screening (OLNS) - refers to the query service used to determine the billing, screening and call handling indicators, station type and Account Owner provided to United by Midcontinent for originating line numbers.
- L. Account Owner - name of the local exchange telecommunications company that is providing dialtone on a subscriber line.

## **II. General**

- A. This Agreement sets forth the terms and conditions pursuant to which United agrees to store in its LIDB certain information at the request of Midcontinent and pursuant to which United, its LIDB customers and Midcontinent shall have access to such information. In addition, this Agreement sets forth the terms and conditions for Midcontinent's provision of billing number information to United for inclusion in United's LIDB. Midcontinent understands that United provides access to information in its LIDB to various telecommunications service providers pursuant to applicable tariffs and agrees that information stored at the request of Midcontinent, pursuant to this Agreement, shall be available to those telecommunications service providers. The terms and conditions contained herein shall hereby be made a part of this Agreement upon notice to Midcontinent's account team and/or Local Contract Manager activate this LIDB Storage Agreement. The General Terms and Conditions of the Agreement shall govern this LIDB Storage Agreement.
- B. The Midcontinent LIDB information shall be used for the following purposes:
  - 1. Billed Number Screening. United is authorized to use the billing number information to determine whether Midcontinent has identified the billing number as one that should not be billed for collect or third number calls.
  - 2. Calling Card Validation. United is authorized to validate a 14-digit Calling Card number where the first 10 digits are a line number or special billing number assigned by United, and where the last four digits (PIN) are a security code assigned by United.
  - 3. OLNS. United is authorized to provide originating line screening information for billing services restrictions, station type, call handling indicators, presubscribed interLATA and local carrier and account owner on the lines of Midcontinent from which a call originates.
  - 4. GetData. United is authorized to provide, at a minimum, the account owner and/or Regional Accounting Office information on the lines of Midcontinent indicating the local service provider and where billing records are to be sent for settlement purposes. This query service may be modified to provide additional information in the future.

## **III. Responsibilities of the Parties**

- A. United will administer all data stored in the LIDB, including the data provided by Midcontinent pursuant to this Agreement, in the same manner as United's data for United's End User Customer customers. United shall not be responsible to Midcontinent for any lost revenue which may result from United's administration of the LIDB pursuant to its established practices and procedures as they exist and as they may be changed by United in its sole discretion from time to time.

**B. Billing and Collection Customers**

United currently has in effect numerous billing and collection agreements with various interexchange carriers (IXCs) and billing clearing houses and as such these billing and collection customers (B&C Customers) query United's LIDB to determine whether to accept various billing options from End User Customers. Until such time as United implements in its LIDB and its supporting systems the means to differentiate Midcontinent's data from United's data, the following shall apply:

1. United will identify Midcontinent End User Customer originated long distance charges and will return those charges to the IXC as not covered by the existing B&C agreement. Midcontinent is responsible for entering into the appropriate agreement with IXCs for handling of long distance charges by their End User Customers.
2. United shall have no obligation to become involved in any disputes between Midcontinent and B&C Customers. United will not issue adjustments for charges billed on behalf of any B&C Customer to Midcontinent. It shall be the responsibility of Midcontinent and the B&C Customers to negotiate and arrange for any appropriate adjustments.

**IV. Fees for Service and Taxes**

- A. Midcontinent will not be charged a fee for storage services provided by United to Midcontinent, as described in this LIDB Resale Storage Agreement.
- B. Sales, use and all other taxes (excluding taxes on United's income) determined by United or any taxing authority to be due to any federal, state or local taxing jurisdiction with respect to the provision of the service set forth herein will be paid by Midcontinent in accordance with the tax provisions set forth in the General Terms and Conditions of this Agreement.



## **Pre-Ordering, Ordering, Provisioning, Maintenance and Repair**

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## **Pre-Ordering, Ordering, Provisioning, Maintenance and Repair**

### **1. Pre-Ordering**

- 1.1 The Parties will provide access to pre-order functions to support the requesting Party's transfer of customers. The Parties acknowledge that ordering requirements necessitate the use of current pre-order information to accurately build service orders. The following lists represent pre-order functions that are available.
- 1.2 Release of retail Customer Proprietary Network Information (CPNI) and account information for pre-ordering will include: billing name, service address, billing address, service and feature subscription, directory listing information, long distance carrier identity, and PIC freeze indication. Parties agree that the Parties' representatives will not access the information specified in this subsection until after the End User Customer requests that his or her Local Service Provider be changed to that Party, and a Letter of Authorization (LOA) for release of CPNI complies with conditions as described in Section 3.3 of this Attachment.
- 1.3 The Parties will provide the information on the following pre-ordering functions: service address validation, telephone number selection, service and feature availability, due date information, and customer record information. United and Midcontinent will include the development and introduction of the new change management process. The Parties shall provide such information in accordance with the procedures set out in the United Operations Handbook via paper copies of End User Customer record information.
- 1.4 Each Party 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 or FCC, including without limitation Section 222 of the Act and the FCC's rules in 47 C.F.R. Part 64, subpart U and any successor provisions. Each Party reserves the right to audit the other Party's access to End User Customer record information for customers of the auditing Party. If an audit of access to End User Customer record information reveals that the audited Party is accessing End User Customer record information without having obtained the proper LOA, the auditing Party, upon reasonable notice to the audited Party, may take corrective action. All such information obtained through an audit shall be deemed Information covered by the Proprietary and Confidential Information Section 11 in the General Terms and Conditions of this Agreement.

### **2. Ordering**

- 2.1 Midcontinent agrees to comply with the provisions of the United Operations Handbook, which are incorporated by reference in this Agreement, and as amended from time to time, provided however, that United furnishes Midcontinent with a copy of the Handbook and relevant amendments in a timely manner.

## 2.2 Ordering.

- 2.2.1 Midcontinent shall place orders for services by submitting a local service request ("LSR") to United. United shall bill Midcontinent a service order charge as specified in this Attachment for each LSR submitted. An individual LSR will be identified for billing purposes by its Purchase Order Number ("PON").
- 2.2.2 United will bill the service order charge, as applicable, for an LSR, regardless of whether that LSR is later supplemented, clarified or cancelled.

## 2.3 Provisioning.

- 2.3.1 United shall provision services during its regular working hours. To the extent Midcontinent requests provisioning of service to be performed outside United's regular working hours, or the work so requested requires United's technicians or project managers to work outside of regular working hours, overtime charges shall apply.
- 2.3.2 Cancellation Charges. If Midcontinent cancels an LSR any costs incurred by United in conjunction with the provisioning of that request will be recovered in accordance with the Pricing Attachment.
- 2.3.3 Expedited Service Date Charges. For Expedited Service Date Advancement requests by Midcontinent, expedited charges will apply for intervals less than the standard interval as outlined in the United Operations Handbook. The charges as outlined in the Pricing Attachment, will apply as applicable.
- 2.3.4 Order Change Charges. If Midcontinent modifies an order after being sent a Firm Order Confirmation (FOC) from United, the Order Change Charge will be paid by Midcontinent in accordance with the Pricing Attachment.
- 2.3.5 Access to Inside Wire. Each Party is responsible for accessing customer premise wiring without disturbing the other Party's plant. In no case shall one Party remove or disconnect the loop facilities or ground wires from the other Party's NIDs, enclosures, or protectors. If one Party removes a loop in violation of this Agreement, that Party will hold the other Party harmless for any liability associated with the removal of the loop or ground wire from the NID. Furthermore, neither Party shall remove or disconnect NID modules, protectors, or terminals from the other Party's NID enclosures.

## 2.4 Maintenance and Repair

- 2.4.1 Requests for trouble repair are billed in accordance with the provisions of this Agreement. United and Midcontinent agree to adhere to the procedures for maintenance and repair referenced in United's Operations Handbook, as amended from time to time during this Agreement and as incorporated herein by reference.
- 2.4.2 If one Party reports a trouble and no trouble actually exists on the other Party's portion, the other Party will charge the reporting Party for any dispatching and

testing (both inside and outside the Central Office (CO)) required by the other Party to confirm the working status.

## 2.5 Rates

Unless otherwise specified herein, charges applicable to pre-ordering, ordering, provisioning and maintenance and repair, shall be as set forth in the Pricing Attachment.

## 3. Miscellaneous

### 3.1 Customer Transfer.

- 3.1.1 Service orders will be in a standard format designated by ILEC.
- 3.1.2 When notification is received from CLEC that a current End User Customer of ILEC will subscribe to CLEC's service, standard service order intervals for the appropriate class of service will apply.
- 3.1.3 CLEC will be the single point of contact with ILEC for all subsequent ordering activity resulting in additions or changes to services except that ILEC will accept a request directly from the End User for conversion of the End User Customer's service from CLEC to ILEC.
- 3.1.4 If the Old Service Provider ("OSP") determines that an unauthorized change in local service to the New Service Provider ("NSP") has occurred, the OSP will reestablish service with the appropriate local service provider and will assess the NSP as the carrier initiating the unauthorized change, any charges allowed under the FCC and State rules. Appropriate nonrecurring charges, as set forth in the applicable ILEC tariff will also be assessed to the NSP. These charges can be adjusted if the NSP provides satisfactory proof of authorization.

### 3.2 Misdirected Calls.

- 3.2.1 The Parties will employ the following procedures for handling any misdirected calls (e.g., Business office, repair bureau, etc.):
- 3.2.2 To the extent the correct provider can be determined; each Party will refer misdirected calls to the proper provider of local exchange service. When referring such calls, both Parties agree to do so in a courteous manner at no charge.
- 3.2.3 For misdirected repair calls, the Parties will provide their respective repair bureau contact number to each other on a reciprocal basis and provide the End User Customer the correct contact number.
- 3.2.4 In responding to misdirected calls, neither Party shall make disparaging remarks about each other, nor shall they use these calls as a basis for internal referrals or to solicit End User Customers or to market services.

### 3.3 Letter of Authorization.

- 3.3.1 United will not release the Customer Service Record (CSR) containing CPNI to Midcontinent on United's End User Customer accounts unless Midcontinent first provides to United a written Letter of Authorization (LOA). Such LOA may be a blanket LOA or other form agreed upon between United and Midcontinent authorizing the release of such information to Midcontinent.
- 3.3.2 An LOA will be required before United will process an order for services provided in cases in which the End User Customer currently receives Exchange Service from United or from a local service provider other than Midcontinent. Such LOA may be a blanket LOA or such other form as agreed upon between United and Midcontinent.
- 3.3.3 Midcontinent and United shall each execute a blanket letter of authorization with respect to End User Customer requests so that prior proof of End User Customer authorization will not be necessary with every request (except in the case of a local service freeze). The Parties shall each be entitled to adopt their own internal processes for verification of customer authorization for requests, provided, however, that such processes shall comply with applicable state and federal law and industry and regulatory guidelines.

### 3.4 Pending Orders.

Orders placed in the hold or pending status by Midcontinent will be held for a maximum of thirty (30) calendar days from the date the order is placed on hold. After such time, Midcontinent shall be required to submit a new service request. Incorrect or invalid requests returned to Midcontinent for correction or clarification will be held for thirty (30) calendar days. If Midcontinent does not return a corrected request within thirty (30) calendar days, United will cancel the request.

- 3.5 Neither United nor Midcontinent shall prevent or delay an End User Customer from migrating to another carrier because of unpaid bills, denied service, or contract terms.
- 3.6 The Parties shall return a Firm Order Confirmation (FOC) and Local Service Request (LSR) rejection/clarification in accordance with the intervals specified in United's Operations Handbook.

### 3.7 Contact Numbers.

The Parties agree to provide one another with contact numbers for the purpose of ordering, provisioning and maintenance of services. Contact numbers for maintenance/repair of services shall be answered in accordance to the ILEC Operations Handbook. Each Party will make a reasonable effort to notify the other Party when a trouble ticket has been closed. After making a reasonable effort to contact the Party reporting trouble to request additional information or to request authorization for additional work deemed necessary, if the other Party is

unsuccessful in obtaining information or authorization, the other Party will place trouble tickets in delayed maintenance status.

## **Pricing Attachment**



### Pricing Attachment

General. The rates contained in this Pricing Attachment are the rates as referenced in the various sections on the Interconnection Agreement and are subject to change. UTMA shall provide updated versions of the Tariff prior to the effective date of such change.

#### A. Resale:

1. Discount from Tariff Retail Rates	17.0%*
2. Non-Pay reconnect Charge	\$ 20.00
3. Seasonal Disconnect Fee	\$ 30.00
4. Selective Router/Line Class Code	
Non-Recurring	\$240.00
Recurring	\$ 40.00
5. Service Order Charge (LSR)	\$ 25.00/request*
6. Service Order Cancellation Charge	\$ 15.00/request*
7. Expedited Due Date in addition to SOC	\$ 32.00/request*
8. Order Change Charge	\$ 15.00/request*

- \* All Tariff rate elements (both recurring and non-recurring) are applied as stated in the applicable tariff. Rate elements listed in this Attachment are not all inclusive. The services available for resale and subject to the resale discount are listed in the Resale Attachment.

#### B. General Charges:

##### 1. Technical Labor

###### Install & Repair Technician:

Basic Time (normally scheduled hours)	\$ 60.00/hr
Overtime (outside normally schld hrs on schld work day)	\$ 90.00/hr
Sunday and Holiday Rate	\$120.00/hr
Trip Charge	\$30.00
Call out	Min 2 hours

###### Central Office Technician:

Basic Time (normally scheduled hours)	\$ 60.00/hr
Overtime (outside normally schld hrs on schld work day)	\$ 90.00/hr
Sunday and Holiday Rate	\$120.00/hr
Call out	Min 2 hours

Customer Service Representative

Basic Time (Normal Scheduled)	\$ 60.00/hr
Overtime (outside normally schld hrs on schld work day	\$ 90.00/hr
Sunday and Holiday Rate	\$120.00/hr
Call out	Min 2 hours

C. Service Order Charges for Facilities Based Transfer

1. Service Order Charge (LSR)	\$ 25.00/request*
2. Service Order Cancellation Charge	\$ 15.00/request*
3. Expedited Due Date in addition to SOC	\$ 32.00/request*
4. Order Change Charge	\$ 15.00/request*

D. Transport Charges

Per Intrastate Access Tariff

## **Interconnection Attachment**

## **1. General**

- 1.1 This Interconnection Attachment sets forth specific terms and conditions for network interconnection arrangements between ILEC and CLEC for the purpose of the exchange of Local/EAS Traffic and ISP Bound Traffic that is originated by an End-User Customer of one Party and is terminated to an End-User Customer of the other Party, where each Party directly provides Telephone Exchange Service to its End-User Customers physically located in the Exchange Area.
- 1.2 This Attachment also describes the physical architecture for the interconnection of the Parties facilities and equipment for the transmission and routing of Telecommunications Traffic between the respective End-User Customers of the Parties pursuant to Section 251 (a) and (b) of the Act and the compensation for such facilities and traffic exchanged.
- 1.3 Rate Arbitrage
  - 1.3.1 Each Party agrees that it will not knowingly provision any of its services or the services of a third party in a manner that permits the circumvention of applicable switched access charges by the other Party ("Rate Arbitrage") and/or the utilization of the physical connecting arrangements described in this Agreement to permit the delivery to the other Party of traffic not covered under this Agreement through the POI on Local Interconnection Trunks. This Rate Arbitrage includes, but is not limited to, third-party carriers, traffic aggregators, and resellers.
  - 1.3.2 If any Rate Arbitrage and/or delivery of traffic not covered under this Agreement through the local interconnection trunks is identified, the Party causing such Rate Arbitrage also agrees to take all reasonable steps to terminate and/or reroute any service that is permitting any of that Party's End-User Customers or any entity to conduct Rate Arbitrage or that permits the End-User Customer or any entity to utilize the POI for the delivery or receipt of such excluded traffic through the local interconnection trunks. Notwithstanding the foregoing, if any Party is found to be in violation of this Section, until such time as the Rate Arbitrage or incorrect routing of traffic is resolved, that Party shall pay applicable access charges to the other Party for traffic subject to Rate Arbitrage or that is incorrectly routed.
  - 1.3.3 If either Party suspects Rate Arbitrage from the other Party, the Party suspecting arbitrage ("Initiating Party") shall have the right to audit the other Party's records to ensure that no Rate Arbitrage and/or the delivery of traffic not covered under this Agreement is taking place. Both Parties shall cooperate in providing records required to conduct such audits. Upon

request by ILEC, CLEC shall be required to obtain any applicable records of any customer or other third party utilizing CLEC's interconnection with ILEC. The Initiating Party shall have the right to conduct additional audit(s) if the preceding audit disclosed such Rate Arbitrage provided, however, that neither Party shall request an audit more frequently than is commercially reasonable once per calendar year

## **2. Physical Connection**

- 2.1 The Parties shall exchange Local/EAS Traffic and ISP Bound Traffic over Direct Interconnection Facilities between their networks. The Parties agree to physically connect their respective networks so as to exchange such Local/EAS Traffic and ISP Bound Traffic, with the Point of Interconnection (POI) designated at ILEC's Langdon switch (LNGDNDADDS2).
- 2.2 Direct Interconnection Facilities between the Parties' networks shall be provisioned as two-way interconnection trunks. The dedicated interconnection facilities shall meet the Telcordia BOC Notes on LEC Network Practice No. SR – TSV – 002275.
- 2.3 ILEC and CLEC may utilize existing and new wireline Direct Interconnection Facilities for the mutual exchange of Local/EAS Traffic and ISP Bound Traffic and toll traffic. Toll traffic will be provisioned on separate trunk groups within the same facility as Local/EAS Traffic and ISP Bound Traffic. The charges for usage and underlying trunks shall be subject to the appropriate compensation based on jurisdiction.
- 2.4 Physical Interconnection
  - 2.4.1 Trunk Types
    - 2.4.1.1 Local Interconnection Trunks
      - 2.4.1.1.1 The Parties will establish local trunk groups for the exchange of Local/EAS Traffic and ISP Bound Traffic ("Local Interconnection Trunks") on the Direct Interconnection Facility. The Parties agree that all Local/EAS Traffic and ISP Bound Traffic exchanged between them will be on trunks exclusively dedicated to such traffic. Neither Party will terminate InterLATA toll traffic or originate untranslated traffic to service codes (e.g. 800, 888) over Local Interconnection Trunks.
      - 2.4.1.1.2 If the Parties' originated Local/EAS Traffic and ISP Bound Traffic is exchanged utilizing the same two-way

Local Interconnection Trunk, both Parties will mutually coordinate the provisioning and quantity of trunks to be utilized in this arrangement

#### 2.4.1.2 Access Trunks

2.4.1.2.1 Access traffic shall not be routed on the Local Interconnection Trunks. Separate trunk groups for such Access Traffic must be established on the Direct Interconnection Facility. Standard access compensation arrangements from ILEC's respective tariffs will apply to Access Traffic terminated over the Access Trunks.

#### 2.4.2 Fiber Meet Point

2.4.2.1 Fiber Meet Point is an interconnection arrangement whereby the Parties physically interconnect their networks via an optical fiber interface (as opposed to an electrical interface) at an point of interconnection. The location where one Party's facilities, provisioning, and maintenance responsibility begins and the other Party's responsibility ends is at the POI.

2.4.2.2 If both Parties mutually agree to interconnect pursuant to a Fiber Meet Point, CLEC and ILEC shall jointly engineer and operate a fiber optic transmission system. The Parties shall interconnect their transmission and routing of Local/EAS Traffic and ISP Bound Traffic via a local channel facility at the DS1 or DS3 level. The Parties shall work jointly to determine the specific fiber optic transmission system. CLEC's fiber optic transmission equipment must be compatible with ILEC's equipment. Each Party reserves the right to determine the equipment it employs for service.

2.4.2.3 Each Party at its own expense, shall procure, install and maintain the agreed-upon fiber optic transmission system in its network.

2.4.2.4 The Parties shall mutually agree upon Fiber Meet Points on the ILEC network within the borders of the ILEC Langdon and Walhalla Exchange Areas, as applicable. The Parties shall deliver its fiber optic facilities to the Fiber Meet Point. The ILEC shall make all necessary preparations to receive, and to allow and enable CLEC to deliver, fiber optic facilities with sufficient spare length to reach the fusion splice point for the Fiber Meet Point.

2.4.2.5 CLEC shall deliver and maintain its fiber strands wholly at its own expense. Upon request by CLEC, ILEC shall allow CLEC access

to the Fiber Meet Point entry point for maintenance purposes as promptly as possible.

2.4.2.6 The Parties shall jointly coordinate and undertake maintenance of the fiber optic transmission system. Each Party shall be responsible for maintaining the components of its own fiber optic transmission system.

2.4.2.7 Each Party will be responsible for providing its own transport facilities to the Fiber Meet Point.

2.5 Facility Sizing:

The Parties will mutually agree on the appropriate sizing of the transport facilities. The capacity of transport facilities provided by each Party will be based on mutual forecasts and sound engineering practice, as mutually agreed to by the Parties. CLEC will order trunks in the agreed-upon quantities via an Access Service Request ("ASR").

2.6 If CLEC's request requires ILEC to build new facilities (e.g. installing new fiber) to be used by CLEC, CLEC will bear the cost of construction. Payment terms for such costs will be negotiated between the Parties on an individual case basis. No Party will construct facilities that require the other Party to build unnecessary facilities.

2.7 The CLEC shall be responsible for establishing 911 trunks with the designated 911 vendor. CLEC may purchase transport for such 911 trunks from ILEC subject to applicable ILEC tariff rates.

2.8 Interface Types:

If the POI has an electrical interface, the interface will be DS1 or DS3 as mutually agreed upon by the Parties.

2.9 Programming:

It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to the LERG. Each Party will program the numbers of the other Party in accordance with industry standard intervals, including without limitation the requirements of the Central Office Code Assignment Guidelines adopted by the Industry Numbering Committee of the Alliance for Telecommunications Industry Solutions, document number INC-95-0407-008, as revised.

2.10 Equipment Additions:

Where additional equipment is required, such equipment will be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job for the Parties' internal customer demand.

**3. Compensation**

3.1 Facilities Compensation

- 3.1.1 For Direct Interconnection Facilities, CLEC may utilize a Fiber Meet Point, lease facilities from ILEC or lease facilities from a third party to reach the POI.
- 3.1.2 Each Party shall be responsible for the cost of Direct Interconnection Facilities on its side of the POI. Each party is responsible for any transport, transiting, or switching charges assessed by any third party on its respective side of the POI. Neither Party shall have any obligation to bear any charges, expenses or other costs assessed in connection with transporting, transiting or switching traffic on the other Party's side of the POI.
- 3.1.3 If CLEC chooses to lease Direct Interconnection Facilities from the ILEC to reach the POI, CLEC shall compensate ILEC for such leased Direct Interconnection Facilities used for the transmission and routing of telephone exchange service and exchange access service between the Parties and to interconnect with ILEC's network at the rates contained in the applicable ILEC tariff.
- 3.1.4 If CLEC utilizes a switch outside the ILEC's territory and ILEC chooses to purchase dedicated or common (shared) transport from CLEC for transport and termination of ILEC originated traffic, ILEC will pay CLEC for no more than the airline miles between the V & H coordinates of the POI within or at the border of the ILEC's serving area boundary where CLEC receives the ILEC-originated traffic and the V & H coordinates of the ILEC Exchange rate center area that the CLEC terminating NPA/NXX is associated within the same LATA. For these situations, ILEC will compensate CLEC at dedicated transport rates specified in the ILEC applicable tariff and based upon the functions provided by CLEC as defined in this Attachment.
- 3.1.5 In the event that CLEC elects to offer service within ILEC's serving area using a switch located outside ILEC's serving area, CLEC agrees to provide the interconnection facility for both Parties' traffic outside ILEC's contiguous serving area in which CLEC offers service, at no charge to ILEC. Consistent with the requirements of Section 3.1.4, ILEC will not



compensate CLEC for the shared interconnection facility beyond the POI in ILEC's contiguous serving area in which CLEC offers service.

- 3.1.6 In the event ILEC is required to modify its network to accommodate the interconnection request made by CLEC, CLEC agrees to pay ILEC reasonable cost-based charges for modifications, provided that rates under an accepted tariff shall be deemed cost based and that ILEC shall not be required to perform a cost study. In accordance with Section 3.1.2, if CLEC uses a third party network provider to reach the POI, CLEC will bear all third party carrier charges for facilities and traffic in both directions.

### 3.2 Traffic Termination Compensation

- 3.2.1 This Section 3.2 is expressly limited to the transport and termination of Local/EAS Traffic and ISP Bound Traffic originated by and terminated to End-User Customers of the Parties in this Agreement. Both Parties agree that the traffic is roughly in balance and compensation for Local/EAS Traffic and ISP Bound Traffic shall be in the form of the mutual exchange of services provided by the other Party with no minute of use billing related to exchange of such traffic issued by either Party.

- 3.2.2 Compensation for access traffic will be in accordance with each Party's access tariffs. In the event that CLEC does not have a filed access tariff for access service, CLEC agrees to utilize rates that do not exceed ILEC's tariffed access rates.

- 3.3 For the purposes of this Agreement, Jurisdiction of IP-Enabled Traffic is determined by the physical location of the End-User Customer originating IP-Enabled Traffic. Signaling information associated with IP-Enabled Voice Traffic must comply with Section 5 of this Interconnection Attachment. IP-Enabled Traffic will be treated as either Local/EAS Traffic or Switched Access Traffic in accordance with the location of the End-User Customer as determined pursuant to this Section 3.3 and Section 4.2.

- 3.4 Nothing in this Section shall be interpreted to (i) change compensation set forth in this Agreement for traffic or services other than Local/EAS Traffic and ISP-bound Traffic, including but not limited to inter-office facilities, access traffic, wireless traffic, and IP-PSTN Traffic or (ii) allow either Party to aggregate traffic other than Local Traffic for the purpose of compensation under the billing arrangement described in this Section.

- 3.5 Neither Party shall represent Switched Access Traffic as Local Traffic or ISP-bound Traffic for purposes of determining compensation for the call.

#### **4. Routing**

- 4.1 Both Parties acknowledge that traffic will be routed in accordance with Telcordia Traffic Routing Administration (TRA) instructions.
- 4.2 Both Parties shall adhere to the North American Numbering Plan (NANP) guidelines. The Parties agree that if a Party assigns telephone numbers from an NPA/NXX to an End-User Customer physically located outside the Rate Center Area with which the NPA/NXX is associated, the physical location of the calling and called End-User Customers shall be used to determine the jurisdiction of the Telecommunications Traffic for purposes of determining the appropriate compensation mechanism. Further, for End-User Customers to be considered physically located in the Rate Center such End-User Customers must have valid E911 service with a corresponding record in the serving ALI Database.
- 4.3 Once Direct Interconnection Facilities are established, both Parties shall route all traffic to the other Party utilizing the Direct Interconnection Facilities except in the case of an emergency or temporary equipment failure. Should either Party determine that the other Party is routing its originated traffic indirectly via a third party tandem, the originating Party agrees to update its routing and translations tables to move such traffic to the Direct Interconnection Facilities within five (5) business days.
- 4.4 Neither Party shall route un-translated traffic to service codes (e.g. 800, 888, 900) over the Local Interconnection Trunks.
- 4.5 N11 Codes: Neither Party shall route N11 codes (e.g., 411, 611, 711, and 911) over dedicated facilities.

#### **5. Signaling**

- 5.1 Accurate Calling Party Number (“CPN”) associated with the End-User Customer originating the call must be provided. Accurate CPN is:
  - 5.1.1 CPN that is a dialable working telephone number, that when dialed, will reach the End-User Customer to whom it is assigned, at that End-User Customer’s Location.
  - 5.1.2 CPN that has not been altered.
  - 5.1.3 CPN that is not a charged party number.
  - 5.1.4 CPN that follows the North American Numbering Plan Standards and can be identified in numbering databases and the LERG as an active number.
  - 5.1.5 CPN that is assigned to an active End-User Customer.

5.1.6 CPN that is associated with the Rate Center of the specific End-User Customer Location.

5.2 Signaling:

The Parties will connect their networks using SS7 signaling as defined in applicable industry standards including ISDN User Part ("ISUP") for trunk signaling and Transaction Capabilities Application Part ("TCAP") for common channel signaling-based features in the connection of their networks. CPN shall be available for at least 95% of the local calls. Signaling information shall be shared between the Parties at no charge to either Party.

5.3 Signaling Parameters:

ILEC and CLEC are required to provide each other with the proper signaling information (e.g. originating accurate CPN, JIP, and destination called party number, etc.) to enable each Party to issue bills in an accurate and timely fashion. All Common Channel Signaling (CCS) signaling parameters will be provided including CPN, JIP, and Originating Line Information Parameter (OLIP) on calls to 8XX telephone numbers, Calling Party Category, Charge Number, etc. All privacy indicators will be honored. Both Parties will use the location routing number (LRN) associated with the originating number to populate the JIP field. In addition, each Party agrees that it is responsible for ensuring that all CCS signaling parameters are accurate and it shall not strip, alter, modify, add, delete, change, or incorrectly assign any CPN or JIP. CPN shall, at a minimum, include information that accurately reflects the physical location of the End-User Customer that originated and/or dialed the call, in accordance with Section 4.2 and 5.1.6.

5.4 Grade of Service:

Each Party will provision its network to provide a designed blocking objective of a P.01.

**6. Network Management:**

6.1 Protective Controls:

Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic towards each Party's network, when required to protect the public switched network from congestion or failure, or focused overload. CLEC and ILEC will immediately notify each other of any protective control action planned or executed.

## 6.2 Mass Calling:

Both Parties will cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes. The Parties agree that the promotion of mass calling services is not in the best interest of either Party. If one Party's network is burdened repeatedly more than the other Party's network, the Parties will meet and discuss the cause and impact of such calling and will agree on how to equitably share the costs and revenues associated with the calls and on methods for managing the call volume.

## 6.3 Network Harm:

Neither Party will use any service related to or provided in this Agreement in any manner that interferes with third parties in the use of their service, prevents third parties from using their service, impairs the quality of service to other carriers or to either Party's Customers; causes electrical hazards to either Party's personnel, damage to either Party's equipment or malfunction of either Party's billing equipment (individually and collectively, "Network Harm"). If a Network Harm will occur, or if a Party reasonably determines that a Network Harm is imminent, such Party will, where practicable, notify the other Party that temporary discontinuance or refusal of service may be required, provided, however, wherever prior notice is not practicable, such Party may temporarily discontinue or refuse service forthwith, if such action is reasonable under the circumstances. In case of such temporary discontinuance or refusal, such Party will:

- 6.3.1 Promptly notify the other Party of such temporary discontinuance or refusal;
- 6.3.2 Afford the other Party the opportunity to correct the situation which gave rise to such temporary discontinuance or refusal; and
- 6.3.3 Inform the other Party of its right to bring a complaint to the Commission, FCC, or a court of competent jurisdiction.

## 7. Proper Classification of Traffic

- 7.1 Nothing herein shall in any manner reduce or otherwise limit or discharge the Parties' obligations under the Agreement to properly classify traffic delivered under the Agreement in accordance with the terms of this Agreement and its Attachments, including but not limited to Section 1.3 of this Interconnection Attachment.
- 7.2 If the terminating Party determines in good faith in any month that any traffic originated by the other Party is classified by the other Party as traffic subject to the compensation rate for Local Traffic or EAS (mandatory or optional) traffic by

the terms of this Agreement, when in reality the traffic is subject to the terminating Party's or state or federal switched access tariff the Parties agree:

- 7.2.1 The terminating party will notify the originating Party as soon as traffic has been incorrectly classified has been identified. Within one hundred eighty days (180) days of the end of the billing period for the affected traffic, the terminating Party will provide sufficient call detail records or other information (including the reasons that the terminating Party believes the traffic is misidentified) to permit the originating Party to investigate and identify the traffic the terminating Party has determined is misidentified;
- 7.2.2 The originating Party shall correct the classification for any traffic that was misidentified or unidentified and pay the appropriate tariffed switched access rates for the applicable traffic going forward, including for traffic terminated but not yet billed, and/or a true-up amounts for the previous 12 months for traffic already billed and paid; and
- 7.2.3 Where the appropriate classification of such traffic is indeterminable, such traffic will be rated in accordance with Section 8 or 9 of this Attachment, as appropriate.
- 7.2.4 In the event the originating Party disagrees with the terminating Party's determination that traffic has been misidentified, the originating Party will provide written notice of its dispute within sixty (60) days of notification under 7.1.1 and providing all documentation that is the basis for originating Party's challenge of the terminating Party's claim. If the parties are not able to mutually agree as to the proper treatment of the traffic based upon the documentation produced, the dispute resolution procedures of this Agreement shall apply.

## **8. Unclassified Traffic**

- 8.1 The Parties acknowledge that certain traffic, due to the technical nature of its origination, may be properly transmitted without all Traffic Identifiers. In such instances, the Parties agree that such traffic shall be considered "Unclassified Traffic" if it can be affirmatively demonstrated that the missing Traffic Identifiers were not stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned by the Party transmitting the traffic or with that Party's knowledge or consent. Otherwise, the traffic shall be considered Misclassified Traffic as described below.
- 8.2 If the percentage of traffic transmitted over Direct Interconnection Facilities under this Agreement with accurate Traffic Identifiers including CPN and JIP in a given month is greater than or equal to 95%, any remaining calls (those transmitted without accurate Traffic Identifiers) transmitted over those Facilities will be billed

at rates calculated consistent with, and in proportion to the identified traffic exchanged under this Agreement. If, however, the percentage of Local Termination Traffic transmitted with accurate Traffic Identifiers (including for this purpose any Misclassified Traffic) in a given month falls below 95%, the Originating Party agrees to pay the terminating Party's intrastate access rates for all Unclassified Traffic transmitted over Direct Interconnection Facilities for the applicable month.

8.3 Subject to Section 4.3, the following provisions shall apply traffic transmitted from one Party to the other Party via facilities of other carriers:

8.3.1 Traffic that is transmitted in a given month with accurate Traffic Identifiers including CPN and JIP shall be billed at rates consistent with the classification of that traffic.

8.3.2 If the total of the percentage of the Party's traffic to the other Party transmitted via the facilities of other carriers is less than 5% in a given month, all traffic transmitted via such facilities that is not subject to Section 8.3.1 will be billed at rates calculated consistent with, and in proportion to the identified traffic exchanged under this Agreement during that month.

8.3.3 If the total of the percentage of the Party's traffic to the other Party transmitted via the facilities of other carriers is greater than or equal to 5% in a given month, all traffic transmitted via such facilities that is not subject to Section 8.3.1 shall be billed at the terminating Party's intrastate access rates.

8.3.3.1 This Section 8.3.3 shall not apply to traffic not subject to Section 8.3.1 if the transmitting Party uses the facilities of other carriers to transmit traffic because the direct interconnection facilities dedicated to the transmitting Party's traffic by the receiving Party experienced blocking greater than that permitted in Section 5.4 of this attachment due to lack of sufficient capacity and/or trunks to accept all of the transmitting Party's traffic, and in such cases Section 8.3.2 shall apply to all traffic transmitted via the facilities of other carriers.

8.3.3.2 Section 8.3.3.1 shall not apply if the transmitting Party is responsible for ordering affected facilities from the receiving Party and failed to order sufficient capacity to accommodate its traffic requirements.

8.3.4 For avoidance of doubt, traffic carried by an end user's preferred interexchange carrier shall not be considered traffic transmitted via the facilities of other carriers. Such traffic shall be subject to access charges

to be paid by the interexchange carrier in accordance with applicable regulatory requirements.

**9. Misclassified Traffic**

- 9.1 As used in this Agreement, “Misclassified Traffic” shall mean Termination Traffic that has Traffic Identifiers stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned.
- 9.2 In addition to the terminating Party’s other rights and remedies with respect to Misclassified Traffic, the originating Party agrees to pay the terminating Party’s intrastate access rates with respect to all Misclassified Traffic.
- 9.3 Notwithstanding anything herein to the contrary, the Parties agree that if more than two percent (2%) of the total Termination Traffic exchanged by the originating Party under this Agreement in any month is Misclassified Traffic, the originating Party shall be in Default of this Agreement, subject to Section 3 of the General Terms and Conditions.

## **Local Number Portability (LNP) Attachment**



## **Local Number Portability**

### **1. General**

- 1.1 The Parties will offer service provider local number portability (LNP) in accordance with FCC rules and regulations. Service provider portability is the ability of users of Telecommunications Services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another. Under this arrangement, the new Telecommunications Carrier must directly provide Telephone Exchange Service to the End User Customer porting the telephone number. For a port request to be valid, the End User Customer must retain his or her original number; be located either at the same location or at a location within the same Rate Center Area before and after the port; and be served directly by the Telecommunications Carrier requesting the port with a Telecommunications Service.
- 1.2 The Parties agree that the industry has established Local Routing Number (LRN) technology as the method by which LNP will be provided in accordance with such rules, regulations and guidelines. As such, the Parties agree to provide to each other number portability via LRN.
- 1.3 This Agreement does not govern geographic portability where the End User Customer moves outside the rate center. Geographic portability is not allowed under this Agreement.
- 1.4 The Parties agree to comply with finalized FCC rules and orders, North American Numbering Council (NANC) procedures and guidelines concerning numbering and other industry guidelines related to network architecture, including but not limited to, North American Numbering Council Local Number Portability Architecture and Administrative Plan report, which was adopted by the FCC, Second Report and Order, CC Docket 95-116, released August 18, 1997, and the Central Office Code Assignment Guidelines.
- 1.5 Service Management System (SMS) Administration.  
  
The Parties will work cooperatively with other local service providers to establish and maintain contracts with the Number Portability Administration Center (NPAC) Service Management System (SMS).
- 1.6 Signaling.  
  
In connection with LNP, each Party agrees to use SS7 signaling in accordance with applicable FCC rules and orders.

1.7 N-1 Query.

Neither Party offers default query service so non-queried calls will be returned to the N-1 carrier.

1.8 Porting of Reserved Numbers.

End User Customers of each Party may port reserved numbers, as defined in 47 C.F.R. Section 52.15(f)(1)(vi), that the End User Customer has paid to reserve, only if there is at least one working telephone number in the group. Portable reserved numbers are identified on the Customer Service Record (CSR).

1.9 Splitting of Number Groups.

The Parties shall permit blocks of subscriber numbers (including, but not limited to, Direct Inward Dial (DID) numbers and MultiServ groups) to be split in connection with an LNP request. ILEC and CLEC shall permit End User Customers who port a portion of the DID numbers assigned to such customers to retain DID service on the remaining numbers. If a Party requests porting of a range of DID numbers smaller than a whole block, that Party shall pay the applicable labor charges as listed in the Pricing Attachment to this Agreement for reconfiguring the existing DID numbers. In the event no rate is set forth in this Attachment, then the Parties shall negotiate a rate for such services.

1.10 The Parties will set LRN unconditional or 10-digit triggers where applicable. Where triggers are set, the porting Party will remove the ported number at the same time the trigger is removed.

1.11 A trigger order is a service order issued in advance of the porting of a number. A trigger order 1) initiates call queries to the AIN SS7 network in advance of the number being ported; and 2) provides for the New Service Provider to be in control of when a number ports.

**2. Coordinated Cutovers.**

2.1 For LNP Coordinated Hot Cuts ("CHC"), the New Service Provider (NSP) may request a desired due date and time. These will be considered coordinated orders. NSP must indicate a request for CHC on the LNP request form to request a coordinated order. The Old Service Provider (OSP) will not apply a 10-digit trigger upon porting telephone numbers to NSP network. Labor charges for CHCs are listed in Pricing Attachment to this Agreement. OSP offers two types of coordination:

2.1.1 Any Time:

Order to be worked any time during the day on the due date but OSP must notify NSP when completed.

### 2.1.2 Specific Time:

Order is to be worked at a specific time on the due date.

- 2.2 If coordination is requested, NSP will be required to call the OSP forty-eight (48) hours prior to the requested coordination date and time. This call is to confirm or reschedule the date and time. OSP reserves the right to change the date and time if other demands require such a change, subject to Section 3.1.2 below. Every reasonable attempt will be made to commit to the requested date and time. Prior to the forty-eight (48) hour Coordination Call, OSP will confirm with the various work groups involved with the coordination, as to their ability to complete the work on the desired date and time. If no call is received from the NSP, it will be assumed that the NSP is not ready and the order will not be completed on the requested due date and time. If NSP does not contact OSP within forty-eight (48) hours from the original due date to reschedule, the order will be canceled.

## 3. Late Notification Changes - Due Date, Coordination.

- 3.1 OSP will proceed with the conversion based on the agreement at the forty-eight (48) hour call. Policy for late notification of changes in due date and/or coordination time is as follows:
- 3.1.1 If OSP personnel have to wait more than fifteen (15) minutes for NSP to join the scheduled call for the CHC, then NSP shall be responsible to reimburse OSP for all personnel costs incurred. The charge will be calculated, in half-hour increments, times the loaded hourly compensation rate for each person involved in the call.
- 3.1.2 If NSP contacts OSP to reschedule the CHC call less than forty-eight (48) hours prior to the scheduled CHC call time, NSP will be responsible to reimburse OSP for all costs incurred to date on the CHC order.
- 3.1.3 Once the scheduled call is underway, and personnel from both NSP and OSP are present on the call, should NSP incur a problem that would delay the conversion, OSP will provide NSP reasonable time (20 minutes or less) to cure the problem. However, any delay longer than 20 minutes will result in OSP charging NSP for personnel costs incurred. The charge will be calculated based on the delay time, in half-hour increments, times the loaded hourly compensation rate for each person involved in the call.

## 4. Obligations of Both Parties.

- 4.1 CLEC is responsible for advising the NPAC of telephone numbers that it ports in and the associated data as identified in industry forums as being required for number portability.

- 4.2 When a ported telephone number becomes vacant, e.g., the telephone number is no longer in service by the original End User Customer; the ported telephone number will be released back to the carrier that is the code holder or block holder.
- 4.3 Each Party has the right to block default routed calls entering a network in order to protect the public switched telephone network from overload, congestion, or failure propagation.
- 4.4 Both Parties are currently certified by the Regional NPAC.
- 4.5 Each Party will designate a Single Point of Contact (SPOC) to schedule and perform required testing. These tests will be performed during a mutually agreed upon time frame and must meet the criteria set forth by the Inter-Industry LNP Regional Team for porting.
- 4.6 Each Party shall abide by NANC and the Inter-Industry LNP Regional Team provisioning and implementation processes.
- 4.7 Each Party shall become responsible for the End User Customer's other telecommunications related items, e.g. E911, Directory Listings, Operator Services, Line Information Database (LIDB), when it ports the end-user's telephone number to its switch.
- 4.8 The LRN associated with the ported number associated with ILEC's Local/EAS area shall be derived from an NPA- NXX within the same Local/EAS areas.

## **Ancillary Services Attachment**

## **1. 911/E-911 Arrangements**

- 1.1 ILEC utilizes Qwest and Pembina County for the provision of 911/E-911 services to Wallahala. The CLEC is responsible for connecting to Qwest and populating Pembina County's database for Wallaha. All relations between Qwest and CLEC are totally separate from this Agreement and ILEC makes no representations on behalf of Qwest and Pembina County's service for Wallaha.
- 1.2 ILEC utilizes Cavalier County for the provision of 911/E-911 services for Langdon. The CLEC is responsible for connecting Qwest and populating Cavalier County's database. All relations between Cavalier County and CLEC are totally separate from this Agreement and ILEC makes no representations on behalf of Cavalier County.
- 1.3 Neither Party will be liable for errors with respect to the other Party's provision of 911/E-911 services to the other Party's End-User Customers.

## **2. Directory Listings and Directory Distribution**

- 2.1 CLEC will be required to negotiate a separate agreement for directory listings and directory distribution, except as set forth in Sections 2.2 and 2.3 below, with ILEC's vendor for directory publications.

### **2.2 Listings**

CLEC agrees to supply ILEC on a regularly scheduled basis, and in a format prescribed by ILEC, all listing information for CLEC's subscribers who wish to be listed in any ILEC published directory or ILEC's Directory Assistance Database for the relevant operating area. It is the responsibility of CLEC to submit such listing information in the prescribed manner to ILEC prior to the directory listing publication cut-off date. Listing information will consist of names, addresses (including city, state and zip code) and telephone numbers. Nothing in this Agreement shall require ILEC to publish a directory where it would not otherwise do so. Listing inclusion in a given directory will be in accordance with ILEC's solely determined directory configuration, scope, and schedules and listings will be treated in the same manner as ILEC's listings.

### **2.3 Distribution**

Upon directory publication, ILEC will arrange for the initial distribution of the directory to service subscribers in the directory coverage area. CLEC will supply ILEC, in a timely manner, with all required subscriber mailing information including non-listed and non-published subscriber mailing information, to enable

ILEC to perform its directory distribution to CLEC customers. CLEC, at the discretion of ILEC, will pay ILEC for the reasonable and direct cost for directory mailings to CLEC subscribers but will not charge for the cost of the actual directory when delivered with the annual distribution.

#### 2.4 Purchase of Directories

CLEC at its discretion may purchase a stock of directories for the CLEC to distribute directly to the CLEC end users. United will charge a reasonable price for such directories.