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# LOCAL EXCHANGE CARRIER MUTUAL AID AGREEMENT

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This Agreement is entered into by the following parties as of the effective dates set forth below:

<b>Company</b>	<b>Effective Date</b>
Ameritech Services, Inc.	April 11, 1994
Bell Atlantic	April 21, 1994
BellSouth Telecommunications, Inc.	April 7, 1994
Cincinnati Bell Telephone	April 12, 1994
GTE Service Corporation	March 31, 1994
NYNEX	March 3, 1994
Pacific Bell	April 18, 1994
Southern New England Telephone	April 5, 1994
Southwestern Bell Telephone Company	March 14, 1994
Sprint/Centel — Illinois	April 11, 1994
Sprint/Central Telephone — Nevada	April 12, 1994
Sprint/Mid-Atlantic Telecom	April 18, 1994
Sprint/United Telephone — Eastern	April 15, 1994
Sprint/United Telephone — Florida	April 19, 1994
Sprint/United Telephone — Midwest	March 24, 1994
Sprint/United Telephone — North	March 15, 1994
Sprint/United Telephone — Northwest	March 31, 1994
US West Communications	April 25, 1994

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## 1. *Definitions and Applicability*

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WHEREAS, any party (hereinafter Requester), during an Emergency as hereinafter defined, may request from any other party (hereinafter Provider), Supplies, Equipment, Motor Vehicles, Network Capacity and/or personnel and; WHEREAS, the parties hereto desire to agree to the parties.

Transactions between the parties which are to be subject to the terms of this Agreement will be initiated between the NS/EP Organizations of the parties involved. Any party to the transactions may request and utilize the assistance of the Bellcore NS/EP Organization as deemed necessary.

The Requester and Provider NS/EP Organizations will identify the appropriate point(s)-of-contact (POC) to carry out the transactions. Any transaction will require that the NS/EP Organizations in each party to the transaction also identify to one another their POC for Legal and their POC for Billing.

NOW THEREFORE, the parties mutually agree to the following:

### **Definitions**

- a. **Emergency** — As used in this Agreement, an Emergency is an abnormal condition brought about by a natural or human caused incident which causes the Requester to seek aid from the Provider.
- b. **Supplies** — As used in this Agreement, Supplies pertain to those consumable items which are on the shelf, in inventory, and/or have not been placed in use or service and may be purchased or replaced in kind.
- c. **Equipment** — As used in this Agreement, Equipment means items other than Supplies which may be purchased, leased or loaned.
- d. **Motor Vehicles** — As used in this Agreement, Motor Vehicles are company vehicles, including automobiles, vans, construction trucks, trenchers, pole trailers, airplanes, helicopters, etc.
- e. **Network Capacity** — As used in this Agreement, Network Capacity includes network facilities which provide the capacity to switch and/or transport telecommunications traffic and services.
- f. **Unit Pricing** — Unit Pricing is a methodology which captures all costs to provide a service and includes those costs in the quoted price on a per unit basis. As used in this Agreement, Unit Price will be the price quoted and the price billed for a single unit of Supplies, an individual piece of Equipment, a single Motor Vehicle, a unit of Network Capacity, and a unit of labor.

Unit Pricing will likely be preferred by the Requester in an Emergency due to the relative simplicity of invoicing and bill verification as opposed to Cost Plus Pricing.

- g. **Cost Plus Pricing** — Cost Plus Pricing is a methodology which itemizes the costs to provide a service and lists those costs separately in the quoted price. As used in this Agreement, the Cost Plus Price will itemize the cost factors in the price quoted and the price billed for Supplies, Equipment, Motor Vehicles, Network Capacity, and labor.

Cost Plus Pricing will likely be preferred by the Provider in an Emergency since many of the cost factors may not be known at the time the price of services to be rendered to the

Requester is being negotiated.

- h. Contribution — Contribution is the markup which the Provider may include as part of the price quoted and billed to the Requester for items leased or sold, and services rendered which are subject to the terms of this Agreement.
- i. National Security Emergency Preparedness (NS/EP) Organization — NS/EP Organization as used in this Agreement refers to that organization within each party which interfaces with their representative in the National Coordinating Center for Telecommunications located in the Washington, DC area.

### **Applicability**

This Agreement is applicable to the provision of Supplies, Equipment, Motor Vehicles, Network Capacity and/or personnel by the Provider on a voluntary basis to the Requester in an Emergency as defined above. This Agreement, even if executed, does not obligate any party hereto to become a Provider and any request may be declined in part or in total. This Agreement is not intended to govern non-Emergency business arrangements between the terms in which will govern and the procedures which will facilitate such Emergency provision of Supplies, Equipment, Motor Vehicles, Network Capacity and/or personnel;

### **2. Compliance with Legal and Regulatory Constraints/ Confidential/Proprietary Information**

To the extent that any signatory to this Agreement is subject to legal or regulatory constraints which would prohibit their participation in a specific transaction as anticipated by this Agreement, it will be the responsibility of the prohibited party to decline participation or withdraw from such transaction.

### **Confidential/Proprietary Information**

Any specifications, drawings, sketches, models, samples, tools, computer or other apparatus programs, technical or business information or data, written, oral or otherwise (all hereinafter designated "Information") furnished by the Requester or its employees to the Provider or its employees under this Agreement or in contemplation of this Agreement shall remain the property of the Requester. All copies of such Information in written, graphic or other tangible form shall be returned to the Requester at its request. Unless such Information (1) was previously known to Provider or its employees, free of any obligation to keep it confidential, or

(2) has been or is subsequently made public by the Requester or a third party, or (3) is required to be disclosed by the Provider pursuant to a requirement of a governmental agency or law, or

(4) is independently developed by the Provider without use of the information received from the Requester, such information shall be kept confidential by the Provider and its employees at all times during and after their employment with said company: and shall be used only for the purpose for which it is disclosed to the Provider or its employees, shall be protected and safeguarded according to appropriate company security regulations, shall not be disclosed or communicated to any third party for any reason, and shall not be used by the Provider or its employees on its or their own belief or on the behalf of any third party, and may not be used for any other purpose except such terms as may be agreed to between the Provider and Requester in writing.

Likewise, Information furnished by the Provider or its employees to the Requester or its

employees will be treated as described above.

### 3. *Supplies*

At the time the Requester determines the need to request Supplies from the Provider, the Requester NS/EP Organization will identify to the Provider NS/EP Organization the name, address, telephone and facsimile numbers of the POC for Supplies (hereinafter Requester POC for Supplies) from whom all requests for Supplies will originate. Likewise, the Provider NS/EP Organization will identify to the Requester NS/EP Organization the name, address, telephone and facsimile numbers of the POC for Supplies (hereinafter Provider POC for Supplies) who will be responsible for handling all requests for Supplies.

Any transaction will require that the NS/EP Organizations in each party to the transaction also identify to one another their POC for Legal and their POC for Billing.

- a. Ordering — Only those Supplies ordered by the Requester POC for Supplies from the Provider POC for Supplies shall be subject to the terms of this Agreement.
  - Request — The Requester POC for Supplies will contact the Provider POC with a written request for Supplies, specifying:
    - Supplies being requested
    - Quantity of each item requested
    - Requested delivery date
    - Shipping address or addresses
    - Deadline for responding to the request
  1. Response — The Provider POC for Supplies will respond to the Requester POC for Supplies with a signed written statement proposing either replacement of Supplies in kind, Unit Pricing or Cost Plus Pricing to include:
    - Supplies which are available
    - Quantity of each item available
    - Unit Price or Cost Plus Price of each item
    - Anticipated shipment dateThe prices quoted by the Provider will include all costs which the Provider intends to recover from the Requester, such as:
    - Replacement cost of the items
    - Shipping costs
    - Administrative costs
    - License and permit fees required by the Provider to sell Supplies to the Requester
    - Applicable taxes
    - ContributionThe Provider POC will be responsible for obtaining the authorizing signature in the Provider organization as appropriate for the total dollar amount of the transaction.
  2. Confirmation — The Requester POC for Supplies will respond to the Provider POC for Supplies with a signed written confirmation accepting or rejecting the proposal in part or in total. The confirmation will include:
    - Supplies to be provided
    - Quantity of each item

- Concurrence with quoted prices
- Name and telephone number of the point(s)-of-contact at the delivery address or addresses
- Any other required shipping instructions

The Requester POC will be responsible for obtaining the authorizing signature in the Requester organization as appropriate for the total dollar amount of the transaction.

b. Billing — Arrangements, terms and conditions for billing will be negotiated by the Requester and Provider POCs for Billing. The Provider invoice should generally reflect the confirmation document with the Unit Price or the itemized details of the Cost Plus Price such as:

- Supplies provided
- Number of Supplies provided to each delivery address
- Cost of Supplies as agreed to during the ordering process
- Total amount due from the Requester

#### ***4. Indemnification & Limitation of Liability***

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##### **Indemnification**

Each party to this Agreement agrees to defend, indemnify, and save harmless the other party(s) and their successors and assigns and their respective employees and agents from (1) any and all claims or demands whatsoever, including the costs, expenses and reasonable attorney's fees incurred on account thereof, that may be made by anyone for damages for bodily injury, death, or damage to property; and (2) all court costs and reasonable attorney's fees and expenses incurred by the indemnified party in defending any claim or demand by anyone for any other damages; to the extent any such claim or demand in clauses (1) or (2) above is proximately caused by the negligent or wrongful acts, omissions, or willful misconduct of the indemnifying party or its subcontractors, or the employees or agents of any of them (other than the employees, agents or subcontractors of the party seeking indemnification); and (3) any and all claims or demands whatsoever, including the costs, expenses and reasonable attorney's fees incurred on account thereof, by the indemnifying party's employees under worker's compensation or similar acts. For all purposes, each party's employees shall be deemed to be employees of that party.

##### **Limitation of Liability**

In no event shall any of the parties to this Agreement be liable to each other for incidental, indirect, special or consequential damages of any kind, including lost profits or other economic loss (even if such party has been advised of the possibility of such damages), or (subject to paragraph 14 above) for any claim against another party hereto by any other party, resulting from the services provided under this Agreement.

#### ***5. Equipment***

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At the time the Requester determines the need to request Equipment from the Provider (to the extent such Equipment is being requested separately from Provider personnel and is not intended to accompany and be used by Provider personnel), the Requester NS/EP Organization will identify to the Provider NS/EP Organization the name, address, telephone and facsimile numbers of the POC for Equipment (hereinafter Requester POC for Equipment) from whom all requests for Equipment will originate. Likewise, the Provider NS/EP Organization will identify to the Requester NS/EP Organization the name, address,

telephone and facsimile numbers of the POC for Equipment (hereinafter Provider POC for Equipment) who will be responsible for handling all requests for Equipment.

Any transaction will require that the NS/EP Organizations in each party to the transaction also identify to one another their POC for Legal and their POC for Billing.

- a. Ordering — Only Equipment requested by the Requester POC for Equipment from the Provider POC for Equipment shall be subject to the terms of this Agreement.
  1. Request — The Requester POC for Equipment will contact the Provider POC for Equipment with a written request for Equipment, specifying:
    - Items of Equipment being requested
    - Quantity of each item requested
    - Whether the requested Equipment is to be purchased, leased or loaned
    - Estimated duration of lease or loan period
    - Requested delivery date
    - Shipping address or addresses
    - Deadline for responding to the request
  2. Response — The Provider POC for Equipment will respond to the Requester POC for Equipment with a signed written statement proposing either Unit Pricing or Cost Plus Pricing to include:
    - Items available for shipment (only Equipment which is in proper working order and safe for use will be offered to the Requester)
    - Quantity of each item available
    - Whether the Equipment may be purchased, leased or loaned
    - Unit Price or Cost Plus Price to purchase or lease each item (quoted on a daily, weekly or monthly basis)
    - Anticipated shipment date

The prices quoted by the Provider will include all costs which the Provider intends to recover from the Requester, such as:

- Actual replacement cost or current depreciated value of the unit
- Shipment costs (round trip for leased items)
- Insurance (for shipment and for loss and liability due to use of leased Equipment in the designated work area)
- Administrative costs
- License and permit fees required by the Provider to sell or lease Equipment to the Requester
- Applicable taxes
- Contribution

The price of each item of Equipment will exclude the cost of gas and oil for the operation of the Equipment while in the possession of the Requester. Such cost will be borne by the Requester.

The Provider POC will be responsible for obtaining the authorizing signature in the Provider organization as appropriate for the total dollar amount of the transaction.

3. Confirmation — The Requester POC for Equipment will respond to the Provider POC for Equipment with a signed written confirmation accepting or rejecting the proposal in part or in total. The confirmation will include:

- Items of Equipment to be provided
- Whether the item is to be purchased, leased or loaned
- Concurrence with the quoted purchase or lease price of each item
- Delivery address or addresses
- Name and telephone number of the point(s)-of-contact at the delivery address or addresses
- Any other required shipping instructions

The Requester POC will be responsible for obtaining the authorizing signature in the Requester organization as appropriate for the total dollar amount of the transaction.

- b. Tracking — The Provider POC for Equipment, upon shipment of Equipment, will provide the Requester POC for Equipment with an inventory of Equipment being shipped to include:
- Manufacturer, model and serial (or company ID) number of each item
  - Whether the item is being purchased, leased or loaned
  - Date(s) shipped or planned date(s) of shipment
  - Method of shipment (e.g., commercial carrier, transport by the Provider, etc.)
  - Instructions for routine maintenance to be performed by the Requester
  - Delivery address of each item
- c. Routine Maintenance and Repair to Ensure Proper Working Condition and Safety — The Requester will perform or arrange for the performance of routine maintenance on all leased and loaned Equipment normally requiring such maintenance. Such routine maintenance will be performed as deemed necessary by the Requester unless specified in the tracking inventory furnished by the Provider. The Requester will also repair or have repaired any Equipment requiring such repair while in use by the Requester. The Requester will keep a log of all routine maintenance and repairs performed on Provider Equipment.
- d. Return of Equipment — When the Requester is ready or required by the Provider to return leased or loaned Equipment to the Provider, the Requester POC for Equipment will notify the Provider POC for Equipment and request shipping instructions.
1. Maintenance Log — Upon return of Equipment to the Provider, the Requester will furnish a maintenance log to the Provider POC for Equipment of all repairs and routine maintenance performed on leased and loaned Equipment while in the possession of the Requester.
  2. Provider Acceptance Testing — The Provider will perform acceptance testing upon return of Equipment to ensure that it is in proper repair and safe working order.
  3. Damaged Equipment — The Requester agrees to return to the Provider leased and loaned Equipment provided by the Provider in the same condition as received, except for wear associated with normal usage. In the event leased or loaned Equipment is returned damaged or in inoperable condition, the Requester shall, at the option of the Provider, restore the Equipment to its original condition or reimburse the Provider for the actual cost of placing such Equipment in service and restoring such Equipment to its original condition at the time it was leased or loaned except for wear associated with normal usage.
  4. Equipment Lost, Stolen or Damaged Beyond Repair — If leased or loaned

- Equipment is lost, stolen, or damaged beyond repair, the Requester shall reimburse the Provider for the current depreciated value of such Equipment except to the extent covered by insurance payable to the Provider and included in the costs to the Requester. Billing for lost, stolen or damaged Equipment will be submitted on a separate invoice.
- e. Billing — Arrangements, terms and conditions for billing will be negotiated by the Requester and Provider POCs for Billing. The Provider invoice should generally reflect the confirmation document with the Unit Price or the itemized details of the Cost Plus Price such as:
- Equipment type
  - Manufacturer, model number and serial (or company ID) number of each unit
  - Indication that the unit was purchased or leased
  - Unit cost or Cost Plus Price to purchase or lease each unit as agreed to during the ordering process
  - Total amount due from the Requester

## ***6. Authority & Choice of Law***

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### **Authority**

Each party hereto represents that it is duly authorized, validly existing and in good standing in the state in which each is organized, and has the requisite power and authority to execute this Agreement, to perform hereunder, and that the person signing this Agreement is authorized by his or her respective company to do so.

### **Choice of Law**

In any particular dispute, this Agreement shall be administered in accordance with the laws of the state of the Provider's choice (limited to the state in which the Provider is incorporated or has its principal office) and the validity and effect of this Agreement shall be determined in accordance with those laws.

## ***7. Motor Vehicles***

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At the time the Requester determines the need to request Motor Vehicles from the Provider (to the extent such Motor Vehicles are being requested separately from Provider personnel and are not intended to accompany and be used by Provider personnel), the Requester NS/EP Organization will identify to the Provider NS/EP Organization the name, address, telephone and facsimile numbers of the POC for Motor Vehicles (hereinafter Requester POC for Motor Vehicles) from whom all requests for Motor Vehicles will originate. Likewise, the Provider NS/EP Organization will identify to the Requester NS/EP Organization the name, address, telephone and facsimile numbers of the POC for Motor Vehicles (hereinafter Provider POC for Motor Vehicles) who will be responsible for handling all requests for Motor Vehicles.

The Requester POC for Motor Vehicles will specify if Provider vehicles are to be furnished with the tools, Supplies and test equipment appropriate for the vehicle's intended use. An inventory sheet of tools, Supplies and test equipment provided with each vehicle will accompany the vehicle. Tools, Supplies and test equipment to accompany the Motor Vehicle may be included in the Unit Price quoted for the vehicle or itemized separately for Cost Plus Pricing.

Any transaction will require that the NS/EP Organizations in each party to the transaction

also identify to one another their POC for Legal and their POC for Billing.

- a. Ordering — Only Motor Vehicles requested by the Requester POC for Motor Vehicles from the Provider POC for Motor Vehicles shall be subject to the terms of this Agreement.
  1. Request — The Requester POC for Motor Vehicles will contact the Provider POC for Motor Vehicles with a written request for Motor Vehicles, specifying:
    - Types of Motor Vehicles requested
    - Tools, Supplies and test equipment to be provided with each vehicle
    - Quantity of each type of vehicle requested
    - Whether the vehicle is to be purchased, leased or loaned
    - Estimated duration of lease or loan period
    - Requested delivery date
    - Delivery address or addresses
    - Deadline for responding to the request
  2. Response — If the Provider leases vehicles from a third party, the Provider POC for Motor Vehicles must determine if the terms of the lease would prohibit use of those vehicles by the Requester. The Provider POC for Motor Vehicles will then respond to the Requester POC for Motor Vehicles with a signed written statement proposing either Unit Pricing or Cost Plus Pricing to include:
    - Types of Motor Vehicles available (only Motor Vehicles which are in proper working order and safe for use will be offered to the Requester)
    - A statement agreeing or declining to include all or a portion of the requested tools, Supplies and test equipment (only tools and test equipment which is in proper working order and safe for use will be offered to the Requester)
    - Quantity of each type of Motor Vehicle available
    - Whether the Motor Vehicle may be purchased, leased or loaned
    - Anticipated shipment date
    - Unit cost or Cost Plus Price to purchase or lease the vehicle (quoted on a daily, weekly or monthly basis)

The prices quoted by the Provider will include all costs which the Provider intends to recover from the Requester, such as:

- Replacement cost or current depreciated value of the Motor Vehicle, tools, Supplies and test equipment
- Shipment costs (round trip for leased vehicles)
- Insurance (for shipment and for loss and liability due to use of leased vehicles in the designated work area)
- Administrative costs
- License and permit fees required by the Provider to sell or lease Motor Vehicles to the Requester
- Applicable taxes
- Contribution

The price of each vehicle will exclude the cost of gas and oil for the operation of the vehicle while in the possession of the Requester. Such cost will be borne by the Requester.

The Provider POC will be responsible for obtaining the authorizing signature in the Provider organization as appropriate for the total dollar amount of the transaction.

3. Confirmation — The Requester POC for Motor Vehicles will respond to the Provider POC for Motor Vehicles with a signed written confirmation accepting or rejecting the proposal in part or in total. The confirmation will include:

- Types of vehicles to be provided
- Whether the vehicle is to be purchased, leased or loaned
- Concurrence with the quoted purchase or lease price for each type of vehicle
- Delivery address or addresses
- Name and telephone number of the point(s)-of-contact at the delivery address or addresses
- Any other required shipping instructions

The Requester POC will be responsible for obtaining the authorizing signature in the Requester organization as appropriate for the total dollar amount of the transaction.

b. Tracking — The Provider POC for Motor Vehicles, upon shipment of the Motor Vehicles, will provide the Requester POC for Motor Vehicles with an inventory of the vehicles being shipped, including:

- Manufacturer, model and vehicle (or company) identification number of each vehicle
- Whether the vehicle is being purchased, leased or loaned
- A copy of the inventory sheet of the tools, Supplies and test equipment provided with each vehicle
- Date(s) shipped or planned date(s) of shipment
- Method of shipment (e.g., commercial carrier, transport by the Provider, etc.)
- Instructions for routine maintenance to be performed by the Requester on leased and loaned vehicles
- Delivery address of each vehicle

c. Routine Maintenance and Repair to Ensure Proper Working Condition and Safety — The Requester will perform or arrange for the performance of routine maintenance on all leased and loaned Motor Vehicles, tools and test equipment normally requiring such maintenance. Such routine maintenance will be performed as deemed necessary by the Requester unless specified in the tracking inventory furnished by the Provider. The Requester will also repair or have repaired any Motor Vehicle, tool or test equipment requiring such repair while in use by the Requester. The Requester will keep a log of all routine maintenance and repairs performed on Provider Motor Vehicles.

d. Return of Motor Vehicles, Tools or Test Equipment — When the Requester is ready or required by the Provider to return leased or loaned Motor Vehicles (with accompanying tools and test equipment) to the Provider, the Requester POC for Motor Vehicles will notify the Provider POC for Motor Vehicles and request shipping instructions.

1) Maintenance Log — Upon return of leased and loaned Motor Vehicles to the Provider, the Requester will furnish a maintenance log to the Provider POC for Motor Vehicles of all repairs and routine maintenance performed on Motor Vehicles while in the possession of the Requester.

2) Provider Acceptance Testing — The Provider will perform acceptance testing

upon return of Motor Vehicles, tools and test equipment to ensure that it is in proper repair and safe working order.

- 3) **Damaged Vehicles, Tools and Test Equipment** — The Requester agrees to return to the Provider leased or loaned Motor Vehicles, tools and test equipment provided by the Provider in the same condition as received, except for wear associated with normal usage. In the event a Motor Vehicle, tool, or test equipment is returned damaged or in inoperable condition, the Requester shall, at the option of the Provider, restore the Motor Vehicle, tool or test equipment to its original condition or reimburse the Provider for the actual cost of placing the item in service and restoring it to its original condition at the time of the lease or loan except for wear associated with normal usage.
  - 4) **Vehicles, Tools and Test Equipment Lost, Stolen or Damaged Beyond Repair** — If leased or loaned Motor Vehicles, tools or test equipment are lost, stolen, or damaged beyond repair, the Requester shall reimburse the Provider for the current depreciated value of such Equipment except to the extent covered by insurance payable to the Provider and included in the costs to the Requester. Billing for lost, stolen or damaged Motor Vehicles, tools and test equipment will be submitted on a separate invoice.
- e. **Billing** — Arrangements, terms and conditions for billing will be negotiated by the Requester and Provider POCs for Billing. The Provider invoice should generally reflect the confirmation document with the Unit Price or the itemized details of the Cost Plus Price such as:
- Vehicles by manufacturer, model, and vehicle (or company) identification number
  - Indication that the vehicle was purchased or leased
  - Purchase or lease price of each vehicle
  - Total amount due from the Requester

## ***8. Assignment & Entire Agreement***

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### **Assignment**

None of the parties shall assign, subcontract, or otherwise transfer its rights or obligations under this Agreement (other than to its affiliates) except with the prior written consent of the other parties, said consent will not be unreasonably withheld. Any attempted assignment not assented to in the manner as prescribed herein shall be void.

### **Entire Agreement**

This Agreement and the duly authorized response and confirmation documents constitute the entire understanding of the parties. There shall be no verbal or other agreement except as included herein and except as may be amended by an agreement in writing signed by each of the parties, provided that subsequent parties may be added to the Agreement upon written approval of the NS/EP Organizations of all the then current parties to this Agreement.

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## 9. Network Capacity

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At the time the Requester determines the need to request Network Capacity from the Provider, the Requester NS/EP Organization will identify to the Provider NS/EP Organization the name, address, telephone and facsimile numbers of the POC for Network Capacity (hereinafter Requester POC for Network Capacity) from whom all requests for Network Capacity will originate. Likewise, the Provider NS/EP Organization will identify to the Requester NS/EP Organization the name, address, telephone and facsimile numbers of the POC for Network Capacity (hereinafter Provider POC for Network Capacity) who will be responsible for handling all requests for Network Capacity.

Network Capacity provided pursuant to this Agreement shall be subject to network management controls as deemed necessary by the Provider to protect the integrity of the Provider network.

Any transaction will require that the NS/EP Organizations in each party to the transaction also identify to one another their POC for Legal and their POC for Billing.

- a. Ordering — Only Network Capacity ordered by the Requester POC for Network Capacity from the Provider POC for Network Capacity shall be subject to the terms of this Agreement.
  1. Request — The Requester POC for Network Capacity will contact the Provider POC for Network Capacity with a written request for Network Capacity, specifying:
    - Type of Network Capacity being requested
    - Origination/termination point(s) of Network Capacity
    - Volume of capacity required
    - Method of interconnection
    - Required date and time
    - Anticipated duration of requirement
    - Deadline for responding to the request
  2. Response — The Provider POC for Network Capacity will respond to the Requester POC for Network Capacity with a signed written statement proposing either Unit Pricing or Cost Plus Pricing to include:
    - Network capacity which is available
    - Volume of Network Capacity available
    - Unit, Cost Plus or tariff price of Network Capacity
    - Anticipated availability date and time
    - Anticipated duration of availability

The prices quoted by the Provider will include all costs which the Provider intends to recover from the Requester, such as:

- Use of switch facilities
- Use of transport facilities
- Any new installation or special construction costs needed to provide Network Capacity
- Administrative costs
- License and permit fees required by the Provider to provide Network Capacity to the Requester

- Cost to obtain regulatory waiver
- Applicable taxes
- Contribution

The Provider POC will be responsible for obtaining the authorizing signature in the Provider organization as appropriate for the total dollar amount of the transaction and the approval of the appropriate regulatory authority.

3. Confirmation — The Requester POC for Network Capacity will respond to the Provider POC for Network Capacity with a signed written confirmation accepting or rejecting the proposal in part or in total. The confirmation will include:

- Network capacity to be provided
- Volume of capacity to be provided
- Concurrence with quoted price
- Name and telephone number of the point(s)-of-contact in the network organization for making interconnection arrangements
- Any other required shipping information

The Requester POC will be responsible for obtaining the authorizing signature in the Requester organization as appropriate for the total dollar amount of the transaction and the approval of the appropriate regulatory authority.

b. Billing — Arrangements, terms and conditions for billing will be negotiated by the Requester and Provider POCs for Billing. The Provider invoice should generally reflect the confirmation document with the Unit Price or the itemized details of the Cost Plus Price such as:

- Network capacity provided
- Number of units of Network Capacity provided
- Price as agreed to during the ordering process
- Total amount due from the Requester

## ***10. Counter Parts & Termination***

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### **Counter Parts**

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed original, but all of which shall constitute one and the same instrument.

### **Termination**

Any party may terminate its participation in any transaction covered by this Agreement, or this Agreement itself, for any reason subject to written notification to the other parties hereto forty-eight (48) hours prior to such termination. The terminating party shall be liable to the other parties for Supplies, Equipment, Motor Vehicles and Network Capacity delivered or received and services rendered or received from those parties up to the time of termination. In the event of termination of participation by any party, this Agreement shall remain in full force and effect as to the remaining parties.

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## 11. Personnel

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At the time the Requester determines the need to request personnel from the Provider, the Requester NS/EP Organization will identify to the Provider NS/EP Organization the name, address, telephone and facsimile numbers of the POC for personnel (hereinafter Requester POC for Personnel) from whom all requests for personnel will originate. Likewise, the Provider NS/EP Organization will identify to the Requester NS/EP Organization the name, address, telephone and facsimile numbers of the POC for personnel (hereinafter Provider POC for Personnel) who will be responsible for handling all requests for personnel.

The Requester POC for Personnel will specify if Provider Personnel are to take with them those tools and Motor Vehicles normally associated with the skill category of the employee. Said Motor Vehicles will be provided with tools, Supplies and test equipment appropriate for the vehicle's intended use. Reimbursement for those Motor Vehicles, tools, Supplies and test equipment may be included in the hourly rate for personnel in the associated skill category as a Unit Price or listed separately as Cost Plus Pricing.

Any transaction will require that the NS/EP Organizations in each party to the transaction also identify to one another their POC for Legal and their POC for Billing.

- a. Ordering — Only personnel requested by the Requester POC for Personnel from the Provider POC for Personnel (and the Provider management team sent with the Provider personnel) shall be subject to the terms of this Agreement.
  1. Request—The Requester POC for Personnel will contact the Provider POC for Personnel with a written request for personnel, specifying the:
    - Skill categories required (construction technician, cable splicer, central office technician, installation/repair technician, etc.)
    - Number of personnel in each skill category required
    - Request for personnel to bring their tools, test equipment, Motor Vehicles and Supplies (as appropriate for the skill category)
    - Requested reporting date
    - Reporting address or addresses
    - Deadline for responding to the request

The Requester POC for Personnel will also inform the Provider POC for Personnel with the best estimate of the following information (to be used by the Provider to screen personnel and develop hourly labor rates or Cost Plus Prices) by category of personnel and their reporting location(s):

- Anticipated working conditions in the designated work area
  - Anticipated working hours (e.g., days, evenings, nights and weekends)
  - Anticipated amount of overtime to be worked (including weekends and holidays)
  - Anticipated length of assignment
  - Anticipated living conditions (e.g., motel accommodations, food, water, etc.)
  - Requirement for any special licensing, permits or labor union affiliation, etc.
  - Safety and security concerns in the designated work area
2. Response — If the Provider leases vehicles from a third party, the Provider POC for Personnel must determine if the terms of the lease would prohibit the use of those vehicles in the designated work area. The Provider POC for Personnel will then

respond to the Requester POC for Personnel with a signed written statement proposing either Unit Pricing or Cost Plus Pricing to include:

- Number of available personnel by skill category (only qualified
- personnel with experience in the requested skill category will be offered to the Requester)
- A statement agreeing or declining to provide all or a part of the requested vehicles, tools, test equipment and Supplies with the personnel
- Anticipated date of arrival at the reporting location
- Commitment to all or part of the requested assignment (e.g., duration of assignment, number of hours to be worked, etc.)
- Hourly rates for each skill category which the Requester will be charged for normal, overtime and premium time
- Other components of Cost Plus Pricing (if appropriate)

The criteria for determining normal, overtime and premium time, plus any differentials, will be as specified in the applicable Provider labor/management agreement. The charge to the Requester will be as agreed in the response and confirmation process. The quoted hourly rates will be charged only for hours actually worked (with the exception of holidays as specified in the Provider labor/management agreement). The prices quoted by the Provider will include all costs which the Provider intends to recover from the Requester, such as:

- Wages and benefits
- Round trip transportation of Motor Vehicles
- Use of associated tools, Motor Vehicles test equipment and Supplies
- Personnel travel expenses
- Living expenses (accommodations, meals, laundry, telephone calls, etc.)
- Miscellaneous operating expenses (e.g., gas and oil, routine vehicle and Equipment maintenance, etc.)
- Trips home or visits by employee spouse (if applicable) during the assignment
- Management and clerical support (those personnel remaining at the Provider location and those dispatched with technicians to the Requester location)
- Security (as deemed necessary by the Provider) for personnel, their living quarters, vehicles, etc.
- License and permit fees required by the Provider for Provider personnel to work in the designated work area
- Cost to obtain regulatory waiver
- Applicable taxes
- Administrative costs
- Contribution

The Provider POC will be responsible for obtaining the authorizing signature in the Provider organization as appropriate for the total dollar amount of the transaction and the approval of the appropriate regulatory authority.

3. Confirmation—The Requester POC for Personnel will respond to the Provider POC for Personnel with a signed written confirmation accepting or rejecting the proposal in part or in total. The confirmation will include:

- Number of personnel in each skill category which are to be provided (including vehicles, tools, test equipment and Supplies as appropriate)
- Agreement with the hourly rates (Unit Price) or the Cost Plus Price for each skill category
- Name and telephone number of the point(s)-of-contact at the reporting location(s)
- Other required reporting instructions

The Requester POC will be responsible for obtaining the authorizing signature in the Requester organization as appropriate for the total dollar amount of the transaction and the approval of the appropriate regulatory authority.

- b. Management of Provider Personnel — A Provider management team will be dispatched with Provider technicians and may include supervisors, managers and clerical support as deemed necessary by the Provider and as agreed upon by the Requester. The Provider management team will retain control and responsibility for Provider personnel provided under the terms of this Agreement. Work assigned by the Requester will be conveyed to Provider management.
- c. Working Space for Provider Management — The Requester will make its best effort to provide working space with telephones and a facsimile machine for the Provider management team. Communication devices (e.g., mobile telephones and pagers) may be provided by the Requester for use by Provider personnel.
- d. Provider Reference Materials — The Provider management team may take all necessary reference materials to the Requester location, such as:
  - Provider labor/management agreement
  - Provider telephone directory
  - This Agreement
  - Time sheets
  - Vouchers
  - Provider practices
  - Computers and other office equipment
- e. Cash for Provider Operations — Business transactions in the designated work area may be conducted on a cash basis. The Provider POC for Personnel will establish a process for transferring cash from the Provider to the Provider management team on the work site. This cash may be required for the purposes of advancing funds to Provider personnel, purchasing gas for vehicles, Supplies and materials, etc. The Requester POC for Personnel will assist the Provider POC for Personnel as requested by the Provider POC for Personnel in making financial arrangements.
- f. Provider Orientation — The Provider will provide, based in part on information obtained from the Requester POC for Personnel, pre-deployment information for employees being dispatched to the Requester. Orientation should include such information as:
  - Anticipated working conditions in the designated work area
  - Anticipated working hours
  - Anticipated amount of overtime to be worked
  - Anticipated length of assignment
  - Verification of qualification of each employee (e.g., union affiliation, required work

- permits or licenses, valid drivers or Commercial Drivers Licenses, etc.)
  - Verification that tools, Equipment and Motor Vehicles are in proper working condition
  - Mode of transportation for personnel and their vehicles
  - Anticipated living conditions
  - Dress code
  - Cash advances
  - Payroll (check or cash) distribution
  - Potential tax consequences of working in another state
  - Trips home or visits by spouse
  - Time reporting requirements
  - Treatment of holidays, vacation, and absence due to employee illness, injury or other reasons
  - Hardship retreat policy
  - Expectation that rates of pay, functions performed and treatment of employees from other companies will vary due to individual labor/management agreements
  - Treatment of local and borrowed personnel may vary because the personal lives of the local people may have been affected by the Emergency
  - Safety considerations (e.g., personal medical alert card, electrical hazards, etc.)
  - Medical and life insurance considerations
  - Proper treatment of Provider and Requester confidential/proprietary information
- g. Requester Orientation — The Requester will conduct orientation for Provider management and union eligible personnel (separately or in combined session as agreed by Requester and Provider management) before Provider personnel begin work in the designated work area. Orientation will include such things as:
- Working conditions
  - Working hours
  - Living conditions
  - Local company methods and procedures
  - Local area orientation (maps, medical facilities, laundry facilities, restaurants, etc.)
  - Requirements for time reporting to the Requester
  - Safety considerations (e.g., commercial electrical hazard, tetanus shot, medical alert card, etc.)
  - Curfew
  - Other hazards or restrictions
  - Commercial Driver's License (CDL) requirements
  - Quality standards
  - Proper treatment of Provider and Requester confidential/proprietary information
- h. Tracking — The Provider POC for Personnel will ensure that the Provider establishes a tracking mechanism, such as a Keep Cost order or special project accounting code, to which all personnel working on the Requester project are to charge their time.
- i. Provider Time Reporting — The Provider management team dispatched with Provider personnel will ensure that all technicians report their time to the Requester at intervals agreed to by the Requester and Provider POCs for Personnel. Hours worked and holidays worked or paid will be itemized by technician and the date(s) the hours were accrued.

Hours to be paid will be reported as normal, overtime or premium hours (with differential as appropriate).

- j. Billing — Arrangements, terms and conditions for billing will be negotiated by the Requester and Provider POCs for Billing. The Provider invoice should generally reflect the confirmation document with the Unit Price or the itemized details of the Cost Plus Price such as:
- Technician names
  - Skill categories
  - Daily hours worked, categorized as normal, overtime or premium (plus applicable differentials)
  - Holiday (worked or paid)
  - Hourly rates and benefits agreed to in the ordering process
  - Total number of hours charged at each hourly rate
  - Round trip transportation of Motor Vehicles
  - Use of associated tools, Motor Vehicles, test equipment and Supplies
  - Personnel travel expenses
  - Living expenses (accommodations, meals, laundry, telephone calls, etc.)
  - Miscellaneous operating expenses (e.g., gas and oil, routine vehicle and Equipment maintenance, etc.)
  - Trips home or visits by employee spouse (if applicable) during the assignment
  - Management and clerical support (those personnel remaining at the Provider location and those dispatched with technicians to the Requester location)
  - Security (as deemed necessary by the Provider) for personnel, their living quarters, vehicles, etc.
  - License and permit fees required by the Provider for Provider personnel to work in the designated work area
  - Cost to obtain regulatory waiver
  - Applicable taxes
  - Administrative costs
  - Total amount due from the Requester
- k. Advancement of Funds — The Requester will not advance any funds to Provider personnel.
- l. Travel and Living Arrangements — Generally, the Provider will make travel and living arrangements for Provider personnel. However, the Requester may assist the Provider in making travel and living arrangements as requested.
- m. Vacation — The Provider will not detail personnel who will be taking vacation during their assignment at the Requester location. In the event that unusual circumstances cause the Provider to grant vacation, such time off for vacation taken by Provider personnel will not be charged to the Requester.
- n. Holiday — Holidays which are recognized by the Provider labor/management agreement will be non-scheduled days for Provider personnel or, if worked at the request of the Requester, will be billed to the Requester at the Provider's applicable labor rate for holiday worked.
- o. Illness or Injury — Time off the job due to illness or injury of Provider personnel will not

be billed to the Requester.

- p. Other Absence — Other absences of Provider personnel will not be billed to the Requester.
- q. Use of Requester Tools, Equipment and Motor Vehicles by Provider Personnel — In the event that Provider personnel are authorized by the Requester to use Requester tools or operate Equipment or Motor Vehicles belonging to the Requester, the Requester will provide only Motor Vehicles, tools and Equipment which are in safe and proper working condition. The use of such Motor Vehicles, tools and Equipment constitutes Provider concurrence that they are in safe and proper working condition.
- r. Treatment of Personnel — Provider personnel, subject to the terms of this Agreement for rendering aid to the Requester, will be treated in accordance with the Provider's personnel policies and the Provider's then-in-effect labor/management agreement applicable to said employees.
- s. Provider as Independent Contractor — At all times throughout this Agreement, no employee of the Provider shall be deemed to be an employee or agent of the Requester.
- t. The Provider is an independent contractor of the Requester and is wholly responsible for withholding or payment of all applicable Federal, State, and Local income taxes and other payroll taxes and deductions with respect to employees of the Provider, including contributions from employees of the Provider and company matching contributions, etc. as are authorized or required.
- u. The Provider will be responsible for insurance coverage applicable to Provider personnel during the performance of services subject to the terms of this Agreement.
- v. Notification of State and Local Authorities — The Requester POC for Personnel will ensure that state and local authorities are informed that the Provider will be operating in the designated work area as a contractor for the Requester.
- w. Temporary Identification Documents — As deemed necessary by the Requester or as required by state or local authorities, the Requester POC for Personnel will provide or obtain temporary identification documents for Provider personnel and vehicles to identify them as contractors for the Requester.

## ***12. Survival of Obligations & Force Majeure Billing and Legal Point of Contact***

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### **Survival Obligations**

The parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

### **Force Majeure**

No party hereto shall be liable for any failure to perform under this Agreement, or for any delay in performance hereunder, for any cause beyond its reasonable control including, but not limited to, acts of God, wars, riots or insurrections, applicable laws, regulations, orders or other requirements of any court or governmental agency having jurisdiction, strikes or labor slowdowns, fires, floods, delays in transportation or failures by either party's suppliers or other third parties.

**Billing Point of Contact**

At the time the Requester determines the need to request aid from the Provider, the Requester NS/EP Organization will identify to the Provider NS/EP Organization the name, address, telephone and facsimile numbers of the POC for billing (hereinafter Requester POC for Billing). Likewise, the Provider NS/EP Organization will identify to the Requester NS/EP Organization the name, address, telephone and facsimile numbers of the POC for billing (hereinafter Provider POC for Billing).

- a. Invoicing — Invoices will be prepared and submitted by the Provider to the Requester as negotiated by the Provider and Requester POCs for Billing.
- b. Invoice Support Documentation — The Provider shall maintain in accordance with generally accepted accounting principles complete and accurate records of all amounts billed to and payments made by the Requester. The Provider shall provide supporting documentation concerning any disputed invoice or payment within thirty (3) days after Requester notifies Provider POC for Billing of a dispute. Payments made under this Agreement shall be subject to final adjustment as determined during such review. Provider shall retain such records for a period of three (3) years after discontinuance of all services rendered by the Provider or such length of time as may be required by any federal, state or local law, ordinance or regulation, whichever is longer.
- c. Payment Terms — Invoices shall be payable as determined by the Requester and Provider Billing POCs.
- d. Equitable Adjustment — Within ninety (9) days of the discontinuance of all services rendered by the Provider (or other reasonable period as negotiated by the Requester and Provider POC for Billing), the Provider may accumulate any unanticipated costs which were not originally foreseeable when the services were being negotiated. The Provider may present a request for equitable adjustment with all supporting documentation to the Requester POC for Billing for consideration.

**Legal Point of Contact**

At the time the Requester requests aid from the Provider which is to be subject to the terms of this Agreement, the Requester NS/EP Organization will identify to the Provider NS/EP Organization the name, address, telephone and facsimile numbers of the POC for identification and resolution of legal issues (hereinafter Requester POC for Legal). Likewise, the Provider NS/EP Organization will identify to the Requester NS/EP Organization the name, address, telephone and facsimile numbers of the POC for identification and resolution of legal issues (hereinafter Provider POC for Legal).

- a. Legal Questions — The Requester POC for Legal will determine the status of the issues listed below and other legal questions which may arise and inform the Provider POC for Legal in writing as soon as possible.
  - 1) Work Permits and Licenses — Will the Provider need any special work permits or licenses for Provider personnel to work in the designated work area? If required, how are they obtained and what is the cost?
  - 2) Legal Requirements — Are there special OSHA or other federal, state or local legal requirements which will apply to the Provider while working in the designated work area?

- 3) Corporate Taxes — Will the Provider be required to pay corporate taxes to any state or local government in the designated work area or in the area in which the Requester corporate headquarters is located due to revenues earned on services rendered to the Requester under the terms of this Agreement?
  - 4) Employee Income Taxes — Will the Provider be required to withhold employee income taxes for any state or local government in the designated work area?
  - 5) Labor Laws — Are there any special labor laws which will apply to Provider personnel working in the designated work area?
  - 6) Labor Union Rules — Are there any special labor union rules applicable to Requester personnel which may affect or apply to Provider personnel?
  - 7) Vehicle and Personnel Licensing/Registration/Insurance Requirements — Are there any standard or special federal, state or local government vehicle or personnel licensing/registration/insurance requirements which will apply to Provider vehicles and drivers operating in or en route to the designated work area? If required, how are they obtained and what is the cost?
  - 8) Are there any federal or state imposed or waived rules (e.g., Commercial Drivers License or US Department of Transportation "Fleet Safety Compliance Manual" - Part 39 requirements, etc.) regulating the number of hours that a driver of a vehicle of a specified gross vehicle weight can be on duty in the designated work area?
  - 9) Curfew — Is there an existing or anticipated curfew, law or rule applicable to work operations in the designated work area which will affect the ability of the Provider to perform in accordance with the terms of this Agreement?
  - 10) Environmental Permits — Will the Provider be required by EPA or other federal, state or local government regulation to obtain special permits or variances for activities which affect the environment?
  - 11) Working Space for Provider Management — Is there any legal or regulatory prohibition which would prevent the Requester from providing working space with telephones and a facsimile machine for the use of the Provider management team?
- b. Impact of Legal Issues on Quoted Prices — The Provider POC for Legal will interface with the other POCs in the Provider organization to ensure that each issue is addressed by the Provider and that costs are included in the prices quoted by the Provider POCs.
  - c. Price Adjustment for Misidentified/Unidentified Legal Issues — In the event the Requester fails to inform or incorrectly informs the Provider of a legal requirement or other regulation concerning services to be rendered by the Provider at the request of the Requester which impacts Provider costs for rendering such services, the Provider may recover those costs from the Requester by issuing a supplemental bill to the Requester.

### ***13. Order of Precedence & Cooperation***

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#### **Order of Precedence**

If there should be a conflict between this Agreement and any subsequent request, response, confirmation, or other documents concerning a specific transaction, the terms and conditions of this Agreement shall control.

## **Cooperation**

The parties will cooperate in good faith to investigate report on and resolve claims and disputes arising out of this Agreement or any transaction subject thereto.

## ***14. Safety***

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The safety of Provider and Requester personnel is of primary concern to all parties to this Agreement. Safety issues are addressed throughout this Agreement, including the following:

a. Equipment

- Only Equipment which is in proper working order and safe for use will be offered by the Provider to the Requester
- The Requester will perform or arrange for the performance of routine maintenance and repairs on all Equipment requiring such maintenance and repair in accordance with this Agreement while in use by the Requester
- The Provider will perform acceptance testing upon return of Equipment to ensure that it is in proper repair and safe working order

b. Motor Vehicles

- Only Motor Vehicles, tools and test equipment which are in proper working order and safe for use will be offered to the Requester
- The Requester will perform or arrange for the performance of routine maintenance and repairs on all Motor Vehicles, tools and test equipment requiring such maintenance and repair in accordance with this Agreement while in use by the Requester
- The Provider will perform acceptance testing upon return of Motor Vehicles, tools and test equipment to ensure that they are in proper repair and safe working order

c. Personnel

- Only qualified personnel with experience in the requested skill category will be offered by the Provider to the Requester
- Security for Provider personnel, vehicles and Equipment will be provided by the Provider as deemed necessary by the Provider
- Safety considerations will be addressed in both the Provider and Requester orientations for Provider personnel (e.g., commercial electrical hazard, tetanus shot, personal medical alert card, curfew, other hazards or restrictions, etc.)
- Commercial Driver's License (CDL) requirements
- Only Motor Vehicles, tools and Equipment which are in safe and proper working condition will be provided by the Requester for the use of Provider personnel.

## ***15. Effective Date***

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This Agreement becomes effective when signed by at least two parties as to those parties and becomes effective as to additional parties when signed by additional parties. This Agreement will continue in effect unless terminated in accordance with the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives to be effective between the signing parties as of the date executed by the parties hereto.