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June 16, 1997

Ms. Blanca S. Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. ~~970450~~-TP  
Petition for Approval of Interconnection, Resale and Unbundling Agreement  
between GTE Florida Incorporated and Telecommunications Service Center,  
Inc.

Dear Ms. Bayo:

ACK \_\_\_\_\_ On April 10, 1997, GTE Florida Incorporated filed its Petition for Approval of  
AFA \_\_\_\_\_ Interconnection, Resale and Unbundling Agreement with Telecommunications Service  
APP \_\_\_\_\_ Center, Inc. Pursuant to ongoing negotiations between the parties, certain changes  
CAF \_\_\_\_\_ have been made to the agreement to reflect the latest language on adopting arbitration  
CMU Smarr decisions.

CTR \_\_\_\_\_ Enclosed are an original and fifteen copies of the following revised pages: Table of  
EAG \_\_\_\_\_ Contents, pages i thru viii; Article I, pages I-1 and I-2; and Article III, pages III-1 thru III-  
LEG 1 11. Also enclosed are a new Appendix H and Appendix I to be added at the end of the  
LIN \_\_\_\_\_ agreement. Please insert these revised pages into the agreements filed on April 10,  
OPC \_\_\_\_\_ 1997.

RCH \_\_\_\_\_  
SEC 1

WAS \_\_\_\_\_ A part of GTE Corporation

OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

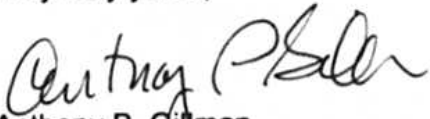
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if there are any questions regarding this matter, please contact me at (813) 483-2615.

Very truly yours,

  
Anthony P. Gillman

APG:tas  
Enclosures

c: Staff Counsel (w/e)  
Harold Shankland, TSC (w/e)

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This Interconnection, Resale and Unbundling Agreement (the "Agreement"), is made effective as of March 14, 1997, by and between GTE Florida Incorporated, with its address for purposes of this Agreement at 201 N. Franklin, Tampa Florida 33602 ("GTE"), and Telecommunications Service Center, Inc., in its capacity as a certified provider of local dial-tone service ("TSC"), with its address for this Agreement at 412 E. Madison, Suite 1200, Tampa, Florida 33602. (GTE and TSC being referred to collectively as the "Parties" and individually as a "Party"). This Agreement covers services in the state of Florida (the "State").

WHEREAS, interconnection between competing Local Exchange Carriers ("LECs") is necessary and desirable for the mutual exchange and termination of traffic originating on each LEC's network; and

WHEREAS, the Parties desire to exchange such traffic and related signaling in a technically and economically efficient manner at defined and mutually agreed upon points of interconnection; and

WHEREAS, the Parties wish to enter into an agreement to interconnect their respective telecommunications networks on terms that are fair and equitable to both Parties; and

WHEREAS, Section 251 of the Telecommunications Act of 1996 (the "Act") imposes specific obligations on LECs with respect to the interconnection of their networks, resale of their telecommunications services, access to their poles, ducts, conduits and rights-of-way and, in certain cases, the offering of certain unbundled network elements and physical collocation of equipment in LEC premises;

WHEREAS, GTE is entering, under protest, into certain aspects of this Agreement that incorporate adverse results from the arbitrated agreements approved by the Commission in this state and is doing so in order to avoid the expense of arbitration while at the same time preserving its legal positions, rights and remedies,

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GTE and TSC hereby covenant and agree as follows:

#### ARTICLE I SCOPE AND INTENT OF AGREEMENT

Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of interconnection and the exchange of traffic between their respective end user customers, and reciprocal access to their poles, ducts, conduits and rights-of-way. This Agreement also governs the purchase by TSC of certain telecommunications services provided by GTE in its franchise areas for resale by TSC, the purchase by TSC of certain unbundled network elements from GTE, and the terms and conditions

of the collocation of certain equipment of TSC in the premises of GTE. This Agreement is an integrated package that reflects a balancing of interests critical to the Parties. This Agreement will be submitted to the Commission (the "Commission"), and the Parties will specifically request that the Commission refrain from taking any action to modify, supplement, suspend or otherwise delay implementation of this Agreement. For the term of this Agreement, the Parties shall not advocate before any legislative, regulatory, judicial or other public forum that any terms of this Agreement between the Parties be modified, supplemented, suspended or eliminated. Notwithstanding this mutual commitment, the Parties agree that their entrance into this Agreement is without prejudice to any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements covered in this Agreement. GTE's execution of this Agreement is not a concession or waiver in any manner concerning its position that certain of the rates, terms and conditions contained herein are unlawful, illegal and improper.

ARTICLE III  
GENERAL PROVISIONS

1. Scope of General Provisions. Except as may otherwise be set forth in a particular Article or Appendix of this Agreement, in which case the provisions of such Article or Appendix shall take precedence, these General Provisions apply to all Articles and Appendices of this Agreement.

2. Term and Termination.

2.1 Term. Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be two (2) years from the effective date referenced in the first paragraph of this Agreement and shall continue in effect for consecutive one (1) year terms until either Party gives the other Party at least ninety (90) calendar days' written notice of termination, which termination shall be effective at the end of the then-current term.

2.2 Post-Termination Arrangements. Except in the case of termination as a result of either Party's default or a termination upon sale, for service arrangements made available under this Agreement and existing at the time of termination, those arrangements may continue without interruption under (a) a new arrangement voluntarily executed by the Parties; (b) standard terms and conditions approved and made generally effective by the Commission, if any; or (c) tariff terms and conditions made generally available to all competitive local exchange carriers.

2.3 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 notifies the defaulting party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) calendar days of receipt of written notice thereof. Default is defined to include:

(a) A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or

(b) A Party's refusal or failure in any material respect properly to perform its obligations under this Agreement, or the violation any of the material terms or conditions of this Agreement.

2.4 Termination Upon Sale. Notwithstanding anything to the contrary contained herein, a Party may terminate this Agreement as to a specific operating area or portion thereof of such Party if such Party sells or otherwise transfers the area or portion thereof. The Party shall provide the other Party with at least ninety (90) calendar days' prior written notice of such termination, which shall be effective on the date specified in the notice. Notwithstanding termination of this Agreement as to a specific operating area, this Agreement shall remain in full force and effect in the remaining operating areas.

- 2.5 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.
3. 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.
4. Assignment. Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party.
5. 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.
6. Billing and Payment.
- 6.1 Dispute. If Customer disputes a billing statement, Customer shall notify Provider in writing regarding the nature and the basis of the dispute within sixty (60) calendar days of the statement date or the dispute shall be waived. Provider and Customer shall diligently work toward resolution of all billing issues.
- 6.2 Late Payment Charge. If any undisputed amount due on the billing statement is not received by Provider on the payment due date, Provider may charge, and Customer agrees to pay, interest on the past due balance at a rate equal to the lesser of one and one-half percent (1½%) per month or the maximum nonusurious rate of interest under applicable law. Late payment charges shall be included on the next statement.
- 6.3 Taxes. Provider shall charge and collect from Customer, and Customer agrees to pay to Provider, appropriate federal, state, and local taxes, except to the extent Customer notifies Provider and provides to Provider appropriate documentation that Customer qualifies for a full or partial exemption.
7. Binding Effect. This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

8. 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.
9. Confidential Information.
- 9.1 Identification. Either Party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information"). In order for information to be considered Confidential Information under this Agreement, it must be marked "Confidential" or "Proprietary," or bear a marking of similar import. Orally disclosed information shall be deemed Confidential Information only if contemporaneously identified as such and reduced to writing and delivered to the other Party with a statement or marking of confidentiality within twenty (20) calendar days after oral disclosure.
- 9.2 Handling. In order to protect such Confidential Information from improper disclosure, each Party agrees:
- (a) That all Confidential Information shall be and shall remain the exclusive property of the source;
  - (b) To limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information for performance of this Agreement;
  - (c) To keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;
  - (d) Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;
  - (e) To return promptly any copies of such Confidential Information to the source at its request; and
  - (f) To use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.
- 9.3 Exceptions. These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the source, was received in good faith from a third party not subject to a confidential obligation to the source, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, or that is

required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements.

- 9.4 Survival. The obligation of confidentiality and use with respect to Confidential Information disclosed by one Party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Confidential Information.
10. Consent. Where consent, approval, or mutual agreement is required of a Party, it shall not be unreasonably withheld or delayed.
11. Cooperation on Fraud Minimization. The Parties shall cooperate with one another to investigate, minimize and take corrective action in cases of fraud. The Parties' fraud minimization procedures are to be cost effective and implemented so as not to unreasonably burden or harm one Party as compared to the other. At a minimum, such cooperation shall include, when permitted by law or regulation, providing the other Party, upon reasonable request, information concerning end users who terminate services to that Party without paying all outstanding charges, when that Party is notified that such end user seeks service from the other Party. If required, it shall be the responsibility of the Party seeking the information to secure the end user's permission (in the format required by law) to obtain the information. Although in most circumstances the end user's current telephone number may be retained by the end user when switching local service providers, if an end user has past due charges associated with the account, for which payment arrangements have not been made with GTE, the end user's previous telephone number will not be made available to TSC until the end user's outstanding balance has been paid.
12. Dispute Resolution.
- 12.1 Alternative to Litigation. 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 this Agreement without 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 alternative dispute resolution procedure as their sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach.
- 12.2 Negotiations. At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under 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 production, which 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 admissible, be admitted in evidence in the arbitration or lawsuit.

- 12.3 **Arbitration.** If the negotiations do not resolve the dispute within sixty (60) days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) days of the demand for arbitration. The arbitration shall be held in Tallahassee. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.
- 12.4 **Costs.** Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the costs of production of documents (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.
13. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes 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.
14. **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.
15. **Force Majeure.** In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire,

flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); *provided however*, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the state where the Services are provided or the facilities reside and shall be subject to the exclusive jurisdiction of the courts therein.
17. **Headings.** The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.
18. **Independent Contractor Relationship.** The persons provided by each Party shall be solely that Party's employees and shall be under the sole and exclusive direction and control of that Party. They shall not be considered employees of the other Party for any purpose. Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment of labor, hours of labor, health and safety, working conditions and payment of wages. Each Party shall also be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, workers' compensation, disability insurance, and federal and state withholding. Each Party shall indemnify the other for any loss, damage, liability, claim, demand, or penalty that may be sustained by reason of its failure to comply with this provision.
19. **Liability and Indemnity.**
  - 19.1 **Indemnification.** Each Party agrees to release, indemnify, defend, and hold harmless the other Party from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for losses, damages, or destruction of property, whether or not owned by others, proximately caused by the indemnifying Party's negligence or willful misconduct, regardless of form of action.
  - 19.2 **End User and Content-Related Claims.** Customer agrees to release, indemnify, defend, and hold harmless Provider, its affiliates, and any third-party provider or operator of

facilities involved in the provision of Services, unbundled network elements or facilities under this Agreement (collectively, the "Indemnified Parties") from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by Customer's end users against an Indemnified Party arising from Services, unbundled network elements or facilities. Customer further agrees to release, indemnify, defend, and hold harmless the Indemnified Parties from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by any third party against an Indemnified Party arising from or in any way related to actual or alleged defamation, libel, slander, interference with or misappropriation of proprietary or creative right, or any other injury to any person or property arising out of content transmitted by Customer or Customer's end users, or any other act or omission of Customer or Customer's end users.

- 19.3 **DISCLAIMER.** EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES TO CUSTOMER CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, UNBUNDLED NETWORK ELEMENTS OR FACILITIES PROVIDED UNDER THIS AGREEMENT. PROVIDER 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.
- 19.4 **Limitation of Liability.** Provider's liability, whether in contract, tort or otherwise, shall be limited to direct damages, which shall not exceed the pro rata portion of the monthly charges for the Services, Unbundled Network Elements or facilities for the time period during which the Services, Unbundled Network Elements or facilities provided pursuant to this Agreement are inoperative, not to exceed in total Provider's monthly charge to Customer. Under no circumstance shall Provider be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, the Parties recognize that Provider may, from time to time, provide advice, make recommendations, or supply other analysis related to the Services, unbundled network elements or facilities described in this Agreement, and, while Provider shall use diligent efforts in this regard, Customer acknowledges and agrees that this limitation of liability shall apply to provision of such advice, recommendations, and analysis.
- 19.5 **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.

20. Multiple Counterparts. This Agreement may be executed multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.
21. No Offer. Submission of this Agreement for examination or signature does not constitute an offer by Provider for the provision of the products or services described herein. This Agreement will be effective only upon execution and delivery by both Parties.
22. Notices. Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally, on the date receipt is acknowledged in writing by the recipient if delivered by regular U.S. mail, or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Notice may also be provided by facsimile, which shall be effective on the next Business Day following the date of transmission. "Business Day" shall mean Monday through Friday, except for holidays on which the U. S. mail is not delivered. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this section:

If to GTE:                      GTE Florida Incorporated  
   Attention: Regional Director Regulatory/Industry Affairs  
   201 N. Franklin  
   Tampa, Florida 33602  
   Facsimile number: (813)223-4888

GTE Carrier Markets  
201 N. Franklin  
Tampa, Florida 33602

If to TSC:                      Telecommunications Service Center, Inc.  
   Attention: Mr. Harold Shankland  
   412 E. Madison, Suite 1200  
   Tampa, Florida 33602  
   Facsimile number: (813) 222-0875

23. Protection.
- 23.1 Impairment of Service. The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and

concurring carriers involved in its services, cause damage to their plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities or create hazards to the employees of either Party or to the public (each hereinafter referred to as an "Impairment of Service").

- 23.2 **Resolution.** If either Party causes an Impairment in Service, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, then the Impaired Party may at its option temporarily discontinue the use of the affected circuit, facility or equipment.
24. **Publicity.** Any news release, public announcement, advertising, or any form of publicity pertaining to this Agreement, provision of services, unbundled network elements or facilities pursuant to it, or association of the Parties with respect to provision of the services described in this Agreement shall be subject to prior written approval of both GTE and TSC.
25. **Regulatory Agency Control.** This Agreement shall at all times be subject to changes, modifications, orders, and rulings by the Federal Communications Commission and/or the applicable state utility regulatory commission to the extent the substance of this Agreement is or becomes subject to the jurisdiction of such agency. Notwithstanding the date set forth in the first paragraph of this Agreement, if this Agreement is subject to advance approval of a regulatory agency, this Agreement shall not become effective until five (5) Business Days after receipt by the Parties of written notice of such approval. Such date (i.e., five Business Days after the Parties receive the written notice of approval) shall become the "effective date" of this Agreement for all purposes.
26. **Rule of Construction.** No rule of construction requiring interpretation against the drafting party hereof shall apply in the interpretation of this Agreement.
27. **Section References.** Except as otherwise specified, references within an Article of this Agreement to a Section refer to Sections within that same Article.
28. **Severability.** If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results, in the opinion of either Party, in a material change to this Agreement. If a material change as described in this paragraph occurs as a result of action by a court or regulatory agency, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon within a reasonable period, either Party may terminate this

Agreement without penalty or liability for such termination upon written notice to the other Party.

29. Subcontractors. Provider may enter into subcontracts with third parties or affiliates for the performance of any of Provider's duties or obligations under this Agreement.
30. Subsequent Law. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, regulation or guideline, the parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, regulation or guideline.
31. Trademarks and Trade Names. Except as specifically set out in this Agreement, nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever.
32. Waiver. The failure of either Party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to it under this Agreement, shall not be construed as a waiver of such provision or any provisions of this Agreement, and the same shall continue in full force and effect.
33. Amendment of Certain Rates, Terms and Conditions. The Parties agree as follows with respect to modification of the rates, terms and conditions initially provided for herein:

The rates, terms and conditions in this Agreement that are specified in Appendix I (the "MCI Terms") were taken from the GTE/MCI Interconnection, Resale and Unbundling Agreement (the MCI Agreement) approved by the Commission in Docket No. 960980-TP. The rates, terms and conditions not included in this Agreement but referenced in Appendix H (the "GTE Terms") were excluded from the MCI Agreement by the Commission in Docket No. 960980-TP. GTE and TSC agree that if the "MCI Terms" are deemed to be unlawful, or are stayed, enjoined or otherwise modified, in whole or in part, by a court or commission of competent jurisdiction, then this Agreement shall be deemed to have been amended accordingly, by modification of the "MCI Terms" or, as appropriate, the substitution of "GTE Terms" for all stayed or enjoined "MCI Terms", and such amendment shall be effective retroactive to the Effective Date of this Agreement.

GTE and TSC further agree that the terms and conditions of this Agreement reflect certain requirements of the FCC's First Report and Order in CC Docket No. 96-98. The terms and conditions of this Agreement shall be subject to any and all actions by any court or other governmental authority that invalidate, stay, vacate or otherwise modify the FCC's First Report and Order, in whole or in part. To the extent required by any such subsequent action, the parties agree to modify, in writing, the affected terms and conditions of this Agreement to bring them into compliance with the subsequent action. TSC acknowledges that GTE may seek to enforce such subsequent action before a

commission or court of competent jurisdiction. GTE does not waive any position regarding the illegality or inappropriateness of the FCC's First Report and Order.

The rates, terms and conditions (including rates which may be applicable under true-up) specified in both the "GTE Terms" and the "MCI Terms" are further subject to amendment, retroactive to the Effective Date of the Agreement, to provide for charges or rate adjustments resulting from future Commission or other proceedings, including but not limited to any generic proceeding to determine GTE's unrecovered costs (e.g., historic costs, contribution, undepreciated reserve deficiency, or similar unrecovered GTE cost: (including GTE's end user surcharge)), the establishment of a competitively neutral universal service system, or any appeal or other litigation.

If the Commission (or any other commission or federal or state court) in reviewing this Agreement pursuant to applicable state or federal laws, including Section 252(e) of the Telecommunications Act of 1996, deletes or modifies in any way this Section 33, then the Parties agree that they will reopen negotiations within ten (10) days of receipt of the final decision making such deletion or modification to attempt to craft the new provision that will provide substantially the same protections to GTE as this Section 33. If the Parties cannot reach agreement on such a provision within twenty (20) calendar days thereafter, the Parties agree that this entire Agreement is void and will not become effective, and TSC agrees to withdraw this Agreement from consideration by the Commission (or any other commission or federal or state court). In such event, each Party shall have 25 days following the close of the 20-day negotiation period within which to file a petition for arbitration before the Commission under Section 252(e) of the Telecommunications Act of 1996 of the issues that remain in dispute under this paragraph.

## APPENDIX H GTE TERMS

Pursuant to Section 33 of Article III of this Agreement, the following terms shall be applied in the event the MCI Terms are deemed to be unlawful, or are stayed or enjoined by a court or commission of competent jurisdiction.

- \* The rates in Appendix C will apply instead of Appendix I.
- \* The resale discount in Appendix E will apply instead of Appendix I.
- \* The rates in Appendix F will apply instead of Appendix I.
- \* Sections 3.4, 5.4, 5.6, 5.8 and 5.9 of Article IV will apply instead of Appendix I.
- \* Section 2.3 of Article VI will apply instead of Appendix I.



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**Article V, § 1**

9 Telecommunications Services Provided for Resale

1.1 At the request of MCI, and pursuant to the requirements of the Act, Commission Rules, Regulations and Orders, and FCC Rules and Regulations, GTE shall make available to MCI for unrestricted resale all Telecommunications Services that GTE currently provides or may offer hereafter to subscribers who are not Telecommunications Carriers. Resale shall be unrestricted except as provided herein. GTE shall also provide service functions, as set forth in Section 3.3 of this Article. The Telecommunications Services and service functions provided by GTE to MCI pursuant to this Article are collectively referred to as "Local Resale".

1.6 For purposes of MCI initiating its services, GTE shall release information to MCI regarding the subscriber's service, without requiring MCI to produce a written LOA, based on MCI's blanket representation that the customer has authorized MCI to obtain such CPNI. MCI and GTE agree to comply with the CPNI requirements of the Act and related FCC orders.

1.7 GTE shall allow MCI to initiate "as is transfers" of local exchange Telecommunications Services. For purposes of this Section 1.7, an "as is transfer" is the transfer of all the Telecommunication Services and features available for resale that are currently being provided for the specified account without the requirement of a specific enumeration of the services and features on the LSR without interruption of service.

**Article V, § 2**

10 No Restrictions on Resale. GTE will not prohibit, nor impose unreasonable or discriminatory conditions or limitations on the resale of its Telecommunications Service. To the extent that there is a conflict between the terms and conditions and other matters in GTE's tariffs and any specific provision of this Agreement, the terms and conditions of this Agreement shall control.

2.1 Restrictions on Resale

2.1.1 MCI agrees not to resell Residential Access Lines to non-residential subscribers.

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2.1.2 MCIIm agrees not to resell Lifeline or Link-Up Service to non-qualifying residential customers. GTE shall retain any subsidy associated with resold Lifeline or Link-Up Services.

**Article V, § 3**

3.1.2 **Contract Service Arrangements and Promotions.** GTE shall offer for resale all of its services available to any retail subscriber, including but not limited to Contract Service Arrangements and Promotions.

3.1.2.1 **Contracts.** GTE shall offer for resale all existing (as of the Effective Date of this Agreement) contract service arrangements with end users. GTE shall offer for resale all future contract service arrangements. MCIIm will receive the wholesale discount for such contract services.

3.1.2.2 **Promotions.** Promotions not exceeding ninety (90) days in length shall be available for resale at GTE's promotional rate and the wholesale discount shall not apply. Promotions exceeding ninety (90) days in length shall be available for resale at GTE's promotional rate less the wholesale discount specified in Appendix C.

3.1.9 Subject to Sections 2 and 3 of this Article, GTE shall make available for MCIIm to resell at the wholesale discount all coin and coinless pay phone local services, features and functionalities that it provides at retail. GTE also must provide all support and service functions, as described in Section 276 of the Act and FCC and state regulations, at parity with those provided for its own pay phone local services including, but not limited to: (a) coin rating, (b) answer supervision, (c) access to maintenance/diagnostic platform, (d) call blocking, (e) call screening, (f) intraLATA timing, (g) far-end disconnect recognition, (h) ANI information digits, and (i) fraud protection. GTE must also provide billing detail showing all 1+ traffic in EMR format and transferred to MCIIm via Direct Connect.

**Appendix C, § 1**

1. Services

1.1 **Local Service Resale.** The prices charged to MCIIm for Local Service shall be calculated using the avoided cost discount applicable in Florida, determined on the basis of the retail rate charged to subscribers for the Telecommunications Service requested. The interim wholesale discount shall be 13.04% off the applicable retail rate for all GTE services subject to resale.

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1.2 The prices shall be based on GTE's retail rates (including all promotions and contracts as described in Article V) applicable on the Effective Date, less the applicable discount. If GTE changes its retail rates after MCI executes this Agreement, the applicable discount shall be applied to the retail rates as changed.

1.21 Non-recurring Charges for Resale Services:

Non-recurring charges are as set forth in GTE's retail local service tariffs, less the wholesale discount of 13.04%.

**Article III, § 2**

2. Combinations. Subject to this Agreement, the Network Elements, ancillary services, local services, or other services provided pursuant to this Agreement may be connected to other Network Elements, ancillary services, local services, or other services provided by GTE or to any Network Elements, ancillary services, local services or other services provided by MCI itself or by any other vendor. Subject to the requirements of this Agreement, MCI may, at any time add, delete, or modify the Network Elements, ancillary services, local services, or other services purchased hereunder or relocate access to the foregoing. GTE will not discontinue any unbundled Network Element or ancillary service during the term of this Agreement without MCI's consent, except

.1 To the extent required by network changes or upgrades, in which event GTE will comply with the network disclosure requirements stated in the Act and FCC regulations thereunder; or

.2 If required or permitted by a final order of a court, the FCC or the Commission as a result of remand or appeal of the FCC Interconnection Order. In the event such a final order allows but does not require discontinuance, GTE may, on thirty (30) days written notice, require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required or appropriate to reflect the results of such action. In the event that such new terms are not renegotiated within ninety (90) days after such notice, or if the Parties are unable to agree either Party may submit the matter to the Dispute Resolution Process described in Section 41 of this Article.

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**Appendix C (Page 5) of MCImetro/GTE Agreement**  
PRICING ATTACHMENT I  
APPENDIX C

<b>1. UNBUNDLED LOOP</b>	
2-Wire Analog Loops, per month	\$20.00
4-Wire Analog Loops, per month	\$25.00
Specially Conditioned Loops	TBD
Loop Concentrator/Multiplexer	TBD
Loop Feeder (Interim)	\$3.00
Loop Distribution (Interim)	\$7.50
<b>2. NETWORK INTERFACE DEVICE</b>	
Basic NID, per line, per month	\$1.45
12x NID, per line, per month	\$2.10
<b>3. LOCAL SWITCHING</b>	
2-Wire Analog Port, per month	\$4.75
DS-1 Port, per month	\$72.25
Local Switching, per MOU, originating	\$.004
Local Switching, per MOU, terminating	\$.00375
<b>4. TANDEM SWITCHING</b>	
Tandem Switching, per MOU	\$.0009512
<b>5. INTEROFFICE TRANSMISSION</b>	
Common Transport	
Transport Termination per MOU	\$.0001
Transport Facility per MOU per mile	\$.0000017
Dedicated Transport Entrance Facility - Recurring Charges	
2-wire voice, per circuit, per month	\$29.00
4-wire voice, per circuit, per month	\$35.00
DS-1 system first, per system, per month	\$135.00
DS-1 system additional, per system, per month	\$125.00
DS-3 protected, per system, per month	\$960.00
Voice facility, per facility, per month	\$2.60
DS-1 facility, per mile, per month	\$0.50
DS-1 per termination, per month	\$30.00
DS-3 facility, per mile, per month	\$13.00

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DS-3 per termination per month	\$285.00
<b>Dedicated Transport Entrance Facility - Nonrecurring Charges</b>	
2-wire voice, per circuit	TBD
4-wire voice, per circuit	TBD
DS-1 system first, per system	TBD
DS-1 system additional, per system	TBD
DS-3 protected, per system	TBD
<b>Multiplexing - Recurring Charges</b>	
DS-1 to DS-0 MUX, per month	\$205.00
DS-3 to DS-1 MUX, per month	\$305.00
DS-3 to DS-3 MUX, per month	TBD
<b>Multiplexing - Nonrecurring Charges</b>	
DS-1 to DS-0 MUX	TBD
DS-3 to DS-1 MUX	TBD
DS-3 to DS-3 MUX	TBD
<b>6. SIGNALING SYSTEM (SS7)</b>	
<b>Recurring Charges</b>	
56 kbps link, per link, per month	\$80.00
DS-1 Links, per link, per month	\$125.00
Signal Transfer Point port termination, per termination per month	\$350.00
<b>Nonrecurring Charges</b>	
56 kbps link, per link	TBD
DS-1 Links, per link	TBD
Signal Transfer Point port termination, per termination	TBD
AIN Capabilities	TBD
LIDB (ABS) (per query with response)	\$0.04
Toll Free Calling (per query with response)	\$0.011
<b>7. OPERATOR SERVICES &amp; DA</b>	
Directory Assistance	TBD
Operator Services	TBD
<b>8. LOCAL INTERCONNECTION AND RECIPROCAL COMPENSATION</b>	
Tandem	\$0.00125

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End Office	\$0.0025
<b>9. COLLOCATION</b>	
EISCC (Cross-Connect Jumper)	
DS-0, per month	\$1.60
DS-1, per month	\$4.00
DS-3, per month	\$31.00
Physical engineering fee, per request	\$6,946.00
Simple building modification, per office	\$13,484.00
Moderate building modification, per office	\$18,448.00
Complex building modification, per office	\$23,514.00
DC power, per 40 AMPs	\$2,900.00
Cable pull, per 12 fibers	\$1,213.00
Cage enclosure, per cage	\$4,559.00
Partitioned space, per square foot, per month	\$1.85
DC power, per 40 AMPs, per month	\$405.00
Cable space, per 12 fibers, per month	\$14.00
<b>10. SERVICE PROVIDER NUMBER PORTABILITY</b>	
Interim Number Portability (Interim)	no charge
<b>11. NONRECURRING CHARGES</b>	
<b>11.1 UNBUNDLED SERVICES</b>	
Service Ordering (loop or port)	
Initial Service Order, per order	\$47.25
Transfer of Service Charge, per order	\$16.00
Subsequent Service Order, per order	\$24.00
Customer Service Record Search, per request	\$5.25
Installation	
Unbundled Loop, per loop	\$10.50
Unbundled Port, per port	\$10.50
Loop Facility Charge, per order <sup>1</sup>	\$62.50
<b>11.2 RESALE SERVICES</b>	
	13.04% wholesale discount

<sup>1</sup> The Loop Facility Charge will apply when field work is required for establishment of a new unbundled loop service.

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**Appendix C(Page 8) of MCImetro/GTE Agreement**

<b>12. BILLING AND RECORDING</b>	<b>TBD</b>
<b>13. OTHER SERVICES</b>	
Busy Line Verification and Interrupt (per call)	\$0.65
E911 Service	
Recurring Charges	
E911 trunk, fixed rate each trunk (Interim)	\$26.00
E911 trunk, per airline mile each trunk (Interim)	\$1.50
E911 Selective Routing, per trunk (Interim)	\$30.00
E911 ALI Entry Software, per package (optional) (Interim)	\$11.00
Nonrecurring Charges	
E911 trunk, fixed each trunk (Interim)	\$89.00
E911 Selective Routing, per trunk (Interim)	\$260.00
Selective Routing Boundary Maps (Interim)	\$44.00
E911 ALI Entry Software, per package (optional) (Interim)	\$250.00
E911 ALI Entry User's Guide, per copy (optional) (Interim)	\$30.00
MSAG Copies, per county (Interim)	
diskette or magnetic tape (Interim)	\$45.00
paper copy (Interim)	\$110.00