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November 26, 2007
COMMISSION
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VIA OVERNIGHT DELIVERY

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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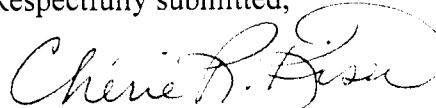
Re: Petition of Intrado Communications Inc. for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Section 364.162, Florida Statutes to Establish an Interconnection Agreement with Embarq Florida, Inc.

Dear Ms. Cole:

Intrado Communications Inc. ("Intrado"), by its attorneys, hereby submits an original and sixteen (16) copies of its Petition for Arbitration to establish an interconnection agreement with Embarq Florida, Inc. for the state of Florida. Under separate cover, Intrado also is submitting a request to name Chérie R. Kiser and Angela F. Collins as qualified representatives of Intrado pursuant to Rule 28-106.106.

Please date stamp the additional copy of the Petition and return it in the enclosed Federal Express envelope. If you have any questions concerning this filing, please contact the undersigned.

Respectfully submitted,



Chérie R. Kiser
Counsel for Intrado Communications Inc.

Enclosures

cc: Kathryn Feeney, Embarq
William Watkins, Embarq
Susan Masterton, Embarq
Patricia Wiggins, Esq., Office of General Counsel, Florida PSC
Beth Salak, Director, Competitive Markets and Enforcement, Florida PSC
Floyd Self, Counsel to Intrado
Rebecca Ballesteros, Intrado

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

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COMMISSION
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In the Matter of the Petition
of Intrado Communications Inc. for Arbitration
Pursuant to Section 252(b) of the Communications Act
of 1934, as amended, and Section 364.162, Florida
Statutes to Establish an Interconnection Agreement with
Embarq Florida, Inc.

Docket No. 070699

PETITION FOR ARBITRATION

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Dated: November 27, 2007

DOCUMENT NUMBER-DATE

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**Before the
STATE OF FLORIDA
PUBLIC SERVICE COMMISSION**

In the Matter of the Petition
of Intrado Communications Inc. for Arbitration
Pursuant to Section 252(b) of the Communications Act
of 1934, as amended, and Section 364.162, Florida
Statutes to Establish an Interconnection Agreement with
Embarq Florida, Inc.

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) Docket No. _____
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PETITION FOR ARBITRATION

Intrado Communications Inc. ("Intrado"), through its attorneys, hereby petitions the Florida Public Service Commission ("Commission") for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with Embarq Florida, Inc. ("Embarq") pursuant to Section 252(b) of the Communications Act of 1934, as amended ("Act")^{1/} and Sections 120.80(13), 120.57(1), 364.15, 364.16, 364.161, and 364.162, Florida Statutes, and Rule 28-106.201, Florida Administrative Code.

PARTIES

1. The complete name and business address of the petitioner in this matter is:

Intrado Communications Inc.
1601 Dry Creek Drive
Longmont, CO 80503

Intrado has been granted a certificate of authority to provide competitive local exchange services, certificate number TX607, and is a "telecommunications company" as that term is defined by

^{1/} 47 U.S.C. § 252(b).

section 364.02(14), Florida Statutes. For purposes of the Act, Intrado is a “telecommunications carrier” and a “local exchange carrier.”^{2/}

2. A copy of all pleadings, discovery, orders, and other papers in this matter should be served on Intrado’s representatives, whose respective contact information is as follows:

Chérie R. Kiser
Angela F. Collins
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
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Rebecca Ballesteros
Associate Counsel
Intrado Communications Inc.
1601 Dry Creek Drive
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(720) 494-6600 (facsimile)
Rebecca.Ballesteros@Intrado.com

3. The respondent in this matter is Embarq Florida, Inc.:

Kathryn L. Feeney
Manager - Contract Management

^{2/} 47 U.S.C. §§ 153(26), (44).

Embarq
9300 Metcalf
Overland Park, KS 66212
Mailstop: KSOPKB0402-4674

William Watkins, Esq.
Attorney for Embarq
5454 West 110th Street
Overland Park, KS 66211
Mailstop: KSOPKJ0401

Embarq Florida, Inc.
FTTLHO0201
P. O. Box 2214
Tallahassee, FL 32316-2214

Embarq is a “local exchange telecommunications company” as that term is defined by Section 354.02(8), Florida Statutes. Embarq is an “incumbent local exchange carrier” under the terms of the Act.^{3/}

INTRODUCTION AND OVERVIEW

Historically, incumbent local exchange carriers (“ILECs”), such as Embarq, have been tasked with implementing, operating, and maintaining the 911 network in the United States. Public safety answering points (“PSAPs”), competitive local exchange carriers (“CLECs”), wireless providers, and other types of service providers must rely on the ILEC to provide the necessary inputs to support emergency calls. Consistent with the goals of this Commission and Congress to promote competition in all segments of the communications market generally and reliability and redundancy in the 911 network specifically,^{4/} Intrado now seeks to offer a competitive alternative to the ILEC 911 network. To do so, however, Intrado requires

^{3/} 47 U.S.C. § 251(h).

^{4/} See, e.g., Florida Emergency Communications Number E911 State Plan Act, 2007 Fla. Laws, Ch. 2007-78 (establishing 911 fees for the purpose of “establishing and provisioning E911 services, which may include next-generation deployment”).

interconnection with ILECs such as Embarq to ensure that the customers of each carrier can seamlessly complete or receive life-saving emergency calls. Indeed, a critical component of providing such services as a facilities-based carrier is a mutually beneficial interconnection agreement with the ILEC. The interconnection agreement is the underpinning of the business relationship between Intrado and Embarq, and is necessary to ensure end users receive seamless service that is of the highest quality.

The services Intrado seeks to offer are not new or novel. Many years ago, the Federal Communications Commission (“FCC”) determined that outages affecting 911 facilities are especially significant because of the risks to public safety and encouraged the use of diversity to avoid single points of vulnerability within a 911 system.^{5/} PSAPs likewise have been working with non-ILEC service providers since the passage of the Telecommunications Act in 1996 and the FCC’s mandate that wireless carriers provide E911 services to their customers.^{6/} And for more than two years now, the FCC has recognized that 911/E911 services may be provided by means other than interconnection with the ILEC based on its finding that Voice over Internet Protocol (“VoIP”) service providers may satisfy their E911 requirements by utilizing a CLEC like Intrado.^{7/} Importantly, the FCC also recognized that compliance with its requirements would require all interested parties to work together to develop and deploy E911 solutions and specifically acknowledged that compliance would be “necessarily dependent” on access to trunks and Selective Routers through CLECs that have negotiated access with ILECs.^{8/}

^{5/} See, e.g., *Amendment of Part 63 of the Commission’s Rules to Provide for Notification by Common Carriers of Service Disruptions*, 10 FCC Rcd 11764, ¶ 7, n.32 (1995).

^{6/} See, e.g., *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 11 FCC Rcd 18676 (1996) (adopting rules governing the provision of E911 service by wireless carriers).

^{7/} *E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 38 (2005) (“*VoIP E911 Order*”).

^{8/} *VoIP E911 Order* ¶ 40.

Through its interconnection agreement with Embarq, Intrado is attempting to provide the types of innovative solutions contemplated by the FCC and desperately desired by public safety agencies, VoIP service providers, and other communications providers. The benefits of Intrado's competitive 911 offering have already been recognized by other states.^{9/} Embarq, however, appears unwilling or unable to understand the significant value Intrado's competitive services can bring to the public safety agencies operating in Florida as well as the residents of the state. Intrado is poised to offer an alternative, IP-based technology that will "enable the public safety community to focus on future needs rather than requiring more from legacy systems, offer more redundancy and flexibility, and contribute greatly to improving compatibility between public safety systems that operate using different proprietary standards."^{10/} Accordingly, Intrado is eager to reach agreement with Embarq so that Intrado can begin offering its services to PSAPs as well as the end users of wireline, wireless, VoIP, and telematics service providers in Florida.

^{9/} See, e.g., Case No. 04-0102-T-GI, *Frontier Communications of West Virginia, et al. General Investigation into the Provision of Data Base Management Services and into Who Pays the Costs of Such Services*, Commission Order (W.Va. P.S.C. Nov. 20, 2007) (recognizing "competitive entry by other providers of E911 services" will "provide more purchasing options to PSAPs").

^{10/} *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, 22 FCC Rcd 10541, ¶¶ 74-75, 80-82 (2007).

BACKGROUND

Intrado has authority to operate as a competitive local exchange telecommunications provider in Florida.^{11/} Intrado and its affiliates also hold authority to provide competitive local telecommunications services in thirty-seven other states and have entered into numerous other interconnection agreements with other ILECs, such as Qwest and SBC (now known as AT&T). Intrado Inc., the parent company of Intrado, was founded in 1979. The companies combined are the nation's leading providers of sophisticated solutions that identify, manage, and deliver mission critical information for telecommunications providers and public safety organizations. Intrado provides telecommunications services that facilitate, enhance, and advance the provision of emergency services throughout the United States to end users such as public safety agencies or governmental 911 authorities, VoIP service providers, and other wireline, wireless, and telematics (*e.g.*, On Star) service providers.

Specifically, Intrado provides routing, transmission and transport of traditional and non-traditional emergency call traffic to the appropriate PSAP. In addition, by aggregating emergency call traffic, Intrado's services reduce the number of facilities that must interconnect with ILEC Selective Routers, resulting in a more efficient use of the telecommunications network. In geographic areas where Intrado serves as the primary service provider of 911 and E911 services, the ILEC need only coordinate and interconnect with Intrado, reducing the ILEC's administrative responsibilities because the ILEC will not be required to coordinate and

^{11/} Docket No. 011049, *Application for Approval of Transfer of and Name Change on ALEC Certificate No. 7736 from SCC Communications Corp. to Intrado Communications Inc.*, Notice of Proposed Agency Action Order Approving Transfer of and Name Change on Alternative Local Exchange Telecommunications Certificate (Fla. P.S.C. Oct. 4, 2001) (approving transfer of ALEC Certificate No. 7736 to Intrado); *see also* Docket No. 011049, *Application for Approval of Transfer of and Name Change on ALEC Certificate No. 7736 from SCC Communications Corp. to Intrado Communications Inc.*, Consummating Order (Fla. P.S.C. Nov. 2, 2001) (finalizing the Oct. 4, 2001 order).

interconnect with other carriers to handle their 911/E911 calls. In addition, Intrado offers its end users and the interconnecting ILEC assurance that emergency call traffic will be passed to the ILEC's network through redundant, self-healing facilities provided by Intrado.^{12/}

Not only will Intrado provide efficient and reliable transport of emergency call traffic, but Intrado also offers state-of-the-art database management services. These database management services provide enhanced Automatic Number Identification ("ANI") and Automatic Location Identification ("ALI") services to end users of wireline, wireless, VoIP, and telematics service providers. Such advanced services allow PSAPs to provide quicker and more accurate emergency services, saving innumerable lives. The Intrado product provides an enhanced E911 product for users of emergency services and providers of emergency response systems.

In order to provide the aforementioned aggregation, transport, and database management services, Intrado must interconnect its network with the ILECs that have connections with and provide 911 services to the PSAPs. Thus, pursuant to the Act and Florida law, Intrado seeks to interconnect its network with Embarq's network. Intrado is eager to reach agreement with Embarq so that Intrado can begin offering its services to further benefit Florida consumers and public safety agencies.

The Act requires Embarq, as an ILEC, to negotiate in good faith the terms and conditions of interconnection agreements to fulfill its obligations under the Act.^{13/} To date, the Parties have

^{12/} As the primary 911 and E911 provider, Intrado routes, transmits, and transports 911 and emergency call traffic from end users of wireline, wireless, VoIP, and telematics service providers to the appropriate PSAP. The PSAP may be Intrado's end user or it may be Embarq's or another third-party carrier's end user. The method of transmission of the 911 and emergency call traffic to Intrado's network is transparent to the PSAP. All necessary conversion functions and special applications necessary to transport calls and information from wireless and telematics end users calling 911 or requesting emergency assistance are made within Intrado's network. The PSAP that receives a 911 call from a wireless, telematics, or VoIP service provider end user will be able to process such calls in a manner no different than currently used to process such 911 calls.

^{13/} 47 U.S.C. § 251(c)(1).

been unable to reach a comprehensive negotiated agreement as contemplated by Section 252 of the Act. Once a CLEC submits a request for interconnection, Section 252(b) permits either party to the negotiation to petition a state commission to “arbitrate any open issues” unresolved by voluntary negotiations.^{14/} Florida law provides for similar interconnection and unbundling negotiations and, if unresolved, a party may petition this Commission “to establish nondiscriminatory rates, terms and conditions.”^{15/} As Intrado and Embarq have not reached a voluntary negotiated agreement, Intrado hereby files this Petition.

In accordance with Section 252(b)(2) of the Act and applicable Florida statutes and rules, Intrado provides “all relevant documentation concerning - (i) the unresolved issues; (ii) the position of each of the parties with respect to those issues; and (iii) any other issue discussed and resolved by the parties.”^{16/} All relevant documents are affixed as Attachments 1 through 12. The remainder of the Petition will detail the unresolved issues identified by the Parties during negotiations, and Intrado’s and Embarq’s positions on each issue.^{17/} With the Commission’s assistance, Intrado hopes to secure prompt resolution of the outstanding issues set forth herein.

^{14/} 47 U.S.C. § 252(b)(1). Pursuant to that provision, either party may petition the State commission for arbitration during the period from the 135th day to the 160th day (inclusive) after the date on which the incumbent carrier received the request for negotiation. Pursuant to mutual agreement of the Parties, the 160th day is November 28, 2007. *See* Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 11, 2007) (Attachment 2).

^{15/} FLA. STAT. ANN. § 364.162(1). An ILEC’s obligation to interconnect and unbundled includes all of its network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider requesting such features, functions or capabilities for resale to the extent technically and economically feasible.

^{16/} 47 U.S.C. § 252(b)(2)(A).

^{17/} 47 U.S.C. § 252(b)(2).

RESOLVED ISSUES LIST

The Parties have reached agreement on a few issues and are continuing to work toward a negotiated agreement. The Parties have resolved the following issues in connection with their agreement:

Section 10.4 - Limitation of Liability
Section 12.6 - Insurance
Section 12.8 - Insurance

UNRESOLVED ISSUES LIST

The issues that remain open and require resolution generally fall into the following categories:

- I. INTRADO IS ENTITLED TO SECTION 251(C) INTERCONNECTION AND SECTION 252 ARBITRATION**
- II. PHYSICAL ARCHITECTURE**
 - A. Local Interconnection Arrangements (Section 55.1)
 - B. Interconnection of Embarq Network to Intrado Network, Technical Requirements for Interconnection, Point of Interconnection and Mid-Span Meet (Sections 55.2, 55.3, 55.4, 80.1)
 - C. Inter-Selective Router Trunking (Section 55.5)
 - D. Indirect Traffic (Section 60)
- III. 911 AND E911 SERVICE AND RELATED SERVICES**
 - A. Intrado's Right to 911 and E911 Services from Embarq (Section 75.1)
 - B. Basic 911 and E911 Service (Sections 74.15, 75.2.3-75.2.5)
 - C. Basic 911 and E911 Databases (Sections 75.2.6)
 - D. MSAG and SIG (Sections 1.76, 1.111, 72.3)
 - E. 911 and E911 Related Definitions (Sections 1.9, 1.46, 1.50, 1.55, 1.81, 1.96, 1.100, 1.101, 1.014, 1.106, 1.108)
- IV. INTERCARRIER COMPENSATION (SECTION 56.11)**
- V. LEGAL AND FINANCIAL OBLIGATIONS**
 - A. Term and Termination (Sections 5.1, 5.3, 5.5, 96.1)
 - B. Post-Expiration Interim Service Arrangements (Sections 6.2, 6.3.2)
 - C. Billing and Payment of Intrado Charges and Dispute Resolution (Sections 7.1-7.10, 25.3)
 - D. Audits (Section 8.1)
 - E. Intellectual Property (Sections 9.2, 9.5, 9.6)
 - F. Limitation of Liability (Section 10.2)
 - G. Indemnification (Section 11.7, 11.9-11.13, 93)
 - H. Insurance (Sections 12.7, 12.9)
 - I. Modification of Parties' Networks (Section 54)
 - J. Forecasting (Sections 58.3, 58.6, 58.7)
 - K. Ordering Processes (Section 72.14)
- VI. PRICING AND OTHER ATTACHMENTS (TABLE ONE, TABLE TWO, EXHIBIT A)**

VII. DEFINITIONS

- A. Definition of “Central Office Switch” and “Tandem Office Switch” (Sections 1.19, 1.114)
- B. Definition of “Common Transport” (Section 1.28)
- C. Definition of “End-User” (Section 1.54)
- D. Definition for “Internet Protocol” and “Voice over Internet Protocol” (Sections 1.68, 1.127)
- E. Definition of “Technically Feasible” (Section 1.116)

VIII. MISCELLANEOUS

- A. Cover Page and Whereas Clauses (Cover page and Whereas Clauses)
- B. Call-Related Databases (Section 69.1)
- C. Brokers and Agents (Section 98.1)
- D. Capitalization and Consistency of Definitions (Various Sections)

FACTUAL BACKGROUND

On May 18, 2007, Intrado made a request in writing to Embarq for negotiation of an interconnection agreement for the state of Florida.^{18/} In response, Embarq forwarded to Intrado its standard, “one size fits all,” multi-state template agreement on May 21, 2007 (“Embarq May 21 Draft”).^{19/} After several email exchanges, the Parties scheduled an initial “meet & greet” negotiation call for September 18, 2007. Prior to the September 18 call and during the call itself, Intrado provided Embarq’s subject matter experts (“SMEs”) with an overview of Intrado’s network architecture and its interconnection needs.^{20/} Each of Embarq’s SMEs implied an understanding of Intrado’s needs after the call.

On September 23, 2007, Intrado provided Embarq with an initial mark-up of the template agreement (“Intrado September 23 Draft”), which included proposed revisions to the critical pieces of the template - the physical architecture and interconnection sections - which were revised consistent with the joint discussions held on the September 18 conference call.^{21/} Intrado later contacted Embarq to discuss next steps and how soon Intrado could expect a response to its proposed revisions. In response, Embarq requested a 30-day extension of the arbitration window^{22/} and the Parties agreed to extend the arbitration deadline to November 28, 2007, the relevant date for this Petition.^{23/}

^{18/} Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (May 18, 2007) (Attachment 3).

^{19/} Email from Kathryn Feeney, Embarq, to Colleen Lockett, Intrado (May 21, 2007), *attaching* Embarq template interconnection agreement (“Embarq May 21 Draft”) (Attachment 4).

^{20/} Email from Rebecca Ballesteros, Intrado, to Kathryn Feeney, Embarq (Sept. 4, 2007), *attaching* Intrado network diagram, and subsequent email correspondence (Sept. 10 and Sept. 11, 2007) (collectively, Attachment 5).

^{21/} Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Sept. 23, 2007), *attaching* Intrado September 23 Draft (Attachment 6).

^{22/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 3, 2007) (Attachment 7).

^{23/} Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 11, 2007) (Attachment 2).

On October 8, 2007, Intrado provided Embarq with additional revisions to the General Terms and Conditions section of the template agreement (“Intrado October 8 Draft”).^{24/} Embarq responded to some, but not all, of those proposed revisions on October 10, 2007, and the Parties were able to reach resolution on a handful of issues relating to the General Terms and Conditions section of the interconnection agreement.^{25/}

Embarq, however, has never formally responded to the Intrado September 23 Draft or the Intrado October 8 Draft. After repeated phone calls and email messages to determine the status of Embarq’s response to Intrado’s proposed revisions,^{26/} Intrado received correspondence from Embarq on November 1, 2007 setting forth Embarq’s position that some parts of Intrado’s interconnection request were governed by Section 251(a) of the Act, but did not fall under Section 251(c)(2) and were therefore not eligible for arbitration under Section 252.^{27/} The Parties, however, did agree to conduct further discussions during a November 9, 2007 conference call.^{28/} During the November 9 conference call, Embarq re-stated its position that it does not believe Intrado is entitled to Section 251(c) interconnection because the services provided by Intrado are not telephone exchange or exchange access services. Embarq also indicated that Intrado is not entitled to interconnection because Intrado does not serve retail end users.

As discussed above, numerous issues between the Parties remain unresolved. Embarq’s appears unwilling to negotiate with Intrado based on Embarq’s incorrect view that Intrado is not

^{24/} Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 8, 2007), *attaching* Intrado October 8 Draft (Attachment 8).

^{25/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007); Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 10, 2007) (collectively, Attachment 9).

^{26/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 24, 2007); Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 24, 2007) (collectively, Attachment 10).

^{27/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007); Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007) (collectively, Attachment 11).

^{28/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007) (Attachment 12).

entitled to Section 251(c) interconnection or Section 252 arbitration. Regrettably, resolution of the outstanding issues does not appear possible at this stage without Commission intervention. Thus, Intrado respectfully requests that the Commission consider Intrado's requests contained herein and resolve the outstanding issues in this arbitration according to the standards outlined by the Act, Florida law, and consistent with Intrado's stated positions and its proposed language as set forth in Attachment 1 ("Intrado Proposed Interconnection Agreement").^{29/}

^{29/} Section 252(b)(2)(A)(i) of the Act and Rule 28-106.201, F.A.C., requires that all unresolved issues be identified by the petitioner. In an effort to ensure all of Intrado's issues with the Embarq interconnection agreement were sufficiently identified, Intrado has further revised the Embarq agreement beyond the revisions provided to Embarq through Intrado's September 23 and October 8 Drafts. Attachment 1 reflects Intrado's most recent mark-up of the Embarq May 21 Draft. Embarq is receiving this further revised draft for the first time as an attachment to this Petition. In addition, because Embarq has not provided pricing information to Intrado as it is required to do, Tables One and Two are blank, which prevents Intrado from submitting a complete Intrado Proposed Interconnection Agreement. Finally, Embarq has not provided Intrado with the wire center information that should be included in Exhibit A. Both the missing pricing and wire center information have been identified as issues.

UNRESOLVED ISSUES

I. INTRADO IS ENTITLED TO SECTION 251(C) INTERCONNECTION AND SECTION 252 ARBITRATION

Intrado is certified by this Commission (and numerous other state commissions) to offer competitive local exchange services.^{30/} Standing alone, this certificate of authority is sufficient statutory basis to require Embarq to negotiate and interconnect with Intrado. Notwithstanding that fact, Embarq claims that Intrado is not entitled to interconnection under Section 251(c) of the Act because (1) the services provided by Intrado are not telephone exchange service or exchange access service and (2) Intrado does not provide service to retail end user customers. Instead, Embarq contends that parts of Intrado's request fall under Section 251(a) of the Act and therefore arbitration under Section 252 is not applicable. Embarq is wrong under both federal and Florida law.

Intrado is a telecommunications carrier offering telephone exchange, exchange access, and telecommunications service as those terms are defined in the Act and by the FCC's rules. In 2000, similar claims were raised by AT&T (then SBC) in response to Intrado's (then known as SCC Communications) request for interconnection in California and Illinois. Both the California Public Utilities Commission and the Illinois Commerce Commission rejected AT&T's attempts to block competition with such claims and found Intrado was entitled to interconnection under Section 251(c) and arbitration under Section 252 because it was acting as a telecommunications

^{30/} Docket No. 011049, *Application for Approval of Transfer of and Name Change on ALEC Certificate No. 7736 from SCC Communications Corp. to Intrado Communications Inc.*, Notice of Proposed Agency Action Order Approving Transfer of and Name Change on Alternative Local Exchange Telecommunications Certificate (Fla. P.S.C. Oct. 4, 2001) (approving transfer of ALEC Certificate No. 7736 to Intrado); *see also* Docket No. 011049, *Application for Approval of Transfer of and Name Change on ALEC Certificate No. 7736 from SCC Communications Corp. to Intrado Communications Inc.*, Consummating Order (Fla. P.S.C. Nov. 2, 2001) (finalizing the Oct. 4, 2001 order).

carrier and provided telephone exchange service, exchange access, and telecommunications services.^{31/} The Commission should make a similar finding here.

Similarly, Section 364.162(2) requires that “each local exchange telecommunications company [ILEC] shall unbundled all of its network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider requesting such features, function or capabilities.”^{32/} This obligation to negotiate and interconnect is absolute.

A. Intrado is a Telecommunications Carrier Offering Telephone Exchange Service, Exchange Access, and Telecommunications Services

Issue Presented

Whether Embarq may deny Intrado its rights under Sections 251(c) and 252 of the Act or Florida law by claiming that Intrado (1) does not offer telephone exchange service or exchange access and (2) does not serve retail end users.

Intrado Position

Section 251(c) of the Act requires an ILEC, such as Embarq, to provide interconnection with a requesting telecommunications carrier^{33/} “for the transmission and routing of telephone

^{31/} See generally Docket No. 00-0769, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Arbitration Decision (I.C.C. Mar. 21, 2001) (“*Illinois Order*”); Decision No. 01-09-048, *Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.*, Opinion Affirming Final Arbitrator’s Report and Approving Interconnection Agreement (C.P.U.C. Sept. 20, 2001) (“*California Order*”).

^{32/} FLA. STAT. ANN. § 364.162(2).

^{33/} 47 U.S.C. § 153(44) (defining “telecommunications carrier” to mean “any provider of telecommunications services”); see also 47 U.S.C. § 153(46) (defining “telecommunications service” as the “offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used”). Telecommunications is “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.” 47 U.S.C. § 153(43).

exchange service and exchange access.”^{34/} Intrado offers telecommunications because it accepts, routes, transmits, transports and/or aggregates 911 calls from its end user customers, and routes those calls to the appropriate PSAP^{35/} “without change in the form or content of the information as sent or received.”^{36/} Intrado uses a call management system to perform the selective routing of an emergency call to the appropriate PSAP, and the FCC has determined that selective routing is a telecommunications service.^{37/}

Intrado’s services also fit within the definition of “basic local telecommunications service” as defined by Florida law because Intrado provides access to emergency services such as 911.^{38/} Moreover, under Section 364.02(13), the term “‘Service’ is construed in its broadest and most inclusive sense.”^{39/} Further, an ILEC’s obligation under Section 364.161(1) to unbundled “all of its network features, functions, and capabilities” is without limitation except “to the extent technically and economically feasible,” neither of which is at issue in Intrado’s request for interconnection with Embarq.^{40/}

^{34/} 47 U.S.C. § 251(c)(2)(A).

^{35/} In many instances, the PSAP will also be Intrado’s customer or end user. The fact that only a subset of the “public” would purchase Intrado’s services (such as PSAPs, local exchange carriers, businesses operating a private branch exchange (“PBX”), VoIP service providers, etc.) does not mean the service is not being offered to the public. *NARUC v. FCC*, 525 F.2d 630, 641 (D.C. Cir. 1975) (holding that a service provider “may be a common carrier though the nature of the service rendered is sufficiently specialized as to be of possible use to only a fraction of the total population”); *see also Illinois Order* at 8 (noting that in the Intrado system “a 911 call is routed to a PSAP, which is a subsection of the general public, and whose duty it is to serve the general public at large”).

^{36/} *Cf.* 47 U.S.C. § 153(43) (defining “telecommunications”). Moreover, Intrado services are offered for a fee directly to the public, meaning Intrado offers a telecommunications service as defined in the federal statute.

^{37/} *Bell Operating Companies Petition for Forbearance from the Application of Section 272 of the Communications Act of 1934, as Amended, to Certain Activities*, 13 FCC Rcd 2627, ¶ 18 (1998).

^{38/} FLA. STAT. ANN. § 364.02(1).

^{39/} FLA. STAT. ANN. § 364.02(13).

^{40/} FLA. STAT. ANN. § 364.161(1).

Similarly, Intrado offers telephone exchange service and exchange access service as those terms are defined in the Act.^{41/} The FCC has found that “comparable” services do not need to be “‘market substitutes’ for two-way switched voice service.”^{42/} Rather, the “key component” of telephone exchange service is “‘intercommunication’ among subscribers within a local exchange area.”^{43/} Intrado offers “intercommunication among subscribers within a local exchange area” by connecting calls placed by persons in a local exchange area to a relevant PSAP, allowing callers to both communicate to and receive communication from PSAP personnel.^{44/} Although the majority of the calls placed over Intrado’s network are one-way, there is still “intercommunication” because the PSAP can communicate with the caller and vice versa, and one PSAP can communicate and transfer emergency calls to other PSAPs. Indeed, Intrado provides a greater degree of intercommunication than is available in fax communications, which the FCC has declared to be telephone exchange service.^{45/}

Further, there is no merit to Embarq’s claim that Intrado is not entitled to interconnection because it does not serve retail end users. Telecommunications carriers, such as Intrado, are not required to provide services directly to retail end users in order to qualify for Section 251

^{41/} A service is a “telephone exchange service” if it (A) “furnish[es] . . . subscribers intercommunicating service of the character ordinarily furnished by a single exchange” or (B) “comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.” 47 U.S.C. § 153(47). “Exchange access” is defined as “the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.” 47 U.S.C. § 153(16).

^{42/} *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385, ¶¶ 30-31 (1999) (“*Advanced Telecommunications Order*”).

^{43/} *Advanced Telecommunications Order* ¶¶ 30-31.

^{44/} *California Order* at 14 (“SCC does provide intercommunication among subscribers, within the meaning of Section 153(47), because by transporting the 9-1-1 call to the appropriate PSAP, SCC enables an end user to talk to someone at the PSAP and vice versa.”); *Illinois Order* at 6 (“SCC also provides service within an exchange, or within a connected system of telephones (sic) exchanges, through a system of switches, transmission and equipment, by which, a subscriber can originate and terminate an emergency or 9-1-1 call. SCC therefore falls within the definition of telephone exchange service found in 47 U.S.C. § 153(47).”).

^{45/} *Advanced Telecommunications Order* ¶ 21.

interconnection rights. The FCC has repeatedly held that the term “telecommunications services” is not limited to retail services and specifically includes services offered to other carriers and service providers.^{46/} PSAPs, however, are retail end users that historically have purchased services from ILECs pursuant to ILEC retail tariffs.^{47/}

There is simply no question that providers like Intrado are eligible for interconnection under Section 251(c) of the Act and Florida law. The FCC has specifically approved of Intrado’s intention to provide interconnection for E911: “Intrado has indicated that it is prepared to operate as a competitive LEC in a number of states to provide indirect interconnection to interconnected VoIP providers [for provision of E911 services].”^{48/} And other state commissions have recognized that Intrado’s interconnection relationships are in the public interest: “Moreover, the public interest requires that [Intrado] be subject to common carrier regulation. [Intrado] provides 9-1-1 and emergency services. It is of the utmost importance that the continuance and quality of a 9-1-1 call be preserved and enhanced.”^{49/}

Embarq Position

Embarq incorrectly claims that Intrado is not entitled to interconnection under Section 251(c) of the Act because the services provided by Intrado are not telephone exchange service or exchange access and Intrado does not provide service to retail end user customers. Embarq

^{46/} *Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to provide Wholesale Telecommunications Services to VoIP Providers*, 22 FCC Rcd 3513, ¶ 11 (2007) (“It is clear under the Commission’s precedent that the definition of ‘telecommunications services’ is not limited to retail services”); *Federal-State Board on Universal Service*, 12 FCC Rcd 8776, ¶ 785 (1997) (“Common carrier services include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers.”).

^{47/} *VoIP E911 Order* ¶ 14, n.35.

^{48/} *VoIP E911 Order* ¶ 38.

^{49/} *Illinois Order* at 8.

contends that parts of Intrado's interconnection request are instead covered by Section 251(a). Embarq has not explained to Intrado which parts of Intrado's interconnection request are not eligible for Section 251(c) treatment. Embarq has not addressed with Intrado its obligations to negotiate, interconnect, or unbundle under Florida law.

B. Section 251(c) Interconnection Agreements Can Go Beyond Section 251(c) and the Section 252 Arbitration Process Is Not Limited to Section 251(c) Obligations

Issue Presented

Whether Intrado is entitled to arbitration pursuant to Section 252 of the Act or Section 364.162, Florida Statutes.

Intrado Position

The negotiation and arbitration process applies to Section 251 or Section 364.162 agreements with ILECs generally.^{50/} Any type of interconnection request under Section 251 is subject to arbitration under Section 252. This is consistent with Section 252(a), which permits any party to a negotiation under Section 252 to petition a state commission for arbitration.^{51/} Section 252(a)(1) addresses voluntary negotiations, and permits parties to enter into an interconnection agreement without regard to Sections 251(b) or 251(c).^{52/} Once a CLEC

^{50/} See, e.g., Cause No. 43052-INT-01, *Sprint Communications Company L.P.'s Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates Terms and Conditions of Interconnection with Ligonier Telephone Company, Inc.*, Opinion (I.U.R.C. Sept. 6, 2006) (agreeing that Section 251(a) issues may be included in a Section 252 arbitration proceeding); Case No. PU-2065-02-465, *Level 3 Communications LLC Interconnection Arbitration Application*, Order (N.D. P.U.C May 30, 2003) (finding the arbitration provisions of Section 252 are available for all Section 251 interconnections, including interconnections under Section 251(a)); Docket No. UT-023043, *Petition for Arbitration of an Interconnection Agreement Between Level 3 Communications, LLC and CenturyTel of Washington, Inc. Pursuant to 47 U.S.C. Section 252*, Seventh Supplemental Order: Affirming Arbitrator's Report and Decision (Wash. U.T.C. Feb 28, 2003) ("[T]he mechanisms for negotiation, mediation, and arbitration provided by Section 252 apply to requests to negotiate made under Section 251(a).").

^{51/} 47 U.S.C. § 252(a).

^{52/} 47 U.S.C. § 252(a)(1).

requests interconnection pursuant to Section 251, either party may initiate a Section 252(b) arbitration if voluntary negotiations are not successful.^{53/} The provisions of Section 364.16, 364.161, and 364.162, Florida Statutes, are similar with respect to the obligation to negotiate interconnection and unbundling agreements and this Commission's ability to arbitrate such unresolved issues.

Section 252(a)(1) simply refers to requests for interconnection, services, or elements pursuant to Section 251.^{54/} It does not specify Section 251(a), (b), or (c). Further, once it receives a petition for arbitration, a state commission's review is not limited to Section 251(c). Rather, it must resolve the outstanding issues consistent with the entirety of Section 251.^{55/} Thus, any request for negotiation pursuant to Section 251 that does not result in a negotiated agreement may be resolved through arbitration.

Likewise, Section 364.15 authorizes this Commission to require additions or extensions to any telecommunications facility "in order to promote the security or convenience of the public or employees or in order to secure adequate service or facilities for telecommunications services."^{56/} Section 364.16(1) also authorizes this Commission to require such connections "between any two or more local exchanges companies, whose lines for a continuous line of communications or could be made to do so by the construction and maintenance of suitable connections at common points."^{57/} Further, Section 364.16(3) requires each ILEC to "provide access to, and interconnection with, its telecommunications facilities to any other provider or

^{53/} 47 U.S.C. § 252(b).

^{54/} 47 U.S.C. § 252(a)(1).

^{55/} 47 U.S.C. § 252(c).

^{56/} FLA. STAT. ANN. § 364.15.

^{57/} FLA. STAT. ANN. § 364.16(1).

local exchange telecommunications services requesting such access.”^{58/} Section 364.161 is equally broad in requiring the unbundling of all network features, functions, and capabilities. The types of interconnection and unbundling described further below that are necessary for Intrado’s provision of competitive 911 services unquestionably fall within the reach of the ILEC obligations defined by Florida law, and which are subject to petitions for relief under Section 364.162(1). Thus, this Commission has sufficient and complete independent jurisdiction under Florida law to resolve Intrado’s petition.

Embarq Position

Embarq wrongly believes that parts of Intrado’s interconnection request fall under Section 251(a) and claims that a Section 251(a) is a commercial agreement not subject to arbitration under Section 252. Embarq has not addressed with Intrado its obligations to negotiate, interconnect, or unbundle under Florida law.

^{58/} FLA. STAT. ANN. § 364.16(3).

II. PHYSICAL ARCHITECTURE

The FCC has determined that “the American public depends on 911 services in its emergencies” and that reliability in the 911 network results from the deployment of diverse routing of interoffice facilities, multiple 911 tandem switch architectures, and diverse links for ALI database access.^{59/} Intrado’s innovative, next-generation network helps promote reliability in the 911 network by creating an alternative emergency services network that can be used as the primary 911/E911 network and supports cutting-edge technologies such as those needed by VoIP service, video relay service (“VRS”), and telecommunications relay service (“TRS”) providers to service the speech and hearing impaired communities. Because it incorporates IP-based technologies, Intrado’s network is able to fully accommodate the myriad of IP-based services being offered today as well as readily adapt for the technologies of tomorrow, which are generally not supported by today’s legacy 911 network. Each of these principals underlies Intrado’s proposed language regarding the physical network to be deployed and interconnected with Embarq.

A. Local Interconnection Arrangements (Section 55.1)

Issue Presented

Whether 911 Service and E911 Service calls should be included in the section regarding local interconnection and whether one-way trunks should be used by the Parties for the interconnection of the Parties’ 911/E911 networks and E911 Tandems through inter-Selective Router trunking.

^{59/} *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 9 FCC Rcd 6170, ¶ 3, n.6 (1994).

Intrado Position

Given the unique nature of Intrado's service offering, the Parties will generally exchange only one type of telephone exchange service traffic - 911 Service and E911 Service calls (as those terms have been defined in the interconnection agreement) - over the local interconnection trunks that will be established under the interconnection agreement. Accordingly, Intrado has modified Embarq's proposed language to include 911 Service and E911 Service calls in the types of traffic to be exchanged by the Parties over local interconnection trunks.^{60/}

Further, Intrado has proposed language requiring the use of one-way trunks to be used for the local interconnection of Embarq's network to Intrado's network and for inter-Selective Router trunking configurations, which would allow the transfer of emergency calls between Selective Routers/E911 Tandems (and consequently between PSAPs).^{61/} As explained in more detail below, the purpose of such inter-Selective Router trunks is to ensure all emergency calls are routed to the correct PSAP while maintaining the critical information associated with the call, such as the caller's ANI and ALI..

In the *Virginia Arbitration Order*, the FCC's Wireline Competition Bureau rejected Verizon's proposal to subject the implementation of one-way or two-way interconnection trunks to the "mutual agreement" of the parties. Rather, the FCC found that CLECs have the right to require the ILEC to provide any technically feasible method of interconnection and that Verizon's consent was not a prerequisite for the implementation of interconnection trunks.^{62/}

^{60/} Intrado Proposed Interconnection Agreement § 55.1 (Attachment 1).

^{61/} Intrado Proposed Interconnection Agreement §§ 55.1.3, 55.1.4 (Attachment 1).

^{62/} 47 C.F.R. § 51.305(f) (two-way trunking to be provided upon request); *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, et al.*, 17 FCC Rcd 27039, ¶ 147 (2002) ("*Virginia Arbitration Order*").

This Commission has likewise determined that ILECs are required to provide one-way or two-way trunking to CLECs upon the CLEC's request subject only to technical feasibility.^{63/}

Intrado's proposed language providing for one-way trunking in these two situations is in the public interest and should be adopted.

Embarq Position

Embarq's position is unknown. Embarq did not respond to Intrado's initial edits in the Intrado September 23 Draft.

B. Interconnection of Embarq Network to Intrado Network, Technical Requirements for Interconnection, Point of Interconnection, and Mid-Span Meet (Sections 55.2, 55.3, 55.4, 80.1)

Issue Presented

What is the most efficient, cost-effective physical architecture arrangement to achieve the greatest benefit for consumers.

Intrado Position

The Act and the FCC's rules do not permit Embarq to dictate the POIs that Intrado may use to exchange traffic with Embarq's network.^{64/} Under the law, Intrado has the right to choose the location and number of points of interconnection on the incumbents' network, including the

^{63/} See, e.g., Docket No. 000828-TP *Petition of Sprint Communications Company Limited Partnership for Arbitration of Certain Unresolved Terms and Conditions of a Proposed Renewal of Current Interconnection Agreement with BellSouth Telecommunications, Inc.*, Order No. PSC-01-1095-FOF-TP, Final Order on Arbitration, (Fla. P.S.C. May 8, 2001) (subsequent history omitted).

^{64/} 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a) ("[a]n incumbent LEC shall provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the incumbent LEC's network . . . at any technically feasible point within the incumbent LEC's network"); *Virginia Arbitration Order* ¶ 52 ("competitive LECs may request interconnection at any technically feasible point"), *app. for review pending* (filed Nov. 7, 2002); *Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610, ¶ 112 (2001) ("*Intercarrier Compensation NPRM*") ("an [incumbent carrier] must allow a requesting telecommunications carrier to interconnect at any technically feasible point").

right to establish a single POI.^{65/} The law is also clear that each carrier is required to bear the costs of delivering its originating traffic to the POI designated by the competitive carrier.^{66/} Consistent with federal law, this Commission has found that competitors are entitled to a single POI^{67/} and that each party has responsibility on its side of the POI.^{68/} Intrado has modified Embarq's proposed language consistent with the rules of this Commission and the FCC to make clear that Intrado may designate the POI,^{69/} that Intrado is only required to establish one POI per LATA,^{70/} and that Intrado may request a meet-point to effectuate its interconnection arrangement with Embarq.^{71/}

In geographic areas in which Embarq has been designated as the primary 911 Service and E911 Service provider, Intrado seeks to establish a POI on Embarq's network for the termination

^{65/} See, e.g., *Virginia Arbitration Order* ¶ 52 ("competitive LECs may request interconnection at any technically feasible point"); *Intercarrier Compensation NPRM* ¶ 112 ("an [incumbent carrier] must allow a requesting telecommunications carrier to interconnect at any technically feasible point.").

^{66/} 47 C.F.R. § 51.703; *Virginia Arbitration Order* ¶ 53.

^{67/} Docket No. 000075-TP, *Investigation into Appropriate Methods To Compensate Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996*, Order No. PSC-02-1248-FOF-TP, Order on Reciprocal Compensation at 25 (Fla. P.S.C. Sept. 10, 2002) ("*Florida Order on Reciprocal Compensation*") ("[W]e find that ALECs have the exclusive right to unilaterally designate single POIs for the mutual exchange of telecommunications traffic at any technically feasible location on an incumbent's network within a LATA."), *recon. denied* January 8, 2003.

^{68/} Docket No. 000731-TP, *Petition by AT&T Communications of the Southern States, Inc. d/b/a AT&T for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252*, Order No. PSC-01-1402-FOF-TP, Final Order on Arbitration at 46 (Fla. P.S.C. June 28, 2001) (finding that "[the CLEC] should be permitted to designate the interconnection point(s) in each LATA for the mutual exchange of traffic, with both parties assuming financial responsibility for bringing their traffic to the [CLEC]-designated interconnection point"); *Florida Order on Reciprocal Compensation* at 26 ("[W]e find that an originating carrier is precluded by FCC rules from charging a terminating carrier for the cost of transport, or for the facilities used to transport the originating carrier's traffic, from its source to the point(s) of interconnection in a LATA.").

^{69/} Intrado Proposed Interconnection Agreement § 80.1 (Attachment 1).

^{70/} Intrado Proposed Interconnection Agreement § 55.2.1 (Attachment 1).

^{71/} Intrado Proposed Interconnection Agreement § 55.2.4 (Attachment 1); see also 47 C.F.R. § 51.321(b); *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499, ¶ 553 (1996) ("*Local Competition Order*") (meet point arrangements "must be available to new entrants upon request") (intervening history omitted), *aff'd by AT&T Corp., et al. v. Iowa Utils. Bd., et al.*, 525 U.S. 366 (1999).

of emergency calls originated by Intrado's end users destined for Embarq's network. This can be achieved by establishing a POI at Embarq's E911 Tandem/Selective Router or utilizing another meet-point for 911 Service and E911 Service calls serving the relevant LATA.^{72/} The Selective Router/E911 Tandem and any meet-point established by the Parties is deemed to be on Embarq's network, and thus is a technically feasible interconnection point under the FCC's rules.^{73/} Embarq, not Intrado, bears "the burden of demonstrating the technical infeasibility of a particular method of interconnection or access at any individual point."^{74/}

The 911 network is connected to the public switched telephone network for public safety purposes.^{75/} While the single POI arrangement is generally the most efficient network architecture arrangement for the exchange of plain old telephone service ("POTS") traffic, 911 traffic has historically been handled in a different manner. In geographic areas in which Intrado has been selected as the primary provider of 911 Services and E911 Services, Embarq's network must interconnect with Intrado's 911/E911 network so that customers of Embarq located in that geographic area can complete emergency calls to the appropriate PSAP (*i.e.*, Intrado's end user customer). Deviating from a single POI arrangement in those instances when Intrado is serving the PSAP results in the most efficient and effective network architecture and provides the highest degree of reliability for the 911 network. Indeed, Embarq has historically used this type of arrangement with adjacent ILECs to aggregate and transport 911/E911 traffic to the appropriate

^{72/} Intrado Proposed Interconnection Agreement § 55.2.1 (Attachment 1).

^{73/} *VoIP E911 Order* ¶¶ 14-15, n.35, n.37; *Local Competition Order* ¶ 553 ("In a meet point arrangement, the 'point' of interconnection for purposes of sections 251(c)(2) and 251(c)(3) remains on 'the local exchange carrier's network.'").

^{74/} *Local Competition Order* ¶ 554.

^{75/} *VoIP E911 Order* ¶ 14 (noting that the E911 network is interconnected with the public switched telephone network).

PSAP.^{76/} Intrado simply seeks to mirror the type of interconnection arrangements that Embarq and other ILECs have used in the past for the termination of emergency calls.^{77/}

Similar to the way in which ILECs in adjacent geographic territories handle emergency calls, Intrado has proposed language to govern the situations in which Intrado is serving the PSAP in a particular geographic area and is thereby the “primary” 911 Service and E911 Service provider for that area. Specifically, under Intrado’s proposed language, Embarq would aggregate and/or transport its end users’ emergency calls destined for Intrado’s PSAP customers to a mutually agreed POI on Intrado’s network and/or at Intrado’s Selective Router/E911 Tandem or at a regional meet-point between the Parties’ networks.^{78/} Intrado’s proposal therefore provides Embarq two options for delivering its end users’ emergency calls destined for Intrado’s PSAP customers.

If Embarq were to select to interconnect at a regional meet-point between the Parties’ networks, the Parties would negotiate a point at which one carrier’s responsibility for service ends and the other carrier’s begins and each Party would pay its portion of the costs to reach the meet-point.^{79/} Embarq’s proposed language regarding meet-point interconnection is not consistent with the FCC’s requirements because the language would limit the facilities Embarq is required to build out to reach the meet-point.^{80/} The FCC has determined that both the ILEC and

^{76/} Cf. *Local Competition Order* ¶ 553 (finding that arrangements between neighboring ILECs for the mutual exchange of traffic are technically feasible arrangements for interconnection between CLECs and ILECs).

^{77/} Cf. *Local Competition Order* ¶ 168 (recognizing that a new entrant cannot effectively compete when the new entrant cannot obtain interconnection on terms that are as favorable as the ILEC offers to neighboring ILECs).

^{78/} Intrado Proposed Interconnection Agreement § 55.4 (Attachment 1). Intrado has also proposed language that would require Embarq to maintain certain company identifiers and codes to be able to terminate 911/E911 traffic on Intrado’s network. See Intrado Proposed Interconnection Agreement § 55.3.3 (Attachment 1).

^{79/} *Local Competition Order* ¶ 553 (finding each carrier must build out to the meet-point even if the ILEC is required to build out facilities to reach that point).

^{80/} Embarq May 21 Draft § 55.2.4 (Attachment 4).

the new entrant “gains value” from the use of a meet-point to exchange traffic and thus each Party to the arrangement should bear its portion of the economic costs of the arrangement.^{81/}

Intrado’s proposed interconnection arrangement is consistent with the law, promotes public safety, and reflects Embarq’s existing relationships with other carriers for the termination of emergency calls. Accordingly, Intrado’s proposed language should be adopted.^{82/}

Embarq Position

Embarq’s position is unknown because Embarq did not respond to Intrado’s initial revisions in the Intrado September 23 Draft. Embarq appears to propose a network architecture arrangement that is, in some respects, contrary to the rules of the FCC and this Commission.

C. Inter-Selective Router Trunking (Section 55.5)

Issue Presented

Whether the Parties should implement Inter-Selective Router Trunking to allow emergency calls to be transferred between Selective Routers and the PSAPs connected to those Selective Routers while retaining the critical information associated with the emergency call.

Intrado Position

The FCC has determined that, if a particular method of interconnection is currently employed between two networks or has been used successfully in the past, a rebuttable presumption is created that such a method is technically feasible for substantially similar network architectures and ILECs bear the burden of demonstrating technical infeasibility.^{83/} Embarq performs inter-Selective Router transfers today in several states. Such a transfer allows

^{81/} *Local Competition Order* ¶ 553.

^{82/} Intrado Proposed Interconnection Agreement §§ 55.2, 55.3, 55.4 (Attachment 1).

^{83/} *Local Competition Order* ¶ 554.

the ANI and ALI associated with the emergency call (*i.e.*, the information needed by the public safety agency to address the caller's emergency) to remain with that communication when it is transferred to the other Selective Router and/or PSAP. If the call is required to be re-routed over the public switched telephone network, the caller's ANI and ALI is lost.

Establishment of inter-Selective Router trunking would ensure that PSAPs are able to communicate with each other and more importantly, that mis-directed calls can be quickly and efficiently routed to the appropriate PSAP. The interoperability currently available to ILECs providing 911/E911 services must be made available to Intrado when it offers a competing 911/E911 service offering. Maintaining the same functionality available today is critical to encouraging PSAPs to consider switching to enhanced, next-generation 911/E911 networks such as Intrado's and is necessary to the future deployment of such competitive networks.^{84/} The public benefit of such diverse and redundant interconnection also is reflected in the FCC's inquiry whether it should require redundant trunks to each Selective Router and/or require that multiple Selective Routers be able to route calls to each PSAP.^{85/} Intrado's proposed language seeks to establish such trunking and should be adopted.^{86/}

Embarq Position

Embarq's position is unknown because it did not provide a response to Intrado's proposed language in the Intrado September 23 Draft.

^{84/} *Cf. Telephone Number Portability*, 12 FCC Rcd 12281, ¶ 4 (1997) ("Number portability is essential to meaningful facilities-based competition in the provision of local exchange service because survey data show that customers are reluctant to switch carriers if they must change telephone numbers. In practical terms, the benefits of competition will not be realized if new facilities-based entrants are unable to win customers from incumbent providers as a result of economic or operational barriers.").

^{85/} *VoIP E911 Order* ¶ 59.

^{86/} Intrado Proposed Interconnection Agreement § 55.5 (Attachment 1).

D. Indirect Traffic (Section 60)

Issue Presented

Whether the provisions regarding indirect traffic pertain to the indirect exchange of 911 Service or E911 Service calls.

Intrado Position

As discussed above, Intrado has proposed language to address the issue of inter-Selective Router call transfers. This proposed language could be read to fall within “indirect” routing of emergency calls. On the contrary, Embarq’s proposed language governing indirect traffic should not be read to pertain to the indirect routing of 911 call traffic.^{87/} Intrado has proposed language to avoid any suggestion or confusion that the routing of indirect traffic in Section 60 applies to the indirect routing of emergency calls.^{88/} Intrado’s proposed language should be adopted.

Embarq Position

Embarq’s proposed language does not contain provisions addressing the indirect routing of 911 call traffic between the Parties.

^{87/} Embarq May 21 Draft § 60 (Attachment 4).

^{88/} Intrado Proposed Interconnection Agreement § 60 (Attachment 1).

III. 911 AND E911 SERVICE AND RELATED SERVICES

A. Intrado's Right to 911 and E911 Services from Embarq (Section 75.1)

Issue Presented

Whether the Parties are required to make certain services and functions available to each other on a reciprocal basis.

Intrado Position

As discussed above, in areas in which Intrado serves as the primary 911 Service and E911 Service provider, Intrado must have access to the 911 and E911 databases that Embarq is required to provide.^{89/} Likewise, in areas in which Intrado is the primary 911 Service and E911 Service provider, Embarq must have access to Intrado's 911 and E911 databases. Thus, Intrado has modified Embarq's proposed language to reflect that the Parties will provide these services to each other on a reciprocal basis.^{90/}

Embarq Position

Embarq's position is unknown. Embarq's proposed language would arbitrarily and unlawfully limit Intrado's right to access certain services that Embarq is required to provide and does not address Embarq's need to obtain the same services from Intrado.

^{89/} 47 U.S.C. § 251(c); 47 C.F.R. § 51.319(f); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978, ¶ 557 (2003) ("Triennial Review Order"), *aff'd in part, remanded in part, vacated in part*, *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 587 (D.C. Cir. 2004) (subsequent history omitted); *see also* FLA. STAT. ANN. § 364.161 (requiring ILECs to unbundled certain network features, functions, and capabilities).

^{90/} *Intrado Proposed Interconnection Agreement* § 75.1 (Attachment 1).

B. Basic 911 and E911 Service (Sections 74.15, 75.2.3-75.2.5)

Issue Presented

How the Parties will provide 911 and E911 Services to each other when the primary provider of 911 and E911 services in a particular geographic area is: (1) Embarq; (2) Intrado; or (3) a third-party and whether Embarq is required to designate a contact to provide information to Intrado regarding 911 and E911 calls.

Intrado Position

Intrado has proposed language setting forth how each Party will participate in the provision of 911 and E911 services regardless of whether the primary provider of those services in a particular geographic area is Embarq, Intrado, or a third-party.^{91/} This language is necessary because there may be areas in which Intrado or a third-party is the designated emergency services provider rather than Embarq. Embarq's language indicating that such a situation will be addressed in a separate agreement is unreasonable because the interconnection agreement is the relevant agreement to address the Parties' obligations to each other. In addition, Intrado has proposed language to address situations in which Intrado requires caller information from Embarq for in-progress 911 or E911 calls exchanged between the Parties. Intrado's proposed language should be adopted.^{92/}

Embarq Position

Embarq's position is unknown. Its proposed language would require the Parties to address issues related to the provision 911 and E911 services via separate agreements.^{93/}

^{91/} Intrado Proposed Interconnection Agreement §§ 75.2.3, 75.2.4, 75.2.6 (Attachment 1).

^{92/} Intrado Proposed Interconnection Agreement §§ 75.2.3, 75.2.4, 75.2.6 (Attachment 1).

^{93/} Embarq May 21 Draft §§ 75.2.3, 75.2.4 (Attachment 4).

C. Basic 911 and E911 Databases (Sections 75.2.6)

Issue Presented

How the Parties will obtain access to each other's basic 911 and E911 databases.

Intrado Position

Under the FCC's rules, Embarq is required to provide Intrado with nondiscriminatory access to Embarq's 911 and E911 databases on an unbundled basis.^{94/} The FCC determined that CLECs like Intrado must have access to such databases "because of the unique nature of 911 and E911 services and the [surrounding] public safety issues . . . to ensure that their customers have access to emergency services."^{95/} This Commission also has found that 911 and E911 databases must be provided to competitors like Intrado.^{96/} Intrado has modified Embarq's proposed language to acknowledge Embarq's requirements to provide Intrado access to Embarq's 911 and E911 databases when either Embarq *or* Intrado has been designated as the primary 911/E911 service provider.^{97/} To ensure the greatest degree of reliability for handling public calls for emergency services, Intrado's proposed language also recognizes that both Parties have an obligation to work together as co-carriers to quickly and accurately upload end user record information into the relevant databases while maintaining the confidentiality of the data.^{98/} Intrado's proposed language should be adopted.

^{94/} 47 U.S.C. § 251(c); 47 C.F.R. § 51.319(f); *Triennial Review Order* ¶ 557.

^{95/} *Triennial Review Order* ¶ 557.

^{96/} Docket No. 041269-TP, *Petition To Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes in Law*, by *BellSouth Telecommunications, Inc.*, Order No. PSC-06-0172-FOF-TP, Order on Generic Proceeding (Fla. P.S.C. Mar. 2, 2006) (finding an ILEC "is obligated to offer all CLECs unbundled access to the 911 and E911 call-related databases"); *see also* FLA. STAT. ANN. § 364.161.

^{97/} Intrado Proposed Interconnection Agreement § 75.2.6 (Attachment 1).

^{98/} Intrado Proposed Interconnection Agreement § 75.2.6 (Attachment 1).

Embarq Position

Embarq's position is unknown. Its proposed language did not reflect the fact that both Parties need access to the other Party's databases and imposed some requirements only on Intrado.

D. MSAG and SIG (Sections 1.76, 1.111, 72.3)

Issue Presented

Whether the term "MSAG" should be used instead of "SIG" and whether both Parties have obligations to provide MSAG updates to each other.

Intrado Position

Master Street Address Guide or MSAG is the term commonly used to describe the database of street names and house numbers within a particular community that is used to enable the proper routing of 911/E911 calls.^{99/} Embarq's proposed language, however, uses the less-common term Street Index Guide or SIG.^{100/} The Parties' interconnection agreement should use industry-standard nomenclature, and thus Intrado has included a definition of MSAG in the agreement and changed all "SIG" references in the agreement to "MSAG."^{101/} Further, Intrado has revised Embarq's proposed language to require both Parties to provide MSAG updates to the other Party.^{102/} As explained above, both Parties need to provide updates to and retrieve information from the MSAG depending on which Party (or a third-party) is the primary

^{99/} See, e.g., NENA Master Glossary of 9-1-1 Terminology at 46 (Version 10, June 5, 2007), available at http://www.nena.org/media/files/NENA00-001_V1020070605.pdf.

^{100/} Embarq May 21 Draft § 1.100 (Attachment 4).

^{101/} Intrado Proposed Interconnection Agreement §§ 1.76, 1.111, 72.3 (Attachment 1).

^{102/} Intrado Proposed Interconnection Agreement § 72.3 (Attachment 1).

911/E911 provider for a particular geographic area. Accordingly, Intrado's proposed language should be adopted.

Embarq Position

Embarq seeks to use a non-standard term rather than the more commonly known term for "MSAG" and has proposed language that would impose one-sided MSAG requirements on Intrado.^{103/}

E. 911 and E911 Related Definitions (Sections 1.9, 1.46, 1.50, 1.55, 1.81, 1.96, 1.100, 1.101, 1.104, 1.106, 1.108)

Issue Presented

Whether certain definitions related to the Parties' provision of 911 and E911 Service should be included in the interconnection agreement and what definitions should be used.

Intrado Position

Consistent with the type of telephone exchange service traffic it intends to exchange with Embarq, Intrado has proposed definitions for several 911 and E911 related terms for inclusion in the Parties' interconnection agreement.^{104/} These definitions are consistent with industry standards and should be adopted.^{105/}

Embarq Position

Embarq's position is unknown. Its proposed language did not include any of the definitions proposed by Intrado.

^{103/} Embarq May 21 Draft §§ 1.100, 72.3 (Attachment 4).

^{104/} Intrado Proposed Interconnection Agreement §§ 1.9 (Automatic Location Identification/Database Management System), 1.46 (E9-1-1 Authority), 1.50 (Emergency Service Number), 1.55 (Enhanced 911 Service), 1.81 (NENA Company Identifier), 1.89 (PSAP ALI Messaging (PAM) Interface Protocol), 1.100 (Pseudo-ANI), 1.101 (Public Safety Answering Point), 1.104 (Shell Records), 1.106 (Selective Router), and 1.108 (Service Order Information) (Attachment 1).

^{105/} See generally NENA Master Glossary of 9-1-1 Terminology (Version 10, June 5, 2007), available at http://www.nena.org/media/files/NENA00-001_V1020070605.pdf.

IV. INTERCARRIER COMPENSATION (SECTION 56.11)

Issue Presented

Whether the 911 Service and E911 Service calls exchanged between Intrado and Embarq should be subject to intercarrier compensation.

Intrado Position

Neither Embarq nor Intrado should be eligible for intercarrier compensation for the termination of 911 Service or E911 Service calls on either Party's network. Intrado's proposed language clarifies this point.^{106/} When Intrado and Embarq exchange 911 Service or E911 Service calls destined for the other Party's network, those calls will terminate at the Selective Router/E911 Tandem or other designated POI for routing to the appropriate PSAP. These calls are identical to any emergency call terminated by a CLEC or ILEC on Embarq's network today. CLECs and ILECs do not exchange compensation for terminating such traffic. Accordingly, Intrado's language stating that 911 Service or E911 Service calls exchanged between the Parties are not subject to intercarrier compensation should be adopted.^{107/}

Embarq Position

Embarq's position is unclear because it has not responded to Intrado's language as set forth in the Intrado October 8 Draft.

^{106/} Intrado October 8 Draft § 56.11 (Attachment 8).

^{107/} Intrado Proposed Interconnection Agreement § 56.11 (Attachment 1).

V. LEGAL AND FINANCIAL OBLIGATIONS

A. Term and Termination (Sections 5.1, 5.3, 5.5, 96.1)

Issue Presented

The issues presented are: (1) what term should apply to the interconnection agreement; (2) whether Embarq can delay the effective date of the interconnection agreement based on unrelated past due obligations with Embarq or any of its affiliates; (3) whether the requirement to establish a customer account should be reciprocal; (4) whether Embarq may unilaterally dictate when Intrado initiates service by having the unilateral right to terminate the agreement; (5) whether Embarq may terminate the agreement based on information it locates in public sources regarding Intrado; (6) whether Embarq must provide certain notices to Intrado when Embarq intends to sell its assets; and (7) whether Embarq may terminate the agreement without notice to Intrado in the event of Intrado's bankruptcy.

Intrado Position

First, Intrado seeks a three-year term, which is common for interconnection agreements.^{108/} The process of negotiating an interconnection agreement is highly resource-intensive, both in terms of time and money. The two-year term proposed by Embarq would force Intrado to commence re-negotiations with Embarq within a relatively short time after executing the interconnection agreement (*e.g.*, Intrado's request to renegotiate would be due approximately 18 months after the agreement is executed). Requiring Intrado to divert its attention and resources from providing its life-saving services to interconnection negotiations is not in the interests of Intrado's customers and is decidedly counter to the public interest. In effect, a two-year term erects a barrier to entry for smaller, competitive carriers that lack the extensive

^{108/} Intrado October 8 Draft § 5.1 (Attachment 8).

resources of a large incumbent, and who, to survive, must focus on providing service to their customers rather than engaging in protracted negotiations. Embarq should be required to follow a more reasonable standard of three years as proposed by Intrado.^{109/}

Second, Embarq seeks to delay the effective date of the interconnection agreement until any past due obligations Intrado may have with Embarq or its affiliates are paid in full.^{110/} There is no justification for this provision. Embarq is obligated under the law to provide interconnection to Intrado. Any billing disputes Embarq may have with Intrado in connection with unrelated arrangements must be dealt with through the context of those arrangements. Issues concerning Intrado's payment history also can be addressed through other provisions of the agreement, such as those that allow Embarq to obtain a security deposit from Intrado. Moreover, it is unreasonable for Embarq to delay implementation of the interconnection agreement if Intrado has legitimately disputed an invoice consistent with the procedures for doing submitting such disputes. The FCC has recommended that assurance of payment obligations be "narrowly tailored to target only those customers that pose a genuine risk of nonpayment."^{111/} Intrado's proposed language should be adopted.^{112/}

Third, Embarq proposed language that would require only Intrado to establish a "customer account" prior to Intrado's orders for services being processed.^{113/} Not only does this language unilaterally favor Embarq, but it could also result in Embarq intentionally delaying Intrado's service orders pending completion of Embarq's "customer account" requirements. To

^{109/} Intrado Proposed Interconnection Agreement § 5.1 (Attachment 1).

^{110/} Embarq May 21 Draft § 5.1 (Attachment 4).

^{111/} *Verizon Petition for Emergency Declaratory and Other Relief*, 17 FCC Rcd 26884, ¶ 27 (2002).

^{112/} Intrado Proposed Interconnection Agreement § 5.1 (Attachment 1).

^{113/} Embarq May 21 Draft § 5.1 (Attachment 4).

the extent customer account information is to be exchanged between the Parties, the requirement should be reciprocal and thus Intrado's language should be adopted.^{114/}

Fourth, Intrado has modified Embarq's proposed language that would allow Embarq to unilaterally terminate the interconnection agreement if Intrado has not exchanged traffic with or submitted orders to Embarq within 180 days of the effective date.^{115/} Requiring Intrado to initiate service within a particular timeframe is irrelevant to the Parties' interconnection obligations. This requirement erects an arbitrary and unjustifiable barrier to Intrado's market entry by imposing artificial deadlines that must be met regardless of Intrado's business imperatives. Intrado alone must be able to determine how best to schedule its market entry and expend its resources. There is no legitimate reason for Embarq to dictate Intrado's business decisions. Furthermore, if such a requirement were to be adopted, it should be reciprocal - Intrado should have the same right to terminate the interconnection agreement as Embarq. Intrado, however, has rejected such termination language for the reasons described above. Accordingly, Intrado's revised language should be adopted.^{116/}

Fifth, Embarq has proposed language that would allow it to terminate the agreement based on public information that Intrado is no longer doing business in the state.^{117/} It is unreasonable to allow Embarq to terminate the Parties' interconnection agreement unilaterally and based on public information. In addition, both Parties should have the same right to terminate the interconnection agreement if one of the Party's ceases doing business in the state. Thus, Intrado's more reasonable proposed language, which allows either Party to terminate the

^{114/} Intrado Proposed Interconnection Agreement § 5.1 (Attachment 1).

^{115/} Embarq May 21 Draft § 5.3 (Attachment 1); Intrado Proposed Interconnection Agreement § 5.3 (Attachment 1).

^{116/} Intrado Proposed Interconnection Agreement § 5.3 (Attachment 1).

^{117/} Embarq May 21 Draft § 5.3 (Attachment 4).

agreement based on written notice to the other Party (rather than unilaterally based only on publicly available information) that it has ceased doing business in the state, should be adopted.^{118/}

Sixth, Embarq has proposed language that would allow it to terminate the agreement if it sells its assets in certain situations.^{119/} Intrado has modified this language to specify that it must receive prior written notice from Embarq if Embarq intends to sell its assets and that the interconnection agreement may only be terminated consistent with relevant state commission requirements and the approval process for asset sales.^{120/} Intrado's language is reasonable and should be adopted.

Seventh, in the event of Intrado's bankruptcy, Embarq should not be permitted to terminate without notice to Intrado.^{121/} Bankruptcy may take many forms. In fact, many carriers go through bankruptcy unbeknownst to their customers. There is no reason for Embarq to unilaterally terminate the agreement without notice to Intrado. Accordingly, Intrado's proposed language eliminating this option should be adopted.^{122/}

Embarq Position

Embarq's position is unknown. Although Embarq responded to some of Intrado's revisions in the Intrado October 8 Draft, it did not respond with respect to these issues. It appears Embarq seeks the right to unilaterally terminate the interconnection agreement or make

^{118/} Intrado Proposed Interconnection Agreement § 5.3 (Attachment 1).

^{119/} Embarq May 21 Draft § 5.5 (Attachment 4).

^{120/} Intrado Proposed Interconnection Agreement § 5.5 (Attachment 1).

^{121/} Embarq May 21 Draft § 96.1 (Attachment 4).

^{122/} Intrado October 8 Draft § 96.1 (Attachment 8); Intrado Proposed Interconnection Agreement § 96.1 (Attachment 1).

significant changes that would affect the Parties' interconnection relationship without appropriate notice to or information from Intrado.

B. Post-Expiration Interim Service Arrangements (Sections 6.2, 6.3.2)

Issue Presented

Whether Embarq may arbitrarily terminate its provision of critical services to Intrado after expiration of the agreement and whether Embarq may unilaterally dictate the terms and conditions on which it will provide services to Intrado after expiration of the agreement.

Intrado Position

Embarq's proposed language correctly sets forth a process for how the Parties will ensure that services to end users will not be interrupted after expiration of the interconnection agreement.^{123/} Embarq, however, has included language that would allow services to continue only if Intrado makes a written request and only for a period of one-year after the expiration of the interconnection agreement.^{124/} Embarq's language also gives Embarq the unilateral right to dictate the terms and conditions that will apply to its continued provision of services if the Parties do not reach a successor agreement after expiration of their existing agreement.^{125/}

There should be no requirement for Intrado to make a written request for services to continue and no specific time limitation on Embarq's provision of services to Intrado. To the extent the Parties are in the process of negotiating a new interconnection agreement, the existing interconnection agreement should remain in place until a new agreement is reached. This is consistent with industry standard and will ensure that the critical emergency services provided by

^{123/} See generally Embarq May 21 Draft § 6 (Attachment 4).

^{124/} Embarq May 21 Draft § 6.2 (Attachment 4).

^{125/} Embarq May 21 Draft § 6.3.2 (Attachment 4).

Intrado will continue without interruption regardless of the status of negotiations with Embarq. As the Parties are well aware, it is rare that interconnection agreement negotiations (and any resulting arbitration) are completed within the time frame specified by Embarq.

Moreover, to the extent the Parties cannot reach a successor agreement, Intrado has the sole right to determine how its relationship with Embarq will be governed - through generally available terms or via the adoption of another interconnection agreement. Embarq cannot unilaterally dictate what terms will apply to the Parties' relationship by independently "designating" an interconnection agreement to be used by the Parties as its language suggests. Accordingly, Intrado's proposed language should be adopted.^{126/}

Embarq Position

Embarq's position is unknown. The language in the Embarq May 21 Draft would only allow services ordered by Intrado to continue for a minimum for one year after the agreement terminates regardless of the critical need for emergency services and only if Intrado makes a request in writing.^{127/} To the extent the Parties could not agree on new terms, Embarq's proposed language would unilaterally dictate the terms and conditions to be applied to its continued provision of services.^{128/}

^{126/} Intrado Proposed Interconnection Agreement §§ 6.2, 6.3.2 (Attachment 1).

^{127/} Embarq May 21 Draft §§ 6.2 (Attachment 4).

^{128/} Embarq May 21 Draft §§ 6.3.2 (Attachment 4).

C. Billing and Payment of Intrado Charges and Dispute Resolution (Sections 7.1-7.10, 25.3)

Issue Presented

Whether the interconnection agreement should include reciprocal language governing the billing, payment, and dispute resolution process for both Parties.

Intrado Position

The Embarq May 21 Draft includes provisions setting forth the process and procedures for billing and payment of Embarq's charges to Intrado and the process for addressing billing disputes.^{129/} The interconnection agreement, however, did not include reciprocal provisions for billing and payment of Intrado's charges to Embarq, and in some places, made the dispute resolution process one-sided in favor of Embarq. Intrado initially modified the language to include specific provisions governing Intrado's billing to Embarq.^{130/} As co-carriers, however, to the extent the Parties will be exchanging bills, they should be governed by the same procedures. Intrado has modified the agreement to make the existing Embarq procedures applicable to both Parties. Intrado's proposed language should be adopted.^{131/}

Embarq Position

Embarq's position is unknown. Although Embarq responded to some of Intrado's revisions in the Intrado October 8 Draft, it did not respond with respect to Intrado's initial mark-up to provide for reciprocal billing and payment procedures. It is also unclear why Embarq's proposed language includes one-sided dispute resolution procedures.

^{129/} Embarq May 21 Draft §§ 7, 25 (Attachment 4).

^{130/} Intrado October 8 Draft § 7.2 (Attachment 8).

^{131/} Intrado Proposed Interconnection Agreement §§ 7, 25.3 (Attachment 1).

D. Audits (Section 8.1)

Issue Presented

Whether audits should be performed by independent, third-party auditors.

Intrado Position

Intrado agrees with Embarq that audits may be required in certain situations, but has modified Embarq's proposed language to make clear that any such audit must be conducted by an independent, third-party auditor rather than the in-house personnel of the Parties.^{132/} Audits should be performed only by an independent auditor acceptable to both Parties. Audits are costly and force a company to direct precious resources to the audit task and away from the business plan. Furthermore, audit power can be easily abused and must be applied only in limited circumstances, especially when the parties involved do not hold equal positions in the emerging competitive market. Such audits can also be used to stifle competition by creating financial burdens on new entrants and distracting resources to the audit. An independent auditor with the auditing party incurring the costs of the audit is crucial to maintaining a balance between parties with uneven market positions. Intrado's proposed revision should be adopted.^{133/}

Embarq Position

Embarq's position is unknown. Although Embarq responded to some of Intrado's revisions in the Intrado October 8 Draft, it did not respond with respect to the Term and Termination section of the interconnection agreement.

^{132/} Intrado October 8 Draft § 8.1 (Attachment 8).

^{133/} Intrado Proposed Interconnection Agreement § 8.1 (Attachment 1).

E. Intellectual Property (Sections 9.2, 9.5, 9.6)

Issue Presented

Whether the language governing intellectual property rights should be reciprocal.

Intrado Position

Both Parties have certain rights and obligations with respect to intellectual property that may be used by the Parties as part of their co-carrier interconnection relationship. Embarq's proposed language, however, is one-sided and governs only Intrado's rights and obligations.^{134/} Intrado's proposed language provides each Party reciprocal, equal rights and obligations and should be adopted.^{135/}

Embarq Position

Embarq's position is unknown. It appears Embarq would limit intellectual property rights and obligations to Intrado.

F. Limitation of Liability (Section 10.2)

Issue Presented

Whether the language governing limitation of liability should apply equally to both Parties.

Intrado Position

Intrado has modified Embarq's proposed language to apply equally to both Parties.^{136/} While many of Embarq's proposed limitation of liability provisions are reciprocal, the provision

^{134/} Embarq May 21 Draft §§ 9.2, 9.5, 9.6 (Attachment 4).

^{135/} Intrado Proposed Interconnection Agreement §§ 9.2, 9.5, 9.6 (Attachment 1).

^{136/} Intrado Proposed Interconnection Agreement § 10.2 (Attachment 1).

governing service outages applies only to Embarq.^{137/} There is no reason why Intrado's liability should not be limited to the same extent as Embarq's. Intrado's proposed language should be adopted.^{138/}

Embarq Position

Embarq's position is unknown. The Embarq May 21 Draft includes some reciprocal limitation of liability provisions, but not all of the provisions apply equally to both Parties.^{139/}

G. Indemnification (Section 11.7, 11.9-11.13, 93)

Issue Presented

There are three issues: (1) whether the indemnification language should be reciprocal; (2) whether certain indemnification provisions should be qualified as only applying to Intrado's use of physical collocation; and (3) whether the indemnification language needs to be repeated in the physical location section of the interconnection agreement.

Intrado Position

As co-carriers, both Parties should have equal responsibilities regarding their indemnification rights and obligations. While most of Embarq's proposed language is reciprocal in nature, certain provisions are not.^{140/} Intrado has modified those provisions to apply equally to both Parties.^{141/} In addition, Intrado has clarified which indemnification provisions apply solely to Intrado's physical collocation at Embarq's locations.^{142/} Without this clarification, many of

^{137/} Embarq May 21 Draft § 10.2 (Attachment 4).

^{138/} Intrado Proposed Interconnection Agreement § 10.2 (Attachment 1).

^{139/} Embarq May 21 Draft § 10 (Attachment 4).

^{140/} Embarq May 21 Draft § 11.7 (Attachment 4).

^{141/} Intrado Proposed Interconnection Agreement § 11.7 (Attachment 1).

^{142/} Intrado Proposed Interconnection Agreement §§ 11.9-11.13 (Attachment 1).

the indemnification provisions could be read to apply in any situation when those provisions were intended to apply only when Intrado physically collocates. And, given that the collocation indemnification procedures apply only to Intrado, Intrado has qualified the provisions to ensure that Intrado is only subject to indemnification for claims caused by its negligence or willful misconduct or omission.^{143/} As originally written, Embarq's proposed language was very broad and would require Intrado to indemnify Embarq for any and all claims rather than only those caused by Intrado's negligence or willful misconduct or omission.^{144/}

Intrado also has deleted the repetitive indemnification provisions contained in the collocation section of the interconnection agreement.^{145/} Duplicative provisions governing the same concepts may lead to confusion as to what provisions apply in various situations. Intrado's proposed language making the indemnification provisions reciprocal and clarifying when those provisions apply should be adopted.^{146/}

Embarq Position

Embarq's position is unknown. Embarq has proposed indemnification language that is very broad and not consistently reciprocal.^{147/} Embarq also has proposed to include repetitive and unnecessarily duplicative provisions regarding Intrado's indemnification obligations for physical collocation.^{148/}

^{143/} Intrado Proposed Interconnection Agreement § 11.9 (Attachment 1).

^{144/} Embarq May 21 Draft § 11.9 (Attachment 4).

^{145/} Intrado Proposed Interconnection Agreement § 93 (Attachment 1).

^{146/} Intrado Proposed Interconnection Agreement §§ 11.7, 11.9-11.13, 93 (Attachment 1).

^{147/} Embarq May 21 Draft §§ 11.7, 11.9-11.13 (Attachment 4).

^{148/} Embarq May 21 Draft § 93 (Attachment 4).

H. Insurance (Sections 12.7, 12.9)

Issue Presented

Whether Intrado's liability to Embarq should be limited by the amounts of insurance Intrado carries and whether the insurance provisions of the interconnection agreement should be consistent with the certificate of insurance ("COI") forms Intrado is required to complete.

Intrado Position

Intrado has deleted the provision that would make its liability to Embarq unlimited.^{149/} As Embarq has admitted, the concept of unlimited liability is not consistent with other parts of the agreement, such as the indemnification and limitation of liability provisions.^{150/} In addition, Intrado has modified the insurance language contained in the interconnection agreement to be consistent with the COI form Intrado is required to provide to Embarq.^{151/} The language of the interconnection agreement should be consistent with the other forms and documents Intrado is required to complete. Accordingly, Intrado's proposed language should be adopted.

Embarq Position

Embarq admits that the section addressing unlimited liability is "redundant" to other provisions of the interconnection agreement but would prefer to retain the provision.^{152/} Embarq also recognizes that its proposed language is not consistent with the COI form, but determined that Intrado's revised language was "unacceptable."^{153/}

^{149/} Intrado October 8 Draft § 12.7 (Attachment 8).

^{150/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007) (Attachment 9).

^{151/} Intrado October 8 Draft § 12.9 (Attachment 8).

^{152/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007) (Attachment 9).

^{153/} Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007) (Attachment 9).

I. Modification of Parties' Networks (Section 54)

Issue Presented

Whether Intrado is permitted to make modifications to its network in the same manner that Embarq is permitted to do so.

Intrado Position

The Embarq May 21 Draft includes a section giving Embarq the right to modify its network in certain situations, but did not address Intrado's rights to modify or upgrade its network.^{154/} Intrado has proposed language recognizing Intrado's right to deploy, upgrade, and maintain its network and facilities at Intrado's discretion. And consistent with Embarq's obligations, Intrado's language also ensures that Embarq will receive adequate notice of any such modifications that may affect Embarq or its end users.^{155/} Intrado's proposed language is reasonable and should be adopted.^{156/}

Embarq Position

Embarq's position is unknown because it has not responded to the Intrado September 23 Draft.

J. Forecasting (Sections 58.3, 58.6, 58.7)

Issue Presented

Whether Embarq is required to provide forecasts for E911 trunks to Intrado and whether the forecasting provisions should be reciprocal.

^{154/} Embarq May 21 Draft § 54 (Attachment 4).

^{155/} Intrado September 23 Draft §§ 54.5, 54.6 (Attachment 6).

^{156/} Intrado Proposed Interconnection Agreement §§ 54.5, 54.6 (Attachment 1).

Intrado Position

Embarq's proposed forecasting language does not include a specific requirement that forecasts be provided for E911 trunks.^{157/} To adequately groom its network, Intrado must have some indication from Embarq as to how many E911 trunks will be required to support emergency calls between the Parties networks, and it has added language requiring Embarq to provide that forecast.^{158/} Further, Intrado has modified Embarq's proposed language to make the forecasting provisions, as well as the penalty provisions for over-forecasting, applicable to both Parties rather than solely imposed on Intrado.^{159/} Intrado's proposed language is reasonable and should be adopted.^{160/}

Embarq Position

Embarq's position is unclear. Embarq has not responded to the Intrado October 8 Draft in which Intrado proposed language regarding E911 trunk forecasts. In addition, it appears that Embarq seeks to impose unilateral forecasting and penalty provisions on Intrado.

K. Ordering Processes (Section 72.14)

Issue Presented

Whether the process for Embarq ordering services from Intrado should be included in the interconnection agreement.

Intrado Position

The Embarq May 21 Draft included detailed provisions setting forth the process for Intrado to order services and facilities from Embarq, but did not address how Embarq would

^{157/} Embarq May 21 Draft § 58 (Attachment 4).

^{158/} Intrado September 23 Draft § 58.3 (Attachment 6).

^{159/} Intrado Proposed Interconnection Agreement §§ 58.6, 58.7 (Attachment 1).

^{160/} Intrado Proposed Interconnection Agreement §§ 58.3, 58.6, 58.7 (Attachment 1).

order services from Intrado.^{161/} As co-carriers, both Parties will be purchasing services from the other and thus each Party should be aware of the process to order services and facilities from the other. Intrado's proposed language setting forth Intrado's ordering process should be adopted.^{162/}

Embarq Position

Embarq's position is unknown. The Embarq May 21 Draft only included provisions addressing Embarq's ordering process.

^{161/} Embarq May 21 Draft § 72 (Attachment 4).

^{162/} Intrado September 23 Draft § 72.14 (Attachment 6); Intrado Proposed Interconnection Agreement § 72.14 (Attachment 1).

VI. PRICING AND OTHER ATTACHMENTS (TABLE ONE, TABLE TWO, EXHIBIT A)

Issue Presented

What Embarq will charge Intrado for interconnection and unbundled network elements (“UNEs”) and what list of wire centers should be included in the interconnection agreement.

Intrado Position

Pursuant to Sections 251(c)(2), 251(c)(3), and 252(d)(1) of the Act, Embarq is required to provide pricing for interconnection and unbundled network elements that is just, reasonable, and nondiscriminatory.^{163/} Likewise, under Florida law, Embarq is required to provide Intrado access to, and interconnection with, its facilities on an unbundled or resold basis at nondiscriminatory prices and rates.^{164/} To date, Embarq has not provided Intrado with the rates Embarq intends to charge for leased interconnection facilities or UNEs.^{165/} A sound business plan is contingent upon relative certainty as to the expenditures that will be made for necessary facilities. Intrado’s ability to provide service in Embarq’s service areas will be hindered until Embarq produces the rates it proposes to charge for leased interconnection facilities and UNEs. Similarly, Intrado cannot develop the rates it will charge Embarq for Intrado facilities until Intrado has the opportunity to review and comment on Embarq’s rates for similar services. Embarq must make available the prices it intends to charge Intrado for leased interconnection facilities and UNEs. In addition, Embarq must provide the list of wire centers that are to be included on Exhibit A of the interconnection agreement.^{166/}

^{163/} 47 U.S.C. §§ 251(c)(2), (c)(3), 252(d)(1); *Local Competition Order* ¶ 628.

^{164/} FLA. STAT. ANN. §§ 364.16(3), 364.162(2), (4).

^{165/} Embarq May 21 Draft at Table One, Table Two (Attachment 4).

^{166/} Embarq May 21 Draft, Exhibit A (Attachment 4).

Embarq Position

Embarq's position is unclear because it has not provided Intrado with the rates Embarq intends to charge Intrado for interconnection facilities and UNEs.

VII. DEFINITIONS

A. Definition of “Central Office Switch” and “Tandem Office Switch” (Sections 1.19, 1.114)

Issue Presented

Whether the definitions of “Central Office Switch” and “Tandem Office Switch” should be modified to include E911 Tandem Switches or Selective Routers and whether the definition of “Tandem Office Switch” should be modified to include PSAPs.

Intrado Position

Intrado has modified the definitions of “Central Office Switch” and “Tandem Office Switch” to clarify that E911 Tandem Switches or Selective Routers are considered Central Office Switches or Tandem Office Switches.^{167/} Intrado’s proposed changes are consistent with the FCC’s recognition that a Selective Router is also known as an “E911 Control Office or E911 Tandem”^{168/} and *Newton’s Telecom Dictionary* definition of a “E911 Control Office” as “the central office that provides tandem switching of 911 calls,” which is also “known as an E-911 Tandem or Selective Router.”^{169/} Further, Intrado has modified the definition of “Tandem Office Switch” to acknowledge that a tandem office switch can be used to connect and switch trunk circuits between and among PSAPs in addition to the other entities and switch types listed in the definition.^{170/} This modification comports with *Newton’s* explanation that each PSAP connects to one or more E911 Control Offices and the E911 Control Office “delivers 911 voice calls, with

^{167/} Intrado Proposed Interconnection Agreement §§ 1.19, 1.114 (Attachment 1).

^{168/} *VoIP E911 Order* at n.37.

^{169/} Harry Newton, *NEWTON’S TELECOM DICTIONARY* 276 (19th ed. 2003).

^{170/} Intrado Proposed Interconnection Agreement § 1.114 (Attachment 1).

Automatic Number Identification, to the PSAP.”^{171/} Intrado’s proposed language is consistent with industry practice and should be adopted.

Embarq Position

Embarq’s position is unknown. Its proposed language did not include E911 Tandems or Selective Routers when defining switches.^{172/}

B. Definition of “Common Transport” (Section 1.28)

Issue Presented

Whether the definition of “Common Transport” should be limited to Embarq’s network and whether the definition should include remote switches.

Intrado Position

The definition of “Common Transport” as proposed by Embarq contemplates interoffice transmission between points on Embarq’s network that is shared by multiple customers.^{173/}

There is no qualification, however, that “customers” refers to customers of Embarq and thus

Intrado has modified the language to make this point.^{174/} Further, Intrado has revised the

definition of “Common Transport” to include interoffice transmission between remote switches.

If the remote switch represents a specific and separate calling area from the host end office, there

may be a need to have common transport between the other lines served directly off the host end

office. Intrado’s proposed definition should be adopted.^{175/}

^{171/} Harry Newton, NEWTON’S TELECOM DICTIONARY 276 (19th ed. 2003).

^{172/} Embarq May 21 Draft §§ 1.19, 1.103 (Attachment 4).

^{173/} Embarq May 21 Draft § 1.28 (Attachment 4).

^{174/} Intrado Proposed Interconnection Agreement § 1.28 (Attachment 1).

^{175/} Intrado Proposed Interconnection Agreement § 1.28 (Attachment 1).

Embarq Position

Embarq's position is unknown. Embarq did specifically qualify its use of the term "customer" in the "Common Transport" definition and did not include remote switches in the definition.

C. Definition of "End-User" (Section 1.54)

Issue Presented

Whether the agreement should contain a definition of "End-User" and what definition should be used.

Intrado Position

As discussed in further detail below, Embarq's proposed interconnection agreement does not contain a defined term for end-user, customer, subscriber, or the like. Intrado has proposed language to define "End-User" as an individual that subscribes or uses the telecommunications services offered by either of the Parties.^{176/} This language is consistent with industry practice and should be adopted.

Embarq Position

Embarq's position is unknown. The Embarq May 21 Draft did not include a definition for End-User or any similar term.

**D. Definition for "Internet Protocol" and "Voice over Internet Protocol"
(Sections 1.68, 1.127)**

Issue Presented

Whether the interconnection agreement should contain definitions for "Internet Protocol" and "Voice over Internet Protocol" and what definitions should be used.

^{176/} Intrado Proposed Interconnection Agreement § 1.54 (Attachment 1).

Intrado Position

Intrado has proposed a definition for the term “Internet Protocol” or “IP” that is based on the standards used by NENA.^{177/} Likewise, Intrado has offered a definition for “Voice over Internet Protocol” that is identical to the definition adopted by the FCC.^{178/} Intrado’s proposed definitions are consistent with industry practice and the FCC’s rules and should be adopted.

Embarq Position

Embarq’s position is unknown. The Embarq May 21 Draft did not contain definitions for “Internet Protocol” or “Voice over Internet Protocol.”

E. Definition of “Technically Feasible” (Section 1.116)

Issue Presented

Whether the definition of “Technically Feasible” should refer to the FCC’s rules.

Intrado Position

Embarq’s proposed definition of “Technically Feasible” does not comport with the FCC’s rules.^{179/} The FCC’s definition of the term “technically feasible” contains significantly more detail than Embarq’s proposed definition.^{180/} Intrado’s proposed language, which refers to the FCC’s definition, should be adopted.^{181/}

^{177/} Intrado Proposed Interconnection Agreement § 1.68 (Attachment 1); *see also* NENA Master Glossary of 9-1-1 Terminology at 39 (Version 10, June 5, 2007), *available at* http://www.nena.org/media/files/NENA00-001_V1020070605.pdf.

^{178/} Intrado Proposed Interconnection Agreement § 1.127 (Attachment 1); *see also* 47 C.F.R. § 9.3 (defining “interconnected VoIP”).

^{179/} Embarq May 21 Draft § 1.105 (Attachment 4).

^{180/} 47 C.F.R. § 51.5.

^{181/} Intrado Proposed Interconnection Agreement § 1.116 (Attachment 1).

Embarq Position

Embarq's position is unknown. Embarq's proposed definition of "Technically Feasible" only used a portion of the FCC's definition, not the complete definition.

VIII. MISCELLANEOUS

A. Cover Page and Whereas Clauses (Cover page and Whereas Clauses)

Issue Presented

Whether Embarq can include language on the cover page of the agreement limiting Intrado's rights and whether the Whereas clauses should be consistent with the services to be offered by the Parties and the Parties' obligations under the interconnection agreement.

Intrado Position

The Embarq May 21 Draft includes language on the cover page that would require Intrado to agree not to make certain arguments or take certain positions.^{182/} Intrado is not required to acquiesce to Embarq's interpretation of the law in order to secure the interconnection services and facilities it requires to provide its critical, life-saving services. In addition, the FCC has found that a recitation of a FCC policy "in an interconnection agreement is unnecessary to ensure a carrier's rights or make clear a carrier's obligations" and adds no value to the agreement.^{183/} Thus, Embarq's proposed language on the cover page should be deleted.^{184/} In addition, Intrado has revised the Whereas clauses in the beginning of the agreement to reflect the services to be offered by Intrado and use the proper verb of "seeks" rather than "wishes."^{185/}

Embarq Position

Embarq's position is unknown. It appears that Embarq seeks to have Intrado forfeit its rights and agree with Embarq's interpretation of the law.

^{182/} Embarq May 21 Draft, cover page (Attachment 4).

^{183/} *Virginia Arbitration Order* ¶ 33.

^{184/} Intrado Proposed Interconnection Agreement, cover page (Attachment 1).

^{185/} Intrado Proposed Interconnection Agreement, Whereas clauses (Attachment 1).

B. Call-Related Databases (Section 69.1)

Issue Presented

Whether the interconnection agreement should clarify that certain call-related databases are still governed by Section 251 of the Act.

Intrado Position

Embarq's proposed language includes "call-related databases" under the heading of non-251 services.^{186/} However, not all call-related databases are considered non-251 services. Specifically, the FCC has determined that ILECs such as Embarq are still required to provide unbundled access to 911 and E911 databases under Section 251(c)(3) of the Act.^{187/} Accordingly, Intrado has proposed language to clarify that certain call-related databases are not governed by the section of the agreement governing non-251 services.^{188/}

Embarq Position

Embarq's position is unknown. Embarq's language does not specifically exclude 911 and E911 databases from the purview of the section governing non-251 services.

C. Brokers and Agents (Section 98.1)

Issue Presented

Whether Intrado is required to warrant that it did not have dealings with a broker or agent in connection with the interconnection agreement.

^{186/} Embarq May 21 Draft § 69.1 (Attachment 4).

^{187/} 47 C.F.R. § 51.319(f); *Triennial Review Order* ¶ 557.

^{188/} Intrado Proposed Interconnection Agreement § 69.1 (Attachment 1).

Intrado Position

There is no requirement that Intrado warrant to Embarq that it did not have dealings with a broker or agent in connection with the interconnection agreement.^{189/} Intrado has the right to utilize any third-party it chooses to help it secure, maintain, and comply with the interconnection relationships it needs to provide its critical emergency services. To the extent Embarq seeks indemnification from Intrado for Intrado's use of brokers or agents, such indemnification is otherwise covered by the agreement's general indemnification provisions. There is no reason for additional language governing brokers or agents. This language should be deleted.^{190/}

Embarq Position

Embarq appears to seek additional indemnification from Intrado if Intrado uses brokers or agents in connection with the Agreement.

D. Capitalization and Consistency of Definitions (Various Sections)

Issue Presented

Whether certain terms of the interconnection agreement should be capitalized and used consistently throughout the agreement.

Intrado Position

The interconnection agreement defines the terms "Party," "Parties," "Selective Router," "Wire Center," "Loop," and "Local Interconnection," but does not consistently capitalize those terms throughout the agreement. To the extent a term has been defined, it should be capitalized throughout the agreement in recognition that it is a specifically defined term.^{191/} To the extent a

^{189/} Embarq May 21 Draft § 98.1 (Attachment 4).

^{190/} Intrado Proposed Interconnection Agreement § 98.1 (Attachment 1).

^{191/} Embarq May 21 Draft § 1.1 (Attachment 4) (stating that terms defined in Section 1 will have the meaning ascribed to them in the Agreement).

term has not been defined, it should not be capitalized in the agreement unless it has an industry-standard usage. Intrado has proposed revised language to accomplish this^{192/} and has made other non-substantive changes to interconnection agreement for consistency and conformity.^{193/}

In addition, Intrado has made revisions to ensure that the term “End-User” is used consistently throughout the agreement. The Embarq May 21 Draft provided no definition for “end-user,” “customer,” or “subscriber,” but used those terms interchangeably throughout the document. As discussed above, Intrado has included a definition for “End-User” in the definitions section of the interconnection agreement, and has revised the language of the agreement to reflect consistent use of the definition.^{194/}

^{192/} Intrado Proposed Interconnection Agreement §§ 1.57 (capitalize Wire Center), 1.72 (capitalize Wire Center and Loop), 1.129 (capitalize Wire Center), 45.6 (capitalize Wire Center), 45.7 (capitalize Wire Center), 48.3 (capitalize Wire Center), 50.1 (capitalize Wire Center), 50.2 (capitalize Wire Center), 50.3 (capitalize Wire Center), 50.5 (capitalize Wire Center), 1.50 (capitalize Selective Router), 1.96 (capitalize Local Interconnection), 1.31 (capitalize Local Interconnection), 55.2 (capitalize Local Interconnection), 55.3 (capitalize Local Interconnection), 57.1 (capitalize Local Interconnection), 58.6 (capitalize Local Interconnection), 1.102 (lowercase basic exchange telecommunications services), 1.103 (lowercase services), 45.2.2 (capitalize Testing), 4.3 (capitalize Party/Parties), 7.1 (capitalize Party/Parties), 8.3 (capitalize Party/Parties), 9.1 (capitalize Party/Parties), 15.7 (capitalize Party/Parties), 26.1 (capitalize Party/Parties), 44.6 (capitalize Party/Parties), 45.6 (capitalize Party/Parties), 45.7 (capitalize Party/Parties), 45.8 (capitalize Party/Parties), 50.2 (capitalize Party/Parties), 50.3 (capitalize Party/Parties), 50.5 (capitalize Party/Parties), 56.3 (capitalize Party/Parties), 56.6 (capitalize Party/Parties), 56.7 (capitalize Party/Parties), 57.2 (capitalize Party/Parties), 57.4 (capitalize Party/Parties), 58.6 (capitalize Party/Parties), 59.2 (capitalize Party/Parties), 62.2 (capitalize Party/Parties), 62.3 (capitalize Party/Parties), 67 (capitalize Party/Parties), 71.2 (capitalize Party/Parties), 72.6 (capitalize Party/Parties), 72.11 (capitalize Party/Parties), 73.1 (capitalize Party/Parties), 74.9 (capitalize Party/Parties), 75.3 (capitalize Party/Parties), 75.4 (capitalize Party/Parties), 79.3.1 (capitalize Party/Parties), 81.6 (capitalize Party/Parties), 82.1 (capitalize Party/Parties), 83.1 (capitalize Party/Parties), 85.3 (capitalize Party/Parties), 89.4 (capitalize Party/Parties), 90.2 (capitalize Party/Parties), 91.6 (capitalize Party/Parties), 1.61 (capitalize Loop), 1.32 (capitalize Loop), 45.6 (capitalize Loop), 45.7 (capitalize Loop) (Attachment 1).

^{193/} Intrado Proposed Interconnection Agreement §§ 1.2 (grammatical changes), 20.1 (changing “carriers” to “service providers”), 43.1 (changing “customer” to “INTRADO COMM”); 58.5 (spelling out “RASR”); 69.1 (“parties” to “party’s”); 71.3 (lowercase “subscriber of record”) (Attachment 1).

^{194/} Intrado Proposed Interconnection Agreement §§ Whereas clause, 1.15 (Business Line), 1.19 (End Office Switch), 1.33 (Custom Calling Features), 1.37 (Dedicated Transport), 1.38 (Demarcation Point), 1.40 (Directory Assistance Database), 1.58 (FTTC), 1.59 (FTTH), 1.60 (Grandfathered Service), 1.61 (High Frequency Portion of the Local Loop), 1.72 (Local Loop), 1.78 (MECAB), 1.87 (Operator Services), 1.102 (Rate Center), 1.126 (VNXX), 1.128 (Wholesale Service), 1.129 (Wire Center), 3.1, 6.2, 11.2, 11.3, 11.8, 13.1, 13.2, 13.3, 15.8, 27.2.1, 27.4.1, 35.1, 38.1, 39.1, 41, 42.1, 44, 45, 46, 50.2, 50.3, 53, 54, 56.4, 57.4, 63, 66, 67, 68, 69.1, 70.2, 71, 72, 73, 74, 75, 78.6, 85.5, 91.6, 94.2 (Attachment 1).

Embarq Position

Embarq's position is unknown. It appears Embarq sought to define some terms, but did not capitalize those terms throughout the document, and did not use terms consistently in the agreement.

CONCLUSION

For the foregoing reasons, Intrado respectfully requests that the Commission arbitrate the outstanding issues identified herein and adopt Intrado's proposed language set forth in Attachment 1.

Respectfully submitted,

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Dated: November 27, 2007

CERTIFICATE OF SERVICE

I, Angela F. Collins, certify that on this 26th day of November 2007, I served an original and fifteen (15) copies of Intrado Communications Inc.'s Petition for Arbitration, via Federal Express, on the Florida Public Service Commission and one (1) copy on each of the following:

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Angela F. Collins

LIST OF ATTACHMENTS

NO.	BRIEF DESCRIPTION
1.	Intrado Proposed Interconnection Agreement
2.	Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 11, 2007)
3.	Letter from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (May 18, 2007)
4.	Email from Kathryn Feeney, Embarq, to Colleen Lockett, Intrado (May 21, 2007), <i>attaching</i> Embarq template interconnection agreement ("Embarq May 21 Draft")
5.	Email from Rebecca Ballesteros, Intrado, to Kathryn Feeney, Embarq (Sept. 4, 2007), <i>attaching</i> Intrado network diagram, and subsequent email correspondence (Sept. 10 and Sept. 11, 2007)
6.	Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Sept. 23, 2007), <i>attaching</i> Intrado September 23 Draft
7.	Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 3, 2007)
8.	Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 8, 2007), <i>attaching</i> Intrado October 8 Draft
9.	Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 10, 2007); Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 10, 2007)
10.	Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Oct. 24, 2007); Email from Thomas Hicks, Intrado, to Kathryn Feeney, Embarq (Oct. 24, 2007)
11.	Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007); Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007)
12.	Email from Kathryn Feeney, Embarq, to Thomas Hicks, Intrado (Nov. 1, 2007)



**INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT
FOR THE STATE OF [INSERT STATE NAME]**

*Insert Date of Agreement
(leave blank until ready for final signature)*

*[Insert CLEC Name]
Intrado Communications Inc.
[Intrado Communications of Virginia Inc. for Virginia]*

and

[Insert Embarq Company Name]

~~THIS DOCUMENT IS A DRAFT AND REPRESENTS THE CURRENT POSITIONS OF THE EMBARQ LOCAL OPERATING COMPANIES WITH RESPECT TO INTERCONNECTION AND RESALE. EMBARQ RESERVES THE RIGHT TO MODIFY THIS DRAFT AGREEMENT, INCLUDING ANY APPENDICES, SCHEDULES AND/OR ATTACHMENTS THERETO, AT ANY TIME PRIOR TO THE EXECUTION OF A FINAL AGREEMENT BY BOTH PARTIES. THIS DOCUMENT IS NOT AN OFFER. TO THE EXTENT THE PARTIES AGREE TO ALSO NEGOTIATE NETWORK ELEMENTS, SERVICES, OR INTERCONNECTION RATES, TERMS AND CONDITIONS NOT GOVERNED BY 47 USC 251 ("NON-251 SERVICES"), THE PARTIES AGREEMENT TO NEGOTIATE BOTH TYPES OF SERVICES DOES NOT MAKE THE NON-251 SERVICES SUBJECT TO THE PROVISIONS OF 47 USC 252 AND DOES NOT TRIGGER THE VARIOUS PROCESSES UNDER SECTION 252, INCLUDING THE RIGHT TO COMPULSORY ARBITRATION OF THE RATES, TERMS AND CONDITIONS FOR NON-251 SERVICES. FURTHER, CLEC AGREES NOT TO ARGUE THAT AGREEMENT TO DISCUSS BOTH 251 AND NON-251~~

~~SERVICES CONSTITUTES AN AGREEMENT BY EMBARQ THAT THE NON-251
SERVICES ARE SUBJECT TO 252.~~

~~1~~

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INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT

This Interconnection, Collocation and Resale Agreement (the "Agreement"), dated this _____ day of _____, 20__, is entered into by and between [~~Insert CLEC Name~~] ("~~CLEC~~" Intrado Communications Inc [or Intrado Communications of Virginia Inc.] (hereafter referred to as INTRADO COMM), a [~~Insert State Name~~] corporation, and [~~Insert Embarq Company Name~~] ("Embarq"), a [~~Insert state of incorporation~~] corporation, to establish the rates, terms and conditions for local interconnection, collocation, local resale, and purchase of unbundled Network Elements (individually referred to as the "service" or collectively as the "services").

WHEREAS, the Parties ~~wish~~seek to interconnect their local exchange networks for the purposes of transmission and termination of calls, so that ~~eustomers~~End-Users of each can receive calls that originate on the other's network and place calls that terminate on the other's network, and for ~~CLEC~~INTRADO COMM's use in the provision of telephone exchange service and exchange access ("Local Interconnection"); and

WHEREAS, ~~CLEC wishes~~INTRADO COMM seeks to purchase Telecommunications Services for resale to others, and Embarq is willing to provide these services; and

WHEREAS, ~~CLEC wishes~~INTRADO COMM seeks to purchase unbundled Network Elements, ancillary services and functions and additional features ("Network Elements") for the provision of Telecommunications Services to others, and Embarq is willing to provide unbundled Network Elements and services; and

WHEREAS, the Parties intend the rates, terms and conditions of this Agreement, and their performance of obligations thereunder, to comply with the Communications Act of 1934, as amended (the "Act"), the Rules and Regulations of the Federal Communications Commission ("FCC"), and the orders, rules and regulations of the Commission; and

WHEREAS, the Parties wish to replace any and all other prior agreements, written and oral, applicable to the state of [~~Insert State Name~~].

Now, therefore, in consideration of the terms and conditions contained in this Agreement, ~~CLEC~~INTRADO COMM and Embarq hereby mutually agree as follows:

PART A – DEFINITIONS

1. DEFINED TERMS

- 1.1. Capitalized terms defined in this Section shall have the meanings as set forth in this Agreement. Other terms used but not defined will have the meanings ascribed to them in the Act or in the Rules and Regulations of the FCC or the Commission. The Parties acknowledge that other terms appear in this Agreement, which are not defined or ascribed as stated above. The Parties agree that any such terms shall be construed in accordance with their customary usage in the telecommunications industry as of the Effective Date of this Agreement.
- 1.2. **“911 Service”** or **“9-1-1 Service”** means a universal telephone number ~~which~~^{that} gives the public direct access to the Public Safety Answering Point (“PSAP”). Basic 911 service collects 911 calls from one or more local exchange switches that serve a geographic area. The calls are then sent to the correct authority designated to receive such calls.
- 1.3. **“Access Services”** refers to interstate and intrastate switched access and private line transport services.
- 1.4. **“Act”** means the Communications Act of 1934, as amended.
- 1.5. **“Affiliate”** is as defined in the Act.
- 1.6. **“Augment”** refers to a modification (increase/addition or decrease/reduction) to an existing Collocation Arrangement. Examples include changes to the space, cage, power, cross-connect cabling, conduit, vault, riser, or cabling associated with the Collocation Arrangement.
- 1.7. **“Automated Message Accounting”** (“AMA”) is the structure inherent in switch technology that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Telcordia as GR-1100-CORE which defines the industry standard for message recording.
- 1.8. **“Automatic Location Identification”** (“ALI”) means a feature that provides the caller’s telephone number, address and the names of the Emergency Response agencies that are responsible for that address.
- 1.9. **“Automatic Location Identification/Data Management System”** (“ALI/DMS”) means the emergency service (“E911/911”) ~~database~~ containing subscriber integrated database management and storage system which creates and stores the E-911 call routing and E-911 ALI data containing End-User location information (including name, address, telephone number, and sometimes special information from the local service provider) used to determine to which Public Safety Answering Point (“PSAP”) to route the call.
- 1.10. **“Automatic Number Identification”** (“ANI”) is a feature that identifies and

displays the number of a telephone line that originates a call.

- 1.11. **"Automatic Route Selection"** ("ARS") is a service feature associated with a specific grouping of lines that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.
- 1.12. **"ATU - C"** refers to an ADSL Transmission Unit - Central Office.
- 1.13. **"Busy Line Verify/Busy Line Verify Interrupt"** ("BLV/BLVI") means an operator call in which the caller inquires as to the busy status of, or requests an interruption of a call on another subscriber's telephone line.
- 1.14. **"Business Day(s)"** means the days of the week excluding Saturdays, Sundays, and all Embarq holidays.
- 1.15. **"Business Line"** is an Embarq-owned switched access line used to serve a business customer End-User, whether by Embarq or by a competitive LEC that leases the line from Embarq. The number of Business Lines in a Wire Center shall equal the sum of all Embarq business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, Business Line tallies (1) shall include only those access lines connecting end-user customers End-User with Embarq end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to twenty-four (24) 64 kbps-equivalents, and therefore to twenty-four (24) "Business Lines."
- 1.16. **"Cable Vault"** shall mean a location in a Premises where facilities enter the Premises from the Outside Cable Duct and access the Inner Duct for distribution within the Premises.
- 1.17. **"Carrier Access Billing System"** ("CABS") is the system which is defined in a document prepared under the direction of the Billing Committee of the OBF. The CABS document is published by Telcordia in Volumes 1, 1A, 2, 3, 3A, 4 and 5 as Special Reports SR-OPT-001868, SR-OPT-001869, SR-OPT-001871, SR-OPT-001872, SR-OPT-001873, SR-OPT-001874, and SR-OPT-001875, respectively, and contains the recommended guidelines for the billing of access and other connectivity services. Embarq's carrier access billing system is its Carrier Access Support System (CASS). CASS mirrors the requirements of CABS.
- 1.18. **"Central Office Building"** or **"Building"** shall mean a structure (not including a controlled environment vault ("CEV")) housing Embarq network equipment that is under the control of Embarq and for which Embarq has the right to grant access and/or occupation by third parties.
- 1.19. **"Central Office Switches"** - are switching facilities within, or connected to, the public switched telecommunications network, including, but not limited to:

- 1.19.1. “**End Office Switches**” (“EOs”) are switches from which ~~end user~~End-User Telephone Exchange Services are directly connected and offered.
- 1.19.2. “**Tandem Switches**” are switches that are used to connect and switch trunk circuits between and among Central Office Switches, including sometimes functioning as E911 Tandem Switches or Selective Routers for emergency call routing.
- 1.19.3. “**Remote Switches**” are switches that are away from their host or control office. All or most of the central control equipment for the remote switch is located at the host or Control Office.
- 1.20. “**Centrex**” means a Telecommunications Service associated with a specific grouping of lines that uses central office switching equipment for call routing to handle direct dialing of calls, and to provide numerous private branch exchange-like features.
- 1.21. “**CLASS/LASS**” (Telcordia Service Mark) refers to service features that utilize the capability to forward a calling party’s number between end offices as part of call setup. Features include Automatic Callback, Automatic Recall, Caller ID, Call Trace, and Distinctive Ringing.
- 1.22. “**Collocation Arrangement**” refers to a single, specific provision of collocation in a particular Premises, not limited to a cage enclosing CLECINTRADO COMM’s equipment within the Premises.
- 1.23. “**Collocation Space**” shall mean an area of space located in a building to be used by CLECINTRADO COMM to house telecommunications equipment that is necessary for interconnection or access to UNEs. Additionally, roof or wall space used for wireless interconnection shall be included in the definition where applicable.
- 1.24. “**Commingle**” means the act of Commingling.
- 1.25. “**Commingling**” means the connecting, attaching, or otherwise linking of an unbundled Network Element, or a combination of unbundled Network Elements, to one or more facilities or services that CLECINTRADO COMM has obtained at wholesale from Embarq or the combining of an unbundled Network Element, or a combination of unbundled Network Elements with one or more such facilities or services.
- 1.26. “**Commission**” means the [*Insert Commission Name*].
- 1.27. “**Common Channel Signaling**” (“CCS”) is a method of digitally transmitting call set-up and network control data over a digital signaling network fully separate from the public switched telephone network that carries the actual call.
- 1.28. “**Common Transport**” provides a local interoffice transmission path between End Office Switches, between End Office Switches and Tandem Switches and

between Tandem Switches in Embarq's network. Common Transport is shared between multiple Embarq customers and is required to be switched at the Tandem Switch or Remote Switch if applicable.

- 1.29. **"Confidential and/or Proprietary Information"** has the meaning set forth in Section 15.
- 1.30. **"Controlled Environment Vault"** ("CEV") shall mean a below ground room other than a Central Office Building which is controlled by Embarq and which is suitable for collocation of telecommunications equipment under controlled temperature and humidity.
- 1.31. **"Control Office"** is an exchange carrier center or office designated as the Party's single point of contact for the provisioning and maintenance of its portion of local interconnection Local Interconnection arrangements.
- 1.32. **"Copper Loop"** is a stand-alone ~~local-loop~~ Local Loop comprised entirely of copper wire or cable. Copper Loops include two-wire and four-wire analog voice-grade Copper Loops, digital Copper Loops (e.g., DS0s and integrated services digital network lines), as well as two-wire and four-wire Copper Loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the Copper Loops are in service or held as spares. The Copper Loop includes attached electronics using time division multiplexing technology, but does not include packet switching capabilities.
- 1.33. **"Custom Calling Features"** means a set of Telecommunications Service features available to residential and single-line business customers End-Users including call-waiting, call-forwarding and three-party calling.
- 1.34. **"Customer Proprietary Network Information"** ("CPNI") is as defined in the Act.
- 1.35. **"Database Management System"** ("DBMS") is a computer process used to store, sort, manipulate and update the data required to provide Selective Routing and ALI.
- 1.36. **"Day"** means Days unless otherwise specified.
- 1.37. **"Dedicated Transport"** includes Embarq transmission facilities between Wire Centers or Switches owned by Embarq, or between Wire Centers or Switches owned by Embarq and Switches owned by CLECINTRADO COMM, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer End-User or carrier.
- 1.38. **"Demarcation Point"** is that point on the facility where Embarq's control of the facility ceases, and the End ~~User-Customer's~~ control of the facility begins.
- 1.39. **"Digital Subscriber Line Access Multiplexer"** ("DSLAM") is equipment that links end-user xDSL connections to a single high-speed packet switch, typically ATM or IP.

- 1.40. **"Directory Assistance Database"** refers to any ~~subscriber~~End-User record used by Embarq in its provision of live or automated operator-assisted directory assistance including but not limited to 411, 555-1212, NPA-555-1212.
- 1.41. **"Directory Assistance Services"** provides listings to callers. Directory Assistance Services may include the option to complete the call at the caller's direction.
- 1.42. **"DS1 Loop"** is a digital Local Loop having a total digital signal speed of 1.544 megabytes per second. DS1 Loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services.
- 1.43. **"DS3 Loop"** is a digital Local Loop having a total digital signal speed of 44.736 megabytes per second.
- 1.44. **"DSLAM"** refers to a Digital Subscriber Line Access Multiplexer.
- 1.45. **"Duct"** is a single enclosed path to house facilities to provide Telecommunications Services.
- 1.46. **"E9-1-1 Authority"** means an individual PSAP, or an entity responsible for the management and operation of multiple PSAPs within a given geographic area.
- 1.47. ~~1.46.~~ **"Effective Date"** is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.
- 1.48. ~~1.47.~~ **"Electronic Interface"** means access to operations support systems consisting of preordering, ordering, provisioning, maintenance and repair and billing functions.
- 1.49. ~~1.48.~~ **"Emergency Response Agency"** is a governmental entity authorized to respond to requests from the public to meet emergencies.
- 1.50. ~~1.49.~~ **"Emergency Service Number"** ("ESN") is a three to five digit number assigned to the ALI and selective routing databases for all subscriber telephone numbers Master Street Address Guide (MSAG) by the E911 Authority and used for the creation of Selective Routing databases and E911 ALI records The ESN designates a unique combination of fire, police and emergency medical service response agencies that serve the address location of each in-service telephone number.
- 1.51. ~~1.50.~~ **"Enhanced Extended Link"** ("EEL") for purposes of this Agreement refers to the combination of unbundled Network Elements, specifically NID, Loop, multiplexing (MUX) if necessary and Dedicated Transport, in the Embarq Network.
- 1.52. ~~1.51.~~ **"Exchange Message Interface System"** ("EMI") is the Industry standard for exchanging telecommunications message information for billable, non-billable, sample settlement and study records. The EMI is published by ATIS (Alliance for Telecommunications Industry Solutions).

- ~~1.53.~~ ~~1.52.~~ **“End Date”** is the date this Agreement terminates as referenced in 5.1.
- ~~1.54.~~ **“End-User”** means the individual that subscribes to (subscriber of record) and/or uses the Telecommunications Services provided by Embarq or INTRADO COMM.
- ~~1.55.~~ ~~1.53.~~ **“Enhanced 911 Service”** (“E911” or “E9-1-1”) means a telephone communication exchange service which that will automatically route a call dialed caller dialing “9-1-1” to a designated public safety answering point (PSAP) attendant and will provide to the attendant the calling party’s telephone number and, when possible, the address from which the call is being placed and the Emergency Response agencies responsible for the location from which the call was dialed.
- ~~1.56.~~ ~~1.54.~~ **“FCC”** means the Federal Communications Commission.
- ~~1.57.~~ ~~1.55.~~ **“Fiber-based Collocator”** means any carrier, unaffiliated with Embarq, that maintains a Collocation Arrangement in Embarq’s ~~wire center~~ Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a Collocation Arrangement within the Wire Center; (2) leaves Embarq’s Wire Center premises; and (3) is owned by a party other than Embarq or any affiliate of Embarq, except as set forth in this definition. Dark fiber obtained from Embarq on an indefeasible right of use basis shall be treated as non-Embarq fiber-optic cable. Two or more Affiliated Fiber-based Collocators in a single Wire Center shall collectively be counted as a single Fiber-based Collocator. For purposes of this definition, the term Affiliate is defined by 47 USC § 153(1) and any relevant interpretation in the Act.
- ~~1.58.~~ ~~1.56.~~ **“Fiber-to-the-curb Loop”** (“FTTC Loop”) means a Local Loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer ~~End-User’s~~ premises or, in the case of predominantly residential multiple dwelling units (“MDUs”), not more than 500 feet from the MDU’s minimum point of entry (“MPOE”). The fiber optic cable in a fiber-to-the-curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer ~~End-User’s~~ premises.
- ~~1.59.~~ ~~1.57.~~ **“Fiber-to-the-home Loop”** (“FTTH Loop”) means a Local Loop consisting entirely of fiber optic cable, whether dark or lit, and serving an end-user’s customer ~~End-User’s~~ premises or, in the case of predominantly residential MDUs, a fiber optic cable, whether dark or lit, that extends to the multiunit premises’ MPOE.
- ~~1.60.~~ ~~1.58.~~ **“Grandfathered Service”** means service which is no longer available for new customers ~~End-Users~~ and is limited to the current customer ~~End-User~~ at their current locations with certain provisioning limitations, including but not limited to upgrade denials, feature adds/changes and responsible/billing party.

- 1.61. ~~1.59.~~ **“High Frequency Portion of the localLocal Loop”** (“HFPL”) is defined as the frequency range above the voice band on a Copper Loop facility that is being used to carry analog circuit-switched voice band transmissions provided by Embarq to the ~~end-user-customer~~End-User.
- 1.62. ~~1.60.~~ **“Hybrid Loop”** means a Local Loop comprised of both fiber optic cable, usually in the feeder plant, and copper wire or cable usually in the distribution plant.
- 1.63. ~~1.61.~~ **“Incumbent Local Exchange Carrier”** (“ILEC”) is as defined in the Act.
- 1.64. ~~1.62.~~ **“Information Services”** shall have the meaning defined in 47 CFR 51.5.
- 1.65. ~~1.63.~~ **“Interexchange Carrier”** (“IXC”) means a provider of interexchange Telecommunications Services.
- 1.66. ~~1.64.~~ **“Interexchange Service”** shall mean telecommunications service between stations in different exchange areas.
- 1.67. ~~1.65.~~ **“ISP-Bound Traffic,”** for the purposes of this Agreement, is defined as traffic that is transmitted to an Internet Service Provider (“ISP”) consistent with the ISP Remand Order (FCC 01-131), 16 F.C.C. Rcd. 9151 (2001).
- 1.68. **“Internet Protocol” or “IP ” means the method by which data is sent from one computer to another on the Internet or other networks.**
- 1.69. ~~1.66.~~ **“Inner Duct”** or “Conduit” shall mean any passage or opening in, on, under, over or through the Embarq Central Office Building cable or conduit systems.
- 1.70. ~~1.67.~~ **“Line Information Data Base”** (“LIDB”) means a Service Control Point (SCP) database that provides for such functions as calling card validation for telephone line number cards issued by Embarq and other entities and validation for collect and billed-to-third services.
- 1.71. ~~1.68.~~ **“Live Load Capacity”** as it relates to a ~~CLECINTRADO COMM's~~ Collocation Space refers to the structural strength of the floor to support the weight of ~~CLECINTRADO COMM's~~ property and equipment installed in the collocated space.
- 1.72. ~~1.69.~~ **“Local Loop”** refers to a transmission facility between the main distribution frame [cross-connect], or its equivalent, in an Embarq Central Office or ~~wire~~Wire Center, and up to the demarcation point (e.g., Network Interface Device) at a ~~customer~~an End-User's premises, to which ~~CLECINTRADO COMM~~ is granted exclusive use. This includes all electronics, optronics and intermediate devices (including repeaters and load coils) used to establish the transmission path to the ~~customer~~End-User premises. Local ~~loops~~Loops include Copper Loops, Hybrid Loops, DS1 ~~loops~~Loops, DS3 ~~loops~~Loops, FTTC Loops and FTTH Loops.
- 1.73. ~~1.70.~~ **“Local Number Portability”** (“LNP”) means the ability of users of Telecommunications Services to retain, at the same location, existing

telecommunications numbers without impairment of quality, reliability, or convenience when switching from one Telecommunications Carrier to another.

- 1.74. ~~1.71.~~ **“Local Service Request” (“LSR”)** means an industry standard form or a mutually agreed upon change thereof, used by the Parties to add, establish, change or disconnect local services.
- 1.75. ~~1.72.~~ **“Local Traffic”** for the purposes of this Agreement the Parties shall agree that “Local Traffic” means traffic (excluding Commercial Mobile Radio Service “CMRS” traffic) that is originated and terminated within Embarq’s local calling area, or mandatory extended area service (EAS) area, as defined by the Commission or, if not defined by the Commission, then as defined in existing Embarq Tariffs. For this purpose, Local Traffic does not include any ISP-Bound Traffic.
- 1.76. **“Master Street Address Guide” or “MSAG”** means a database of street names and house number ranges within their associated communities defining Emergency Service Zones (ESZs) and their associated Emergency Service Numbers (ESNs), and is used to enable proper routing of E9-1-1 calls and the display of appropriate emergency response agencies to the PSAP receiving the call.
- 1.77. ~~1.73.~~ **“Mobile Wireless Service”** means any mobile wireless telecommunications service, including any commercial mobile radio service (CMRS). CMRS includes paging, air-ground radiotelephone service and offshore radiotelephone service, as well as mobile telephony services, such as the voice offerings of carriers using cellular radiotelephone, broadband PCS and SMR licenses.
- 1.78. ~~1.74.~~ **“Multiple Exchange Carrier Access Billing” (“MECAB”)** refers to the document prepared by the Billing Committee of the ATIS Ordering and Billing Forum (“OBF”). The MECAB document contains the recommended guidelines for the billing of an access service provided to a customer ~~an~~ End-User by two or more providers or by one provider in two or more states within a single LATA.
- 1.79. ~~1.75.~~ **“Multiple Exchange Carrier Ordering And Design” (“MECOD”)** refers to the guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices of the OBF, which functions under the auspices of the Carrier Liaison Committee (“CLC”) of the Alliance for Telecommunications Industry Solutions (“ATIS”). The MECOD document, published by Telcordia as Special Report SR STS-002643, establishes recommended guidelines for processing orders for Access Service which is to be provided by two or more Telecommunications Carriers.
- 1.80. ~~1.76.~~ **“National Emergency Number Association” (“NENA”)** is an association with a mission to foster the technological advancement, availability and implementation of 911 nationwide.
- 1.81. **“NENA Company Identifier” or “NENA Company ID”** means the three to five (3 to 5) character identifier obtained by the service provider from the National

Emergency Number Association (NENA), 4350 N. Fairfax Drive, Suite 750, Arlington, VA 22203-1695 [see NENA's website, currently at www.nena9-1-1.org]. The NENA Company ID allows the PSAP to identify the service provider for the caller, and to determine the 24 x 7 number of the Company for emergency contact needs

- 1.82. ~~1.77.~~ **“Network Element”** is as defined in the Act.
- 1.83. ~~1.78.~~ **“North American Numbering Plan”** (“NANP”) means the plan for the allocation of unique 10-digit directory numbers consisting of a three-digit area code, a three-digit office code, and a four-digit line number. The plan also extends to format variations, prefixes, and special code applications.
- 1.84. ~~1.79.~~ **“Numbering Plan Area”** (“NPA”) (sometimes referred to as an area code) is the three-digit indicator which is designated by the first three digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, “Geographic NPAs” and “Non-Geographic NPAs.” A “Geographic NPA” is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A “Non-Geographic NPA,” also known as a “Service Access Code (SAC Code)” is typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas; 500, 800, 900, 700, and 888 are examples of Non-Geographic NPAs.
- 1.85. ~~1.80.~~ **“NXX,” “NXX Code,” “COC,” “Central Office Code,” or “CO Code”** is the three-digit switch entity indicator, which is defined by the fourth, fifth and sixth digits of a 10-digit telephone number within NANP.
- 1.86. ~~1.81.~~ **“OBF”** means the Ordering and Billing Forum, which functions under the auspices of the CLC of the Alliance for Telecommunications Industry Solutions (ATIS).
- 1.87. ~~1.82.~~ **“Operator Services”** provides for:
- 1.87.1. ~~1.82.1.~~ operator handling for call completion (*e.g.*, collect calls);
 - 1.87.2. ~~1.82.2.~~ operator or automated assistance for billing after the subscriberEnd-User has dialed the called number (*e.g.*, credit card calls); and
 - 1.87.3. ~~1.82.3.~~ special services (*e.g.*, BLV/BLI, Emergency Agency Call).
- 1.88. ~~1.83.~~ **“Outside Cable Duct”** shall mean any space located outside the Central Office Building and owned by or under the control of Embarq through which Embarq runs its cable, conduit or other associated facilities.
- 1.89. **PSAP ALI Messaging (“PAM”) Interface Protocol” or “PAM”** means an interface that uses a proprietary protocol to retrieve the caller’s ANI/ALI from another ALI system or from a dynamic ANI/ALI provider (*e.g.* MPC/VPC) for

display at the appropriate PSAP upon the answer of a 9-1-1 call.

- 1.90. ~~1.84.~~ **“Parity”** means, subject to the availability, development and implementation of necessary industry standard Electronic Interfaces, the provision by Embarq of services, Network Elements, functionality or telephone numbering resources under this Agreement to CLECINTRADO COMM, including provisioning and repair, at least equal in quality to those offered to Embarq, its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources. Until the implementation of necessary Electronic Interfaces, Embarq shall provide such services, Network Elements, functionality or telephone numbering resources on a non-discriminatory basis to CLECINTRADO COMM as it provides to its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources.
- 1.91. ~~1.85.~~ **“P.01 Transmission Grade Of Service” (“GOS”)** means a trunk facility provisioning standard with the statistical probability of no more than one call in 100 blocked on initial attempt during the average busy hour.
- 1.92. ~~1.86.~~ **“Parties”** means, jointly, Embarq and CLECINTRADO COMM, and no other entity, Affiliate, subsidiary or assign.
- 1.93. ~~1.87.~~ **“Party”** means either Embarq or CLECINTRADO COMM, and no other entity, Affiliate, subsidiary or assign.
- 1.94. ~~1.88.~~ **“Percent Local Usage” (“PLU”)** is a calculation which represents the ratio of the local minutes to the sum of local and intraLATA toll minutes between exchange carriers sent over Local Interconnection Trunks. Directory assistance, BLV/BLVI, 900, and 976 transiting calls from other exchange carriers and switched access calls are not included in the calculation of PLU.
- 1.95. ~~1.89.~~ **“Physical Collocation”** is as defined in 47 CFR 51.5.
- 1.96. ~~1.90.~~ **“Point of Interconnection” (“POI”)** is the physical point that establishes the technical interface, the test point, and the operational responsibility hand-off between CLECINTRADO COMM and Embarq for the local interconnection Local Interconnection of their networks. The POI also establishes the demarcation point to delineate each Party’s financial obligations for facility costs.
- 1.97. ~~1.91.~~ **“Premises”** is as defined in 47 CFR 51.5.
- 1.98. ~~1.92.~~ **“Pre-Order Loop Qualification” (“Loop Qualification”)** is an OSS function that includes supplying loop qualification information to CLECsINTRADO COMM as part of the Pre-ordering Process. Examples of the type of information provided are:
- 1.98.1. ~~1.92.1.~~ Composition of the loop material, i.e. fiber optics, copper;
- 1.98.2. ~~1.92.2.~~ Existence, location and type of any electronic or other equipment on the loop, including but not limited to:

- ~~1.98.2.1.~~ ~~1.92.2.1.~~ Digital Loop Carrier ("DLC") or other remote concentration devices;
- ~~1.98.2.2.~~ ~~1.92.2.2.~~ Feeder/distribution interfaces;
- ~~1.98.2.3.~~ ~~1.92.2.3.~~ Bridge taps;
- ~~1.98.2.4.~~ ~~1.92.2.4.~~ Load coils;
- ~~1.98.2.5.~~ ~~1.92.2.5.~~ Pair gain devices; or
- ~~1.98.2.6.~~ ~~1.92.2.6.~~ Disturbers in the same or adjacent binders.
- ~~1.98.3.~~ ~~1.92.3.~~ Loop length which is an indication of the approximate loop length, based on a 26-gauge equivalent and is calculated on the basis of Distribution Area distance from the central office;
- ~~1.98.4.~~ ~~1.92.4.~~ Wire gauge or gauges; and
- ~~1.98.5.~~ ~~1.92.5.~~ Electrical parameters.
- ~~1.99.~~ ~~1.93.~~ **"Proprietary Information"** shall have the same meaning as Confidential Information.
- ~~1.100.~~ **"Pseudo-ANI" or "pANI"** means a 10 digit number that is used in place of ANI for E9-1-1 call routing and the delivery of dynamic ALI information.
- ~~1.101.~~ **"Public Safety Answering Point" or "PSAP"** means an answering location for 9-1-1 calls originating in a given area.
- ~~1.102.~~ ~~1.94.~~ **"Rate Center"** means the geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to Embarq or ~~CLECINTRADO COMM~~ for its provision of basic exchange Telecommunications Services. The "rate center point" is the finite geographic point identified by a specific V&H coordinate, which is used to measure distance-sensitive end-user~~End-User~~ traffic to/from the particular NPA-NXX designations associated with the specific Rate Center. The "rate center area" is the exclusive geographic area identified as the area within which Embarq or ~~CLECINTRADO COMM~~ will provide Basic Exchange Telecommunications Services~~basic exchange telecommunications services~~ bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center point must be located within the Rate Center area.
- ~~1.103.~~ ~~1.95.~~ **"Routing Point"** means a location which Embarq or ~~CLECINTRADO COMM~~ has designated on its own network as the homing (routing) point for traffic inbound to basic exchange Services~~services~~ provided by Embarq or ~~CLECINTRADO COMM~~, which bear a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Telcordia Practice BR 795-100-100, the Routing Point may be an "End Office"

location, or a "LEC Consortium Point of Interconnection." Pursuant to that same Telcordia Practice, examples of the latter shall be designated by a common language location identifier (CLLI) code with (x)MD or X(x) in positions 9, 10, 11, where (x) may be any alphanumeric A-Z or 0-9. The above referenced Telcordia document refers to the Routing Point as the Rating Point. The Rating Point/Routing Point need not be the same as the Rate Center Point, nor must it be located within the Rate Center Area, but must be in the same LATA as the NPA-NXX.

- 1.104. "Shell Records" means those pre-provisioned Service Order Information ("SOI")-type records necessary to enable dynamic ANI/ALI call delivery and display methods, and used to determine call routing and the appropriate dynamic ANI/ALI provider responsible for providing the caller's ANI/ALI for display at the appropriate PSAP upon the answer of a 9-1-1 call.
- 1.105. 1.96. "Small Exchange Carrier Access Billing" ("SECAB") means the document prepared by the Billing Committee of the OBF. The SECAB document, published by ATIS as Special Report SR OPT-001856, contains the recommended guidelines for the billing of access and other connectivity services.
- 1.106. "Selective Router" or "SR" or "E911 Tandem Switch" means the call routing system (i.e. associated hardware and software) used to route an E9-1-1 call to the proper PSAP based upon the ANI or pANI associated with the E9-1-1 call.
- 1.107. 1.97. "Selective Routing" is a service which automatically routes an E911 call to the PSAP that has jurisdictional responsibility for the service address of the telephone that dialed 911, irrespective of telephone company exchange or Wire Center boundaries.
- 1.108. "Service Order Information" or "SOI" means the wireline End-User information acquired and retained by a service provider or pANI (Shell) records, and necessary for presentation to an ALI database in accordance with NENA Standard Formats & Protocols for ALI Data Exchange and/or Standards for Private Switch (PS) E-9-1-1 Database.
- 1.109. 1.98. "Signaling Transfer Point" ("STP") means a signaling point that performs message routing functions and provides information for the routing of messages between signaling points within or between CCIS networks. An STP transmits, receives and processes CCIS messages.
- 1.110. 1.99. "Splitter" is a device that divides the data and voice signals concurrently moving across the loop, directing the voice traffic through copper tie cables to the switch and the data traffic through another pair of copper tie cables to multiplexing equipment for delivery to the packet-switched network. The Splitter may be directly integrated into the DSLAM equipment or may be externally mounted.
- 1.100. "Street Index Guide" ("SIG") is a database defining the geographic area of an E911 Service. It includes an alphabetical list of the street names, high-low house

number ranges, community names, and Emergency Service Numbers provided by the counties or their agents to Embarq.

1.111. ~~Intentionally Omitted.~~

1.112. ~~1.101.~~ **“Switch”** means a Central Office Switch as defined in this Part A.

1.113. ~~1.102.~~ **“Synchronous Optical Network” (“SONET”)** is an optical interface standard that allows interworking of transmission products from multiple vendors (*i.e.*, mid-span meets). The base rate is 51.84 MHps (OC-1/STS-1 and higher rates are direct multiples of the base rate up to 1.22 GHps).

1.114. ~~1.103.~~ **“Tandem Office Switches,” “Tandem,” and “Tandem Switching”** describe Class 4 switches ~~which and E911 Tandem Switches or SRs that~~ are used to connect and switch trunk circuits between and among End Office Switches and Remote Switches, other tandems and Public Safety Answering Points.

1.115. ~~1.104.~~ **“Tariff”** means a filing made at the state or federal level for the provision of a Telecommunications Service by a Telecommunications Carrier that provides for the terms, conditions and pricing of that service. Such filing may be required or voluntary and may or may not be specifically approved by the Commission or FCC.

1.116. ~~1.105.~~ **“Technically Feasible”** ~~refers solely to technical or operational concerns, rather than economic, space, or site considerations as defined by the FCC.~~

1.117. ~~1.106.~~ **“Tier 1”** Wire Centers are those Embarq Wire Centers that contain at least four Fiber-based Collocators, at least 38,000 Business Lines, or both. Tier 1 Wire Centers also are those Embarq tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. Once a Wire Center is determined to be a Tier 1 Wire Center, that Wire Center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.

1.118. ~~1.107.~~ **“Tier 2”** Wire Centers are those Embarq Wire Centers that are not Tier 1 Wire Centers but contain at least three (3) Fiber-based Collocators, at least 24,000 Business Lines, or both. Once a Wire Center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.

1.119. ~~1.108.~~ **“Tier 3”** Wire Centers are those Embarq Wire Centers that are not Tier 1 or Tier 2 Wire Centers.

1.120. ~~1.109.~~ **“Telecommunications”** is as defined in the Act.

1.121. ~~1.110.~~ **“Telecommunications Carrier”** is as defined in the Act.

1.122. ~~1.111.~~ **“Telecommunications Service”** is as defined in the Act.

1.123. ~~1.112.~~ **“Transit Service”** means the delivery of Transit Traffic.

- ~~1.124.~~ ~~1.113.~~—“**Transit Traffic**” means Local Traffic or ISP-Bound Traffic that originated on ~~CLEC~~INTRADO COMM’s network, transited through Embarq’s network, and terminated to a third party Telecommunications Carrier’s network or that is originated on a third party Telecommunications Carrier’s network, transited through Embarq, and terminated to ~~CLEC~~INTRADO COMM’s network.
- ~~1.125.~~ ~~1.114.~~—“**Virtual Collocation**” is as defined in 47 CFR 51.5.
- ~~1.126.~~ ~~1.115.~~—**Virtual NXX Traffic (“VNXX Traffic”)** – As used in this Agreement, Virtual NXX traffic or VNXX Traffic is defined as calls in which a Party’s customer~~End-User~~ is assigned a telephone number with an NXX Code (as set forth in the LERG) assigned to a Rate Center that is different from the Rate Center associated with the ~~customer~~End-User’s actual physical premise location.
- ~~1.127.~~ “**Voice over Internet Protocol” or “VoIP”** means a service that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user’s location; (3) requires IP-compatible customer premises equipment (CPE); and (4) permits users to generally receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.
- ~~1.128.~~ ~~1.116.~~—“**Wholesale Service**” means Telecommunication Services that Embarq provides at retail to subscribers~~End-Users~~ who are not Telecommunications Carriers as set forth in 47 USC § 251(c)(4), which Embarq provides to resellers at a wholesale rate.
- ~~1.129.~~ ~~1.117.~~—“**Wire center**Center” is the location of an incumbent LEC local switching facility containing one or more central offices, as defined in part 36 of the Code of Federal Regulations. The Wire Center boundaries define the area in which all customers~~End-Users~~ served by a given Wire Center are located.
- ~~1.130.~~ ~~1.118.~~—“**xDSL**” refers to a generic term for a series of high speed transmission protocols, equipment, and services designed to operate over copper wire. This series includes but is not limited to ADSL, VDSL, SDSL, and others.

PART B – GENERAL TERMS AND CONDITIONS**2. SCOPE OF THIS AGREEMENT**

- 2.1. This Agreement, including Parts A through L, Tables One and Two and exhibits, specifies the rights and obligations of each Party with respect to the establishment, purchase, and sale of Local Interconnection, Collocation, resale of Telecommunications Services and Unbundled Network Elements. Certain terms used in this Agreement shall have the meanings defined in PART A – DEFINITIONS, or as otherwise elsewhere defined throughout this Agreement. Other terms used but not defined in this Agreement will have the meanings ascribed to them in the Act and in the FCC's and the Commission's rules, regulations and orders. PART B sets forth the general terms and conditions governing this Agreement. The remaining Parts set forth, among other things, descriptions of the services, pricing, technical and business requirements, and physical and network security requirements.

3. NETWORK CHANGES

- 3.1. Embarq shall provide notice of network changes and upgrades in accordance with §§ 51.325 through 51.335 of Title 47 of the Code of Federal Regulations. Embarq may discontinue any interconnection arrangement, Telecommunications Service, or Network Element provided or required hereunder due to network changes or upgrades after providing CLECINTRADO COMM notice as required by this Section. Embarq agrees to cooperate with CLECINTRADO COMM and/or the appropriate regulatory body in any transition resulting from such discontinuation of service and to minimize the impact to customers~~End-Users~~, which may result from such discontinuance of service.

4. REGULATORY APPROVALS

- 4.1. This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with § 252 of the Act within thirty (30) Days after obtaining the last required Agreement signature. Embarq and CLECINTRADO COMM shall use their best efforts to obtain approval of this Agreement by any regulatory body having jurisdiction over this Agreement. In the event any governmental authority or agency rejects any provision hereof, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval.

- 4.2. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the texts of the Act and the orders, rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment of the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement

or other legal action purporting to apply the provisions of the Act to the Parties or in which the court, FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, "Amended Rules"), either Party may, by providing written notice to the other Party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly within sixty (60) Days of the date of the notice to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

- 4.3. Notwithstanding any other provision of this Agreement to the contrary Section 4.2 hereof shall control. Any rates, terms or conditions thus developed or modified shall be substituted in place of those previously in effect and shall be effective under this Agreement as of the effective date established by the Amended Rules, whether such action was commenced before or after the Effective Date of this Agreement. Should the Parties be unable to reach agreement with respect to the applicability of such order or the resulting appropriate modifications to this Agreement, either ~~party~~Party may invoke the Dispute Resolution provisions of this Agreement, it being the intent of the ~~parties~~Parties that this Agreement shall be brought into conformity with the then current obligations under the Act as determined by the Amended Rules. Embarq may charge rates to ~~CLEC~~INTRADO COMM under this Agreement that are approved by the Commission in a generic cost proceeding, whether such action was commenced before or after the Effective Date of this Agreement, as of the effective date of the Commission decision.
- 4.4. In the event that as a result of any effective decision, order, or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, Embarq determines that it is not required to furnish any service, facility, arrangement, or benefit required to be furnished or provided to ~~CLEC~~INTRADO COMM under this Agreement, then Embarq may discontinue any service, facility, arrangement, or benefit ("Discontinued Arrangement") to the extent permitted by any such decision, order, or determination by providing sixty (60) Days written notice to ~~CLEC~~INTRADO COMM. Immediately upon provision of such written notice to ~~CLEC~~, ~~CLEC~~INTRADO COMM, ~~INTRADO COMM will be prohibited from ordering and Embarq will not provide new Discontinued Arrangements.~~

5. TERM AND TERMINATION

- 5.1. This Agreement shall be deemed effective upon the Effective Date first stated above, and continue for a period of ~~two~~three years until [*Enter End Date*] ("End Date"), unless earlier terminated in accordance with this Section 5, ~~provided however that if CLEC has any outstanding past due obligations to Embarq or any of Embarq's affiliates, this Agreement will not be effective until such time as any past due obligations with Embarq are paid in full.~~5. This agreement shall become binding upon execution by the Parties. No order or request for services under this

Agreement shall be processed before the Effective Date, except as otherwise agreed to in writing by the Parties. No order or request for services under this Agreement shall be processed before CLEC~~Each Party~~ has established a customer account with Embarq~~the other Party~~ and has completed the Implementation Plan described in this Agreement.

- 5.2. In the event of either Party's material breach of any of the terms or conditions hereof, including the failure to make any undisputed payment when due, the non-defaulting Party may immediately terminate this Agreement in whole or in part if the non-defaulting Party so advises the defaulting Party in writing of the event of the alleged default and the defaulting Party does not remedy the alleged default within sixty (60) Days after written notice thereof. The non-defaulting Party may pursue all available legal and equitable remedies for such breach.
- 5.3. ~~Embarq~~Each Party may terminate this Agreement upon ~~ten~~sixty (~~10~~60) Days notice if CLEC~~INTRADO COMM~~ is not exchanging traffic with Embarq~~the other Party~~ or has not submitted orders pursuant to this Agreement within ~~one-three hundred-eighty~~ sixty (~~180~~360) Days of the Effective Date. In addition, Embarq~~reserves~~the Parties reserve the right to terminate this Agreement immediately upon written notice from the CLEC ~~other Party~~ that it has ceased doing business in this state. ~~In addition to notice from CLEC, Embarq may utilize any publicly available information in concluding that CLEC is no longer doing business in this state, and immediately terminate this Agreement.~~
- 5.4. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect to any act or omission prior to termination or from any obligation which is expressly stated in this Agreement to survive termination.
- 5.5. Notwithstanding the above, ~~should-Embarq shall provide sixty (60) days prior written notice to INTRADO COMM if Embarq intends to sell or trade substantially all the assets in an exchange or group of exchanges that Embarq uses to provide Telecommunications Services. After providing such notice to Intrado, then Embarq may terminate this Agreement in whole or in part as to that particular exchange or group of exchanges upon sixty (60) Days prior written notice~~in accordance with relevant state commission approvals.

6. POST EXPIRATION INTERIM SERVICE ARRANGEMENTS

- 6.1. No later than one-hundred sixty (160) Days prior to the End Date, CLEC~~INTRADO COMM~~ will provide Embarq notice to commence negotiations pursuant to Sections 251 and 252 of the Act for terms, conditions and rates for a successor agreement to be effective on or before the End Date.
- 6.2. In the event that this Agreement expires under Section 5.1, CLEC~~INTRADO COMM~~ has submitted a notice to commence negotiations under Section 6.1, and the Parties have not executed a successor agreement at the time of expiration,

provided the Parties are actually in arbitration or mediation before the Commission or FCC under § 252 of the Act or the Parties have a written agreement to continue negotiations under § 252, it is the intent of the Parties to provide in this Section for post-expiration interim service arrangements between the Parties so that service to their respective ~~end-users~~End-Users will not be interrupted should a new agreement not be consummated prior to the End Date. Therefore, except in the case of termination as a result of the events under Sections 5.2, 5.4, and 5.5, services that had been available under this Agreement, were ordered prior to the End Date and are actually in service as of the End Date may continue uninterrupted after the End Date ~~at the written request of either Party only~~ until the earlier to occur of (i) the Parties execute a successor agreement, ~~or~~ (ii) the issuance of an order, whether a final non-appealable order or not, by the Commission or FCC, approving an agreement resulting from the resolution of the issues set forth in such arbitration or mediation request, ~~or (iii) the first anniversary of the End Date.~~

- 6.3. In the event that on the End Date the Parties have not executed a successor agreement and Section 6.2 does not apply or no longer applies, Embarq will continue to provide services pursuant to one of the following:

- 6.3.1. Such standard terms and conditions or tariffs approved by and made generally available by the Commission, if they exist; or
- 6.3.2. An existing agreement between Embarq and another carrier adopted by CLECINTRADO COMM for the remaining term of that agreement. ~~If CLEC fails to designate an agreement under this subsection, then Embarq may designate such agreement.~~

7. CHARGES, BILLING AND PAYMENT

- 7.1. In consideration of the services provided by Embarq~~the Parties~~ under this Agreement, ~~CLEC~~the Parties shall pay the charges set forth in Part C subject to the provisions of Section 4 hereof and subject to the dispute provisions provided herein. ~~Additional billing procedures for charges incurred by CLEC hereunder are set forth in Part J.~~

- 7.2. ~~Embarq shall pay interconnection charges in parity with other telecommunication service providers connecting similarly to INTRADO COMM's Intelligent Emergency Network™.~~

- 7.3. ~~7.2.~~ Subject to the terms of this Agreement, the Parties shall pay invoices within thirty (30) Days from the bill date shown on the invoice.

- 7.3.1. ~~7.2.1.~~ For invoices not paid when due, late payment charges will be assessed under Section 7.4.7.5.

- 7.3.2. ~~7.2.2.~~ If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the next business day.

~~7.3.3.~~ ~~7.2.3.~~ If an undisputed invoice is not paid within forty-five (45) Days after the bill date, ~~Embarq~~either Party may suspend processing new orders and cancel any pending orders.

~~7.3.4.~~ ~~7.2.4.~~ If the account remains If non-disputed amounts remain delinquent ~~sixty~~ninety (60~~90~~) Days after the bill date, ~~Embarq~~either Party may terminate all services under this Agreement.

~~7.4.~~ ~~7.3.~~ If the ~~CLEC~~either Party disputes any charges shown on an invoice, the following billing dispute procedures are the exclusive means for challenging such charges, and the failure by ~~CLEC~~either Party to follow such procedures will result in the suspension or termination of service for non-payment of invoiced amounts pursuant to Section 7.3 above:

~~7.4.1.~~ ~~7.3.1.~~ Any billing dispute must be submitted in writing, itemizing the particular charges that ~~CLEC~~the Party is challenging, and explaining in reasonable detail the specific grounds for disputing the validity or applicability of such charges.

~~7.4.2.~~ ~~7.3.2.~~ Billing disputes must be submitted to the National Dispute Center on the billing dispute form designated by Embarq and to [insert] for INTRADO COMM, along with any payment for undisputed charges that are shown on such invoice. The billing dispute form may be accompanied by any additional, relevant materials submitted by ~~CLEC~~the disputing Party.

~~7.4.3.~~ ~~7.3.3.~~ The payment due date of an invoice shall be suspended with respect to disputed amounts on such invoice, but only if a written, itemized dispute has been filed in compliance with Section ~~7.3~~7.4 within thirty (30) Days of the bill date. Such payment due date for the disputed amounts shall remain suspended during negotiations between the Parties or pending a determination by the Commission under the dispute resolution provisions of Section 25.

~~7.4.4.~~ ~~7.3.4.~~ Billing disputes that are submitted in a timely manner in compliance with Section ~~7.3~~7.4 shall not have the effect of suspending the payment due date with respect to *billed amounts that are not in dispute*, notwithstanding the existence of a dispute with respect to other amounts billed on the same invoice.

~~7.4.5.~~ ~~7.3.5.~~ The failure to submit a written dispute in compliance with Section ~~7.3~~7.4 within thirty (30) Days of a bill date shall not preclude a Party from thereafter submitting a dispute or seeking a billing adjustment for any charges which have been paid, but any billing dispute which is not submitted within thirty (30) Days of a bill date or which is not submitted in writing in compliance with Section ~~7.3~~7.4 shall not be effective to suspend the payment due date for the disputed amount or to prevent late charges and possible suspension or termination of service for non-payment of billed amounts in accordance with Section ~~7.2.7.3.~~ Payment of billed

amounts that are subsequently disputed or which become the subject of a request for adjustment shall not constitute or be deemed to represent a waiver of a Party's right to submit a dispute or seek an adjustment of such Party's account with respect to such paid amounts, and the paying Party shall not be required to designate any such payment as "conditional" or "under protest" in order to submit a dispute or seek a subsequent adjustment with respect to amounts which have previously been paid. A dispute which is filed more than 30 Days after a bill date or a request for an account adjustment must be submitted in writing in the same manner as provided for in Section ~~7.3~~7.4 with respect to disputes, and such requests shall be subject to the Dispute Resolution provisions of this Agreement.

- ~~7.5.~~ ~~7.4.~~ Late payment charges on invoices not paid when due (or any portion thereof which is not subject to a timely filed dispute) will be assessed until the undisputed amount due is paid in full, and shall be calculated using a rate equal to the lesser of the following:
- ~~7.5.1.~~ ~~7.4.1.~~ the total amount due times the highest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the payment due date to and including the date the customer paying Party actually makes the payment to ~~Embarq~~, or
 - ~~7.5.2.~~ ~~7.4.2.~~ the total amount due multiplied by a factor of 0.000329 times the number of days which occurred between the payment due date and (including) the date ~~CLEC~~ the Party making the late payment actually makes the payment to ~~Embarq~~.
- ~~7.6.~~ ~~7.5.~~ ~~Embarq~~ The Parties shall credit ~~CLEC~~ each other for incorrect Connectivity Billing charges including without limitation: overcharges, services ordered or requested but not delivered, interrupted services, services of poor quality and installation problems if caused by ~~Embarq~~ the other Party. Such reimbursements shall be set forth in the appropriate section of the Connectivity Bill pursuant to CABS, or SECAB standards.
- ~~7.7.~~ ~~7.6.~~ ~~Embarq~~ The Parties will bill ~~CLEC~~ for message provisioning and, if applicable, data tape charges related to exchange access records. ~~Embarq~~ The Parties will bill ~~CLEC~~ for the records at the rates on Table One. If ~~CLEC~~ either Party requests additional copies of the monthly invoice, ~~Embarq~~ the Parties may also bill ~~CLEC~~ for the additional copies.
- ~~7.8.~~ ~~7.7.~~ ~~Embarq~~ The Parties shall comply with various industry, OBF, and other standards referred to throughout this Agreement. ~~Embarq~~ The Parties will review any changes to industry standards, and implement the changes within the industry-defined window. ~~Embarq~~ The Parties will notify ~~CLEC~~ each other of any deviations to the standards.
- ~~7.9.~~ ~~7.8.~~ Where Parties have established interconnection, Embarq and the ~~CLEC~~ INTRADO COMM agree to conform to MECAB and MECOD guidelines. They will exchange Billing Account Reference and Bill Account Cross Reference

information and will coordinate Initial Billing Company/Subsequent Billing Company billing cycles. ~~Embarq~~The Parties will provide ~~CLEC~~ the appropriate records to bill exchange access charges to the IXC. Embarq will capture EMI records for inward terminating calls and send them to ~~CLEC~~INTRADO COMM, as appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom). Upon Embarq's request, ~~CLEC~~INTRADO COMM will provide Embarq the appropriate records to bill exchange access charges to the IXC. ~~CLEC~~INTRADO COMM will capture EMI records for inward terminating calls and send them to Embarq, as appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom).

~~7.10.~~ 7.9. ~~Embarq~~The Parties shall provide a single point of contact for handling of any data exchange questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.

~~7.11.~~ 7.10. Revenue Protection. Embarq shall make available to ~~CLEC~~INTRADO COMM, at Parity with what Embarq provides to itself, its Affiliates and other local telecommunications ~~CLECs~~INTRADO COMMs, all present and future fraud prevention or revenue protection features, including prevention, detection, or control functionality embedded within any of the Network Elements. These features include, but are not limited to screening codes, information digits assigned such as information digits '29' and '70' which indicate prison and COCOT pay phone originating line types respectively, call blocking of domestic, international, 800, 888, 900, NPA-976, 700, 500 and specific line numbers, and the capability to require end-user entry of an authorization code for dial tone. Embarq shall, when technically capable and consistent with the implementation schedule for Operations Support Systems (OSS), additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent OSS.

~~7.12.~~ 7.11. Embarq reserves the right to secure the account with a suitable form of security deposit in accordance with Section 37.

8. AUDITS AND EXAMINATIONS

8.1. Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the other Party involved. Subject to each Party's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, either Party, at its own expense, may perform an audit through an independent third party of the other Party's books, records and other documents directly related to billing and invoicing once in any twelve (12) month period for the purpose of evaluating the accuracy of the other Party's billing and invoicing. "Audit" shall mean a comprehensive review of bills for services performed under this Agreement; "Examination" shall mean an inquiry into a specific element of or process related to bills for services performed under this Agreement. Either Party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date, with the

assistance of the other Party, which will not be unreasonably withheld. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations, as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.

- 8.2. Upon thirty (30) Days written notice by the Requesting Party to Audited Party, Requesting Party shall have the right through its authorized representative to make an Audit, during normal business hours, of any records, accounts and processes which contain information bearing upon the billing and invoicing of the services provided under this Agreement. Within the above-described thirty (30) Day period, the Parties shall reasonably agree upon the scope of the Audit or Examination, the documents and processes to be reviewed, and the time, place and manner in which the Audit or Examination shall be performed. Audited Party agrees to provide Audit or Examination support, including appropriate access to and use of Audited Party's facilities (e.g.: conference rooms, telephones, copying machines).
- 8.3. Each ~~party~~Party shall bear its own expenses in connection with the conduct of the Audit or Examination. The reasonable cost of special data extraction required by the Requesting Party to conduct the Audit or Examination will be paid for by the Requesting Party. For purposes of this Section 8.3, a "Special Data Extraction" shall mean the creation of an output record or informational report (from existing data files) that is not created in the normal course of business. If any program is developed to Requesting Party's specifications and at Requesting Party's expense, Requesting Party shall specify at the time of request whether the program is to be retained by Audited Party for reuse for any subsequent Audit or Examination.
- 8.4. Adjustments based on the audit findings may be applied to the twelve (12) month period included in the audit. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) Days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such Audit or Examination and are agreed to by the Parties. Interest shall be calculated in accordance with Section ~~7.47.5~~ above.
- 8.5. Neither such right to examine and audit nor the right to receive an adjustment shall be affected by any statement to the contrary appearing on checks or otherwise, unless such statement expressly waiving such right appears in writing, is signed by the authorized representative of the Party having such right and is delivered to the other Party in a manner sanctioned by this Agreement.
- 8.6. This Section shall survive expiration or termination of this Agreement for a period of one (1) year after expiration or termination of this Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Intellectual property includes,

without limitation, patent, copyright, trade mark, trade secrets, and other proprietary rights. Each Party grants to the other ~~party~~Party a limited license to its intellectual property solely to the extent necessary for the use of any facility or equipment (including software) or for the receipt of services as provided under this Agreement. Except for such limited license to use its intellectual property, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel.

- 9.2. ~~CLEC acknowledges~~The Parties acknowledge that ~~its right~~their rights under this Agreement for Local Interconnection with ~~Embarq~~the other Party's network and INTRADO COMM's right to unbundled and/or combine Embarq's Network Elements may be subject to or limited by intellectual property rights and contract rights of third parties. Embarq agrees to use its best efforts to obtain for CLECINTRADO COMM, third party intellectual property rights, under commercially reasonable terms, to each unbundled Network Element necessary for CLECINTRADO COMM to use such unbundled Network Element in the same manner as Embarq.
- 9.3. Embarq shall have no obligations to attempt to obtain for CLECINTRADO COMM any third party intellectual property right(s) that would permit CLECINTRADO COMM to use any unbundled Network Element in a different manner than used by Embarq.
- 9.4. To the extent not prohibited by a contract with the vendor of the Network Element sought by CLECINTRADO COMM that contains intellectual property licenses, Embarq shall reveal to CLECINTRADO COMM the name of the vendor, the intellectual property rights licensed to Embarq under the vendor contract and the terms of the contract (excluding cost terms). Embarq shall, at CLECINTRADO COMM's request, contact the vendor to attempt to obtain permission to reveal additional contract details to CLECINTRADO COMM.
- 9.5. All costs associated with the extension of third party intellectual property rights to ~~CLEC~~either Party pursuant to Section 9.2, including the cost of the license extension itself and the costs associated with the effort to obtain the license, shall be part of the cost of providing Local Interconnection or the unbundled Network Element to which the intellectual property rights relate and apportioned to all requesting ~~CLEC~~service providers using that Local Interconnection or unbundled Network Element including Embarq.
- 9.6. ~~Embarq~~The Parties hereby ~~conveys~~convey no licenses to use such third party intellectual property rights and makes no warranties, express or implied, concerning ~~CLEC~~either Party's rights with respect to such third party intellectual property rights and contract rights, including whether such rights will be violated by such Local Interconnection or unbundling and/or combining of Network Elements (including combining with ~~CLEC~~either Party's use of other functions, facilities, products or services furnished under this Agreement). Any licenses or warranties for intellectual property rights associated with unbundled network

elements are vendor licenses and warranties and are a part of the third party intellectual property rights Embarq agrees in Section 9.2 to use its best efforts to obtain.

10. LIMITATION OF LIABILITY

- 10.1. Neither Party, its parents, subsidiaries, affiliates, agents, servants or employees shall be liable for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of willful misconduct.
- 10.2. Notwithstanding the foregoing, in no event shall ~~Embarq~~either Party's liability to ~~CLEC~~the other Party for a service outage exceed an amount equal to the proportionate charge for the service(s) or unbundled element(s) provided for the period during which the service was affected.
- 10.3. Neither Party shall be responsible to the other for any indirect, special, consequential or punitive damages, including (without limitation) damages for loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted, or done hereunder (collectively "Consequential Damages"), whether arising in contract or tort except that the foregoing shall not limit a Party's obligation under Section 11 to indemnify, defend, and hold the other Party harmless against amounts payable to third parties.
- 10.4. ~~EMBARQ SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF CLECINTRADO COMM'S EQUIPMENT AND OTHER PREMISES ONLY TO THE EXTENT IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY EMBARQ'S SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.~~

11. INDEMNIFICATION

- 11.1. Each Party agrees to indemnify and hold harmless the other Party from and against claims by third parties for damage to tangible personal or real property and/or personal injuries to the extent caused by the negligence or willful misconduct or omission of the indemnifying Party.
- 11.2. ~~CLECINTRADO COMM~~ shall indemnify and hold harmless Embarq from all claims by ~~CLEC's subscribers~~INTRADO COMM's End-Users.
- 11.3. Embarq shall indemnify and hold harmless ~~CLECINTRADO COMM~~ from all claims by Embarq's subscribersEnd-Users.
- 11.4. The indemnifying Party under this Section agrees to defend any suit brought against the other Party either individually or jointly with the indemnified Party for any such loss, injury, liability, claim or demand.

- 11.5. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which it is claimed that the indemnifying Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims.
- 11.6. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party of any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to promptly assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.
- 11.7. When the lines or services of other companies and ~~CLEC~~either Party are used in establishing connections to and/or from points not reached by a Party's lines, neither Party shall be liable for any act or omission of the other companies or carriers.
- 11.8. In addition to its indemnity obligations hereunder, each Party shall, to the extent allowed by law or Commission Order, provide, in its tariffs and contracts with its ~~subscribers~~End-Users that relate to any Telecommunications Services provided or contemplated under this Agreement, that in no case shall such Party or any of its agents, contractors or others retained by such Party be liable to any ~~subscriber~~End-User or third party for
- 11.8.1. any loss relating to or arising out of this Agreement, whether in contract or tort, that exceeds the amount such Party would have charged the applicable ~~subscriber~~End-User for the service(s) or function(s) that gave rise to such loss, and
- 11.8.2. Consequential Damages (as defined in Section 10 above).
- 11.9. If ~~CLEC~~INTRADO COMM has physical collocations under this Agreement, ~~CLEC~~INTRADO COMM shall also indemnify and hold Embarq harmless from, subject to the requirements of Section 11.1, any and all claims arising from:
- 11.9.1 ~~CLEC~~INTRADO COMM's use of the Collocation Space;
- 11.9.2 the conduct of ~~CLEC~~INTRADO COMM's business or from any activity, work or things done, permitted or suffered by ~~CLEC~~INTRADO COMM in or about the Collocation Space or elsewhere;
- 11.9.3 any and all claims arising from any breach or default in the performance of any obligation on ~~CLEC~~INTRADO COMM's part to be performed under the terms of this Agreement; and

- 11.9.4 any negligence of the CLECINTRADO COMM, or any of CLECINTRADO COMM's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
- 11.9.5 If any action or proceeding is brought against Embarq by reason of any such claim, CLECINTRADO COMM, upon notice from Embarq, shall defend same at CLECINTRADO COMM's expense employing counsel satisfactory to Embarq.
- 11.10 ~~ILEC~~If INTRADO COMM has physical collocations under this Agreement, INTRADO COMM shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of CLECINTRADO COMM, or out of any work performed, material furnished, or obligations incurred by CLECINTRADO COMM in, upon or otherwise in connection with the Collocation Space. CLECINTRADO COMM shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLECINTRADO COMM's liability under this Section.
- 11.11 If INTRADO COMM has physical collocations under this Agreement and if any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLECINTRADO COMM shall give Embarq written notice thereof as soon as CLECINTRADO COMM obtains such knowledge.
- 11.12 ~~CLEC~~If INTRADO COMM has physical collocations under this Agreement, INTRADO COMM shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and for the account of CLECINTRADO COMM, from obtaining such discharge and release if CLECINTRADO COMM fails or refuses to do the same within the thirty-day period.
- 11.13 If CLECINTRADO COMM has physical collocations under this Agreement and if INTRADO COMM has first discharged the lien as provided by law, CLECINTRADO COMM may, at CLECINTRADO COMM's expense, contest any mechanic's lien in any manner permitted by law.

12. INSURANCE

- 12.1. During the term of this Agreement, CLECINTRADO COMM shall carry, and shall cause any subcontractors to carry, with financially reputable insurers which are licensed to do business in all jurisdictions where any property is located, not less than the following insurance:

- 12.2. Commercial General Liability with limits of not less than \$1,000,000 combined single limit per occurrence and aggregate for bodily injury, property damage and personal and advertising injury liability insurance to include coverage for contractual and products/completed operations liability, naming Embarq as additional insured;
- 12.3. Business Auto liability, including all owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage liability, naming Embarq as additional insured;
- 12.4. Workers Compensation as provided for in the jurisdiction where the Property is located, with an Employer's Liability limit of not less than \$500,000 per accident or disease; and
- 12.5. Umbrella or excess liability in an amount not less than \$5,000,000 per occurrence and aggregate in excess of the above-referenced Commercial General, Business Auto and Employer's Liability, naming Embarq as additional insured; and
- 12.6. "All Risk" property insurance on a full replacement cost basis insuring CLECINTRADO COMM's property situated on or within the Property, naming Embarq as loss payee. CLEC to the extent Embarq can demonstrate a financial interest in said property.. INTRADO COMM may elect to insure business interruption and contingent business interruption, as it is agreed that Embarq has no liability for loss of profit or revenues should an interruption of service occur.
- 12.7. ~~Nothing contained in this Section shall limit CLEC's liability to Embarq to the limits of insurance certified or carried.~~ Intentionally Omitted..
- 12.8. All policies required of the CLECINTRADO COMM shall contain evidence of the insurer's waiver of the right of subrogation against Embarq for any insured loss covered thereunder with respect to property only. All policies of insurance shall be written as primary policies and not contributing with or in excess of the coverage, if any, that Embarq may carry.
- 12.9. CLECINTRADO COMM shall furnish to Embarq a certificate or certificates of insurance, satisfactory in form and content to Embarq, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled without first ~~giving~~ endeavoring to give at least thirty (30) Days prior written notice to Embarq.

13. BRANDING

- 13.1. CLECINTRADO COMM shall provide the exclusive interface to CLEC subscribers INTRADO COMM End-Users, except as CLECINTRADO COMM shall otherwise specify for the reporting of trouble or other matters identified by CLECINTRADO COMM for which Embarq may directly communicate with CLEC subscribers INTRADO COMM End-Users. In those instances where CLECINTRADO COMM requests that Embarq personnel interface with CLEC subscribers INTRADO COMM End-Users, such Embarq personnel shall inform

the ~~CLEC subscribers~~INTRADO COMM End-Users that they are representing ~~CLEC~~INTRADO COMM, or such brand as ~~CLEC~~INTRADO COMM may specify.

- 13.2. Other business materials furnished by Embarq to ~~CLEC subscribers~~INTRADO COMM End-Users shall bear no corporate name, logo, trademark or tradename.
- 13.3. Except as specifically permitted by a Party, in no event shall either Party provide information to the other Party's ~~subscribers~~End-Users about the other Party or the other Party's products or services.
- 13.4. Embarq shall share pertinent details of Embarq's training approaches related to branding with ~~CLEC~~INTRADO COMM to be used by Embarq to assure that Embarq meets the branding requirements agreed to by the Parties.
- 13.5. This Section shall not confer on either Party any rights to the service marks, trademarks and/or trade names owned by or used in connection with services by the other Party, except as expressly permitted in writing by the other Party.

14. REMEDIES

- 14.1. Except as otherwise provided herein, all rights of termination, cancellation or other remedies prescribed in this Agreement, or otherwise available, are cumulative and are not intended to be exclusive of other remedies to which the injured Party may be entitled in case of any breach or threatened breach by the other Party of any provision of this Agreement, and use of one or more remedies shall not bar use of any other remedy for the purpose of enforcing the provisions of this Agreement.

15. CONFIDENTIALITY AND PUBLICITY

- 15.1. All information which is disclosed by one Party ("Disclosing Party") to the other ("Recipient") in connection with this Agreement, or acquired in the course of performance of this Agreement, shall be deemed confidential and proprietary to the Disclosing Party and subject to this Agreement, such information includes but is not limited to, orders for services, usage information in any form, and CPNI as that term is defined by the Act and the rules and regulations of the FCC ("Confidential Information").
- 15.2. During the term of this Agreement, and for a period of five (5) year thereafter, Recipient shall
 - 15.2.1. use Confidential Information only for the purpose of performing under this Agreement,
 - 15.2.2. hold Confidential Information in confidence and disclose it only to employees or agents who have a need to know it in order to perform under this Agreement, and

- 15.2.3. safeguard Confidential Information from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.
- 15.3. Recipient shall have no obligation to safeguard Confidential Information
 - 15.3.1. which was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party,
 - 15.3.2. which becomes publicly known or available through no breach of this Agreement by Recipient,
 - 15.3.3. which is rightfully acquired by Recipient free of restrictions on its Disclosure, or
 - 15.3.4. which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.
- 15.4. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, if the Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and the Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient will comply with any protective order that covers the Confidential Information to be disclosed.
- 15.5. Each Party agrees that in the event of a breach of this Section 15 by Recipient or its representatives, Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 15.6. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, symbols or words from which the other Party's name may reasonably be inferred or implied in any product, service, advertisement, promotion, or any other publicity matter, except that nothing in this paragraph shall prohibit a Party from engaging in valid comparative advertising. This Section 15.6 shall confer no rights on a Party to the service marks, trademarks and trade names owned or used in connection with services by the other Party or its Affiliates, except as expressly permitted by the other Party.
- 15.7. Neither Party shall produce, publish, or distribute any press release nor other publicity referring to the other Party or its Affiliates, or referring to this Agreement, without the prior written approval of the other Party. Each partyParty shall obtain the other Party's prior approval before discussing this Agreement in any press or media interviews. In no event shall either Party mischaracterize the contents of this Agreement in any public statement or in any representation to a governmental entity or member thereof.

- 15.8. Except as otherwise expressly provided in this Section 15, nothing herein shall be construed as limiting the rights of either Party with respect to its ~~customer~~End-User information under any applicable law, including without limitation § 222 of the Act.

16. DISCLAIMER OF WARRANTIES

- 16.1. EXCEPT AS SPECIFICALLY PROVIDED ELSEWHERE IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO QUALITY, FUNCTIONALITY OR CHARACTERISTICS OF THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR STATEMENT MADE BY EITHER PARTY OR ANY OF ITS AGENTS OR EMPLOYEES, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, ANY SPECIFICATIONS, DESCRIPTIONS OR STATEMENTS PROVIDED OR MADE SHALL BE BINDING UPON EITHER PARTY AS A WARRANTY.

17. ASSIGNMENT AND SUBCONTRACT

- 17.1. If any Affiliate of either Party succeeds to that portion of the business of such Party that is responsible for, or entitled to, any rights, obligations, duties, or other interests under this Agreement, such Affiliate may succeed to those rights, obligations, duties, and interest of such Party under this Agreement. In the event of any such succession hereunder, the successor shall expressly undertake in writing to the other Party the performance and liability for those obligations and duties as to which it is succeeding a Party to this Agreement. Thereafter, the successor Party shall be deemed CLECINTRADO COMM or Embarq and the original Party shall be relieved of such obligations and duties, except for matters arising out of events occurring prior to the date of such undertaking.
- 17.2. Except as provided in Section 17.1, any assignment of this Agreement or of the work to be performed, in whole or in part, or of any other interest of a Party hereunder, without the other Party's written consent, which consent shall not be unreasonably withheld or delayed, shall be void.

18. GOVERNING LAW

- 18.1. This Agreement shall be governed by and construed in accordance with the Act, the FCC's Rules and Regulations and orders of the Commission, except insofar as state law may control any aspect of this Agreement, in which case the domestic laws of the Commission's state, without regard to its conflicts of laws principles, shall govern.

19. RELATIONSHIP OF PARTIES

- 19.1. It is the intention of the Parties that each Party shall be an independent contractor and nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other.

20. NO THIRD PARTY BENEFICIARIES

- 20.1. The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person, and this Agreement shall not provide any person not a party hereto with any remedy, claim, liability, reimbursement, right of action, or other right in excess of those existing without reference hereto. This shall not be construed to prevent CLECINTRADO COMM from providing its Telecommunications Services to other carriersservice providers.

21. NOTICES

- 21.1. Except as otherwise provided herein, all notices or other communication hereunder shall be deemed to have been duly given when made in writing and delivered in person or deposited in the United States mail, certified mail, postage prepaid, return receipt requested and addressed as follows:

If to " Customer " <u>INTRADO COMM</u> :	If to Embarq:
<u>Intrado Communications Inc.</u>	Director - Wholesale Markets
<u>Director – Regulatory Compliance</u>	Embarq
<u>1601 Dry Creek Drive</u>	KSOPKB0401-413
<u>Longmont, CO 80503</u>	9300 Metcalf Avenue
	Overland Park, KS 66212
With a copy to:	With a copy to:

- 21.2. If delivery, other than certified mail, return receipt requested, is used to give notice, a receipt of such delivery shall be obtained and the notice shall be effective when received. If delivery via certified mail, return receipt requested, is used, notice shall be effective when sent. The address to which notices or communications may be given to either Party may be changed by written notice given by such Party to the other pursuant to this Section.

22. WAIVERS

- 22.1. No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed.

- 22.2. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.
- 22.3. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

23. SURVIVAL

- 23.1. 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 including but not limited to Sections 7, 8, 9, 10, 11, 15, 20, 22, and 25.

24. FORCE MAJEURE

- 24.1. Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, strikes, work stoppage affecting a supplier or unusually severe weather. No delay or other failure to perform shall be excused pursuant to this Section 24 unless delay or failure and consequences thereof are beyond the control and without the fault or negligence of the Party claiming excusable delay or other failure to perform. Subject to Sections 4.4, 5.2, 5.2, and 5.5 hereof, in the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delayed Party shall perform its obligations at a performance level no less than that which it uses for its own operations. In the event of such performance delay or failure by Embarq, Embarq agrees to resume performance in a nondiscriminatory manner and not favor its own provision of Telecommunications Services above that of CLECINTRADO COMM.

25. DISPUTE RESOLUTION

- 25.1. The Parties recognize and agree that the Commission has continuing jurisdiction to implement and enforce all terms and conditions of this Agreement, except those services in Part I (non-251 services). Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties cannot resolve, other than Part I (non-251 services), may be submitted to the Commission for resolution, in the manner provided for herein. The dispute resolution provisions of this Section shall not preclude the Parties from seeking relief available in any other forum.

- 25.2. A Party may not submit a dispute to the Commission for resolution unless at least sixty (60) Days have elapsed after the Party asserting the dispute has given written notice of such dispute to the other Party. Such notice must explain in reasonable detail the specific circumstances and grounds for each disputed item, which shall include the specific information required in Section ~~7.3~~7.4 for billing disputes. If a Party gives notice of a billing dispute more than thirty (30) Days after the billing date and has not paid the disputed amounts by the payment due date, then the notice of such dispute shall be deemed to have been given thirty (30) Days after the billing date for purposes of calculating the time period before such dispute may be submitted to the Commission.
- 25.3. The Parties shall meet or confer as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the Parties, provided, however, that all reasonable requests for relevant, non-privileged, information made by one Party to the other Party shall be honored, and provided that the following terms and conditions shall apply:
- 25.3.1. ~~If Embarq~~either Party provides written notice to the ~~CLEC~~other Party that a billing dispute has been denied, stating the grounds for such determination, then the ~~CLEC~~other Party shall have ten (10) Days in which to either pay the disputed amounts or to send written notice to the ~~National Dispute Center~~collecting Party advising that the ~~CLEC~~other Party disagrees with the determination ~~by Embarq~~, and such notice may be accompanied by any additional, relevant materials ~~submitted by CLEC~~. Failure by the ~~CLEC~~disputing Party to make a timely response to a notice of denial ~~by Embarq~~ shall result in lifting the suspension of the payment due date for such disputed invoice, and the possible assessment of late charges and suspension or termination of service for non-payment of billed amount in accordance with Section ~~7.2.7.3~~.
- 25.3.2. Failure by the ~~CLEC~~either Party to make a timely response to a notice of denial ~~by Embarq~~ shall also preclude the ~~CLEC~~that Party from thereafter requesting an escalation of the same dispute under Section 25.4, although the ~~CLEC~~disputing Party may file a petition in compliance with Section 25.5.
- 25.4. If the Parties are unable to resolve the dispute in the normal course of business within thirty (30) Days after delivery of notice of the Dispute, then upon the request of either Party, the dispute shall be escalated to other representatives of each Party that have authority to settle the dispute, and such escalation may be repeated every thirty (30) Days during which negotiations continue. Referral of a dispute by a Party to its legal counsel shall be considered an escalation for purposes of this paragraph.
- 25.5. If the Parties are unable to resolve the dispute within sixty (60) Days after delivery of the initial notice of the dispute, then either Party may file a petition or complaint with the Commission seeking resolution of the dispute. The petition or

complaint shall include a statement that both Parties have agreed to request an expedited resolution by the Commission within sixty (60) Days from the date on which the petition or complaint was filed with the Commission.

25.6. If the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each Party shall pay half of the fees and expenses so incurred.

25.7. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement provided, however, that neither Party shall be required to act in any unlawful fashion.

25.8. A dispute which has been resolved by a written settlement agreement between the Parties or pursuant to a determination by the Commission may not be resubmitted under the dispute resolution process.

26. COOPERATION ON FRAUD

26.1. The Parties agree that they 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 unduly burden or harm one partyParty as compared to the other.

27. TAXES

27.1. For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including Tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.

27.2. Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.

27.2.1. Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customerEnd-User, shall be borne and paid by the providing Party.

27.2.2. Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

27.3. Taxes and Fees Imposed on Purchasing Party but Collected And Remitted By Providing Party.

27.3.1. Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.

- 27.3.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 27.3.3. If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefore, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.
- 27.3.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 27.3.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 27.3.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 27.3.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.

27.4. Taxes and Fees Imposed on Providing Party But Passed On To Purchasing Party.

- 27.4.1. Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its ~~customer~~End-User, shall be borne by the purchasing Party.
- 27.4.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 27.4.3. If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.
- 27.4.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 27.4.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 27.4.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorneys' fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 27.4.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.

- 27.5. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.
- 27.6. To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. If Applicable Law excludes or exempts a purchase of services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party furnishes the providing Party with a letter or other evidence of exemption, reasonably satisfactory to the providing Party, claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate. If the exemption is later found to be invalid by the applicable jurisdiction, then the purchasing Party shall pay any tax, interest and/or penalty that is determined to be due, and shall be responsible for any costs incurred by the providing Party, including but not limited to reasonable attorneys' fees.

28. AMENDMENTS AND MODIFICATIONS

- 28.1. No provision of this Agreement shall be deemed waived, amended or modified by either Party unless such a waiver, amendment or modification is in writing, dated, and signed by both Parties.

29. SEVERABILITY

- 29.1. Subject to Section 4.2, if any part of this Agreement is held to be invalid, void or unenforceable for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

30. HEADINGS NOT CONTROLLING

- 30.1. The headings and numbering of Sections and Parts in this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

31. ENTIRE AGREEMENT

- 31.1. This Agreement, including all Parts and subordinate documents attached hereto or referenced herein, all of which are hereby incorporated by reference herein, subject only to the terms of any applicable Tariff on file with the state Commission or the FCC, constitute the entire matter thereof, and supersede all

prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter thereof.

32. SUCCESSORS AND ASSIGNS

- 32.1. Subject to the terms of this Agreement, Embarq and CLECINTRADO COMM agree this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

33. IMPLEMENTATION PLAN

- 33.1. This Agreement sets forth the overall standards of performance for the services, processes, and systems capabilities that the Parties will provide to each other, and the intervals at which those services, processes and capabilities will be provided. The Parties understand that the arrangements and provision of services described in this Agreement shall require technical and operational coordination between the Parties. Accordingly, the Parties agree to form a team (the "Implementation Team") which shall develop and identify those processes, guidelines, specifications, standards and additional terms and conditions necessary to support and satisfy the standards set forth in this Agreement and implement each Party's obligations hereunder.
- 33.2. Dispute Resolution. If the Implementation Team is unable to agree upon any of the matters to be included in the Implementation Plan, then either Party may invoke the procedures set forth in Part B Section 25.

34. FEDERAL JURISDICTIONAL AREAS

- 34.1. Article 1, § 8, Clause 17 of the United States Constitution provides the authority to Congress to exercise exclusive jurisdiction over areas and structures used for military purposes (Federal Enclaves). Thus, Telecommunications Services to such Federal Enclaves are not subject to the jurisdiction of the Commission. The Parties agree that Services provided within Federal Enclaves are not within the scope of this Agreement. To the extent Embarq has contracts with federal entities that limit or prohibit the ability of CLECINTRADO COMM to provide resale or UNEs such contract will govern Telecommunications Services on such Federal Enclave. If the contract with the federal entity provides for the resale or provision of UNEs to provide service on the Federal Enclave, Embarq will provide CLECINTRADO COMM with information regarding the provision of service on the Federal Enclave.

PART C – GENERAL PRINCIPLES

35. USE OF FACILITIES

35.1. In situations where a competitive LEC has the use of the facilities (*i.e.*, Local Loop) to a specific ~~customer~~End-User premise, either through resale of local service or the lease of the Local Loop as an Unbundled Network Element, and Embarq receives a good faith request for service from a ~~customer~~End-User at the same premise or from another carrier with the appropriate ~~customer~~End-User authorization, the procedures below will apply.

35.1.1. Embarq will process such orders and provision services consistent with the terms contained in Section ~~71,72~~, of this Agreement.

35.1.2. Where ~~CLEC~~INTRADO COMM is using a single facility to provide service to multiple ~~end-user customers~~End-User, Embarq will not disconnect that facility as a result of the following procedures.

35.1.3. Embarq will follow methods prescribed by the FCC and any applicable state regulation for carrier change verification.

35.1.4. ~~Customer~~End-User with Existing Service Changing Local Service Provider:

In situations where a competitive LEC submits an order for an ~~end-user customer~~End-User that is changing local service providers for existing service, and is not adding service (*i.e.*, an additional line), Embarq will process the service request without delay, and provide the losing competitive LEC a ~~customer~~End-User loss notification consistent with industry standards.

35.1.5. ~~Customer~~End-User with Existing Service Adding New Service

In situations where an order is submitted for an ~~end-user customer~~End-User adding service to existing service (*i.e.*, an additional line), the order should be marked as an additional line and existing facilities will not be affected.

35.1.6. ~~Customer~~End-User Requesting New Service where Previous ~~Customer~~End-User has Abandoned Service

- (a) The following applies in the case where an ~~end-user customer~~End-User vacates premises without notifying the local service provider and a new ~~end-user customer~~End-User moves into the vacated premises and orders new service from a local service provider and neither Embarq nor the previous local service provider are aware that the original ~~end-user customer~~End-User has abandoned the service in place.

- (b) When a carrier requests service at a location and marks the order as abandoned and CLECINTRADO COMM is the previous local service provider, Embarq shall notify CLECINTRADO COMM via fax that it has had a request for service at the premise location that is currently being served by CLECINTRADO COMM;
- (c) If available to Embarq, Embarq shall include the name and address of the party receiving service at such locations, but at a minimum shall provide local service address location information;
- (d) If CLECINTRADO COMM does not respond within twenty-four (24) hours (excluding weekends and holidays) after receiving Embarq's notification or if CLECINTRADO COMM responds relinquishing the facilities, Embarq shall be free to use the facilities in question and Embarq shall issue a disconnect order with respect to the CLECINTRADO COMM service at that location. If CLECINTRADO COMM responds stating that the service is working and should not be disconnected, Embarq will notify the carrier ordering service and request verification of the address and location or the submission of an order for an additional line.

36. PRICE SCHEDULE

36.1. All prices under this Agreement are set forth in the attachments designated Table One and Table Two of this Agreement are hereby incorporated into, and made a part of, this Agreement. If this Agreement provides for a service that does not have a corresponding rate in Table One or Table Two, or is not subject to Section 42, Embarq will develop a rate consistent with Section 43.43.

36.2. Subject to the provisions of Part B, Section 4 of this Agreement, all rates provided under this Agreement shall remain in effect for the term of this Agreement.

36.3. Local Service Resale

The rates that CLECINTRADO COMM shall pay to Embarq for Local Resale are as set forth in Table One of this Agreement and shall be applied consistent with the provisions of Part D of this Agreement.

36.4. Unbundled Network Elements

The charges that CLECINTRADO COMM shall pay to Embarq for Unbundled Network Elements are set forth in Table One of this Agreement.

36.5. Collocation

The charges that CLECINTRADO COMM shall pay to Embarq for Collocation are set forth in Table Two of this Agreement.

36.6. Call Related Databases

The charges that CLECINTRADO COMM shall pay to Embarq for Call Related Databases purchased pursuant to Part J are set forth in Table One of this Agreement.

37. SECURITY DEPOSIT

- 37.1. Embarq reserves the right to secure the account with a suitable security deposit in the form and amounts set forth herein.
- 37.2. Security deposits shall take the form of cash or cash equivalent, an irrevocable letter of credit or other form of security acceptable to Embarq.
- 37.3. If a security deposit is required on a new account, CLECINTRADO COMM will remit such security deposit prior to inauguration of service. If a security deposit is requested for an existing account, payment of the security deposit will be made prior to acceptance by Embarq of additional orders for service.
- 37.4. Security deposits shall be in an amount equal to two (2) months' estimated billings as calculated by Embarq, or twice the most recent month's invoices from Embarq for existing accounts. All security deposits will be subject to a minimum deposit level of \$10,000.
- 37.5. The fact that a security deposit has been made in no way relieves CLECINTRADO COMM from complying with Embarq's regulations as to advance payments and the prompt payment of bills on presentation, nor is it a waiver or modification of the regular practices of Embarq for the discontinuance of service for non-payment of any sums due Embarq.
- 37.6. Embarq may increase the security deposit requirements when gross monthly billing has increased beyond the level initially used to determine the security deposit. If payment of the additional security deposit amount is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLECINTRADO COMM will be considered in breach of the Agreement.
- 37.7. Any security deposit shall be held by Embarq as a guarantee of payment of any charges for services billed to CLECINTRADO COMM pursuant to this Agreement or in connection with any other services provided to CLECINTRADO COMM by Embarq. Embarq may exercise its right to credit any cash deposit to CLECINTRADO COMM's account, or to demand payment from the issuing bank or bonding company of any irrevocable bank letter of credit, upon the occurrence of any one of the following events:
 - 37.7.1. when CLECINTRADO COMM's undisputed balances due to Embarq are more than thirty (30) Days past due; or
 - 37.7.2. when CLECINTRADO COMM files for protection under the bankruptcy laws; or

- 37.7.3. when an involuntary petition in bankruptcy is filed against CLECINTRADO COMM and is not dismissed within sixty (60) Days;
 - 37.7.4. when this Agreement expires or terminates;
 - 37.7.5. any letter of credit issued hereunder or any bank issuing a letter of credit hereunder (each, a "Letter of Credit Bank") fails to meet the terms, conditions, and requirements set forth below in this Section; ; or
 - 37.7.6. CLECINTRADO COMM fails to provide Embarq with a replacement letter of credit on the terms set forth herein at least ten (10) Business Days prior to the expiration of any letter of credit issued to Embarq hereunder.
- 37.8. If any security deposit held by Embarq is applied as a credit toward payment of CLECINTRADO COMM's balances due to Embarq, then Embarq may require the CLECINTRADO COMM to provide a new deposit. If payment of the new deposit is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLECINTRADO COMM will be considered in breach of the Agreement.
- 37.9. Any security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service. No interest will accrue or be paid on deposits.
- 37.10. Any letter of credit issued to Embarq hereunder must meet the following requirements:
- 37.10.1. The bank issuing any letter of credit hereunder (the "Letter of Credit Bank") must maintain a minimum credit rating of A (by Standard & Poor's) or A2 (by Moody's). If CLECINTRADO COMM proposes that the letter of credit be issued by a bank that is not so rated by Standard & Poor's or Moody's, then CLECINTRADO COMM must obtain the prior written approval by Embarq to use such bank as the Letter of Credit Bank.
 - 37.10.2. The original letter of credit shall be in such form and on terms that are acceptable to Embarq and must include an automatic one-year renewal extension.
 - 37.10.3. If CLECINTRADO COMM receives notice from the Letter of Credit Bank of any non-renewal of a letter of credit issued hereunder, then CLECINTRADO COMM shall promptly notify Embarq of such notice of non-renewal. Not later than ten (10) Business Days prior to the expiration of the letter of credit, CLECINTRADO COMM shall provide Embarq a replacement letter of credit on substantially identical terms to the existing letter of credit (or such other terms as are acceptable to Embarq). If CLECINTRADO COMM provides a replacement letter of credit not later than 10 Business Days prior to the expiration of the expiring letter of credit, then Embarq shall not make

a drawing under the expiring letter of credit. Upon receipt of a replacement letter of credit meeting the requirements set forth in this Agreement, Embarq will provide the original, expiring letter of credit to CLECINTRADO COMM.

- 37.10.4. If CLECINTRADO COMM desires to replace any letter of credit issued to Embarq hereunder, whether due to non-renewal or otherwise, each such replacement letter of credit and the Letter of Credit Bank issuing such replacement letter of credit must meet the terms, conditions and requirements set forth in this Section.

PART D – LOCAL RESALE

38. TELECOMMUNICATIONS SERVICES PROVIDED FOR RESALE

- 38.1. At the request of CLECINTRADO COMM, and pursuant to the requirements of the Act, and FCC and Commission Rules and Regulations, Embarq shall make available to CLECINTRADO COMM for resale Telecommunications Services that Embarq currently provides or may provide hereafter at retail to subscribersEnd-Users who are not Telecommunications Carriers. Such resale may be as allowed by the FCC and Commission. The Telecommunications Services provided by Embarq to CLECINTRADO COMM pursuant to this Part D are collectively referred to as "Local Resale." To the extent that this Part describes services which Embarq shall make available to CLECINTRADO COMM for resale pursuant to this Agreement, this list of services is neither all inclusive nor exclusive.

39. GENERAL TERMS AND CONDITIONS

- 39.1. The prices charged to CLECINTRADO COMM for Local Resale are the Embarq Tariff retail prices, discounted as set forth in Part C of this Agreement.
- 39.1.1. Voluntary Federal and State SubscriberEnd-User Financial Assistance Programs. Subsidized local Telecommunications Services are provided to low-income subscribersEnd-Users pursuant to requirements established by the appropriate state regulatory body, and include programs such as Voluntary Federal Subscriber Financial Assistance Program and Link-Up America. Voluntary Federal and State Subscriber Financial Assistance Programs are not Telecommunications Services that are available for resale under this Agreement.
- 39.1.2. Embarq shall offer for resale to CLECINTRADO COMM all Grandfathered Services solely for the existing grandfathered base on a customerEnd-User specific basis. Embarq shall make reasonable efforts to provide CLECINTRADO COMM with advance copy of any request for the termination of service and/or grandfathering to be filed by Embarq with the Commission.
- 39.1.3. Embarq shall offer for resale all of its Telecommunications Services available at retail to subscribersEnd-Users who are not Telecommunications Carriers, including but not limited to Contract Service Arrangements (or ICB), Special Arrangements (or ICB), and Promotions in excess of ninety (90) Days, all in accordance with FCC and Commission Rules and Regulations. For Contract Service Arrangements, Special Arrangements, or ICBs, the end-user customerEnd-User's agreement with Embarq will terminate and any applicable termination liabilities will be charged to the end-user customerEnd-User. The terms of the Contract Service Arrangement,

Special Arrangement or ICB will apply commencing on the date CLECINTRADO COMM commences to provide service to the ~~end-user~~ customer-End-User and ending on the end date of the Contract Service Arrangement, Special Arrangement or ICB. Embarq will apply the rate in the Contract Service Arrangement, Special Arrangement or ICB in accordance with Section 39.1.

- 39.1.4. Customer Owned Coin Operated Telephone (COCOT) or Pay Telephone Access lines will not be resold to payphone service providers at wholesale prices under this Agreement.
- 39.1.5. For Telecommunications Services that are offered by Embarq to its end users End-Users and that are available for resale, the rules and regulations associated with Embarq's retail Tariff(s) shall apply when the services are resold by CLECINTRADO COMM. Use limitations shall be in Parity with services offered by Embarq to its ~~end-users~~ End-Users.
- 39.1.6. Except as set forth above and as may be allowed by the FCC or Commission, Embarq shall not place conditions or restrictions on CLECINTRADO COMM's resale of wholesale regulated Telecommunications Services, except for restrictions on the resale of residential service to other classifications (e.g., residential service to business customers End-Users) and for promotions of ninety (90) Days or less in length. In addition, CLECINTRADO COMM shall be prohibited from marketing its products using the Embarq product name (e.g., CLECINTRADO COMM may purchase the features package called "Embarq Essential" but shall be prohibited from reselling this product using the Embarq brand name or the Embarq product name). Every regulated retail service rate, including promotions over ninety (90) Days in length, discounts, and option plans will have a corresponding wholesale rate. Embarq will make wholesale Telecommunications Service offerings available for all new regulated services at the same time the retail service becomes available.
- 39.1.7. Voice Mail Service is not a Telecommunications Service available for resale under this Agreement. However, where available, Embarq shall make available for Local Resale the SMDI-E (Station Message Desk Interface-Enhanced), or SMDI (Station Message Desk Interface) where SMDI-E is not available, feature capability allowing for Voice Mail Services. Embarq shall make available the MWI (Message Waiting Indicator) interrupted dial tone and message waiting light feature capabilities where technically available. Embarq shall make available CF-B/DA (Call Forward on Busy/Don't Answer), CF/B (Call Forward on Busy), and CF/DA (Call Forward Don't Answer) feature capabilities allowing for Voice Mail services. Where available, CLECINTRADO COMM may purchase Voice Mail Service and related services for its ~~end-users~~ End-Users at Embarq's retail rates.

- 39.1.8. Hospitality Service. Embarq shall provide all blocking, screening, and all other applicable functions available for hospitality lines under tariff.
- 39.1.9. LIDB Administration
- (a) Embarq shall maintain ~~customer~~End-User information for ~~CLEC customers~~INTRADO COMM End-Users who subscribe to resold Embarq local service dial tone lines, in Embarq's LIDB in the same manner that it maintains information in LIDB for its own similarly situated ~~end-user-subscribers~~End-User. Embarq shall update and maintain the ~~CLEC~~INTRADO COMM information in LIDB on the same schedule that it uses for its own similarly situated ~~end-user-subscribers~~End-User.
 - (b) Until such time as Embarq's LIDB has the software capability to recognize a resold number as ~~CLEC~~INTRADO COMM's, Embarq shall store the resold number in its LIDB at no charge and shall retain revenue for LIDB look-ups to the resold number.
- 39.1.10. Embarq will continue to provide Primary Interexchange Carrier ("PIC") processing for end-users obtaining resold service from ~~CLEC~~INTRADO COMM. Embarq will bill and ~~CLEC~~INTRADO COMM will pay any PIC change charges. Embarq will only accept said requests for PIC changes from ~~CLEC~~INTRADO COMM and not from ~~CLEC's end users~~INTRADO COMM's End-Users.

PART E – UNBUNDLED NETWORK ELEMENTS**40. GENERAL**

40.1. Pursuant to the following terms, Embarq will unbundle and separately price and offer Unbundled Network Elements (“UNEs”). CLECINTRADO COMM shall pay Embarq each month for the UNEs provisioned, and shall pay the non-recurring charges listed in Table One or agreed to by the Parties. It is CLECINTRADO COMM’s obligation to combine Embarq-provided UNEs with any facilities and services that CLECINTRADO COMM may itself provide.

41. USE OF UNBUNDLED NETWORK ELEMENTS

41.1. Embarq shall offer UNEs to CLECINTRADO COMM for the purpose of offering Telecommunications Service to CLEC subscribersINTRADO COMM End-Users. Embarq shall offer UNEs to CLECINTRADO COMM on an unbundled basis on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of this Agreement.

41.2. CLECINTRADO COMM may use one or more UNEs to provide any feature, function, capability, or service option that such UNE(s) is (are) technically capable of providing, except as otherwise limited herein. Except as provided elsewhere in this Agreement, it is CLECINTRADO COMM’s obligation to combine Embarq provided UNEs with any and all facilities and services whether provided by Embarq, CLECINTRADO COMM, or any other party. CLECINTRADO COMM may Commingle UNEs with Wholesale Services or Tariffed access services obtained from Embarq as provided for in this Agreement.

41.3. Each UNE provided by Embarq to CLECINTRADO COMM shall be at Parity with the quality of design, performance, features, functions, capabilities and other characteristics, that Embarq provides to itself, Embarq’s own subscribersEnd-Users, to an Embarq Affiliate or to any other Telecommunications Carrier requesting access to that UNE.

41.4. CLECINTRADO COMM may use Network Elements provided under this Agreement for any Telecommunications Service subject to the conditions listed below. By placing ~~on an~~ order for UNEs, CLECINTRADO COMM certifies that these requirements are met.

41.4.1. Any combination of the following, where both are provided by Embarq, are subject to the EEL use restrictions in Section 53. Such restrictions apply irrespective of the manner in which the loops and transport are combined

- (a) high capacity loops (DS1, DS3), to the extent available, and special access transport (a commingled facility); or

- (b) special access channel terminations (DS1, DS3) and Dedicated Transport (DS1, DS3), to the extent available (a commingled facility), or
 - (c) high capacity loops (DS1, DS3) and Dedicated Transport (DS1, DS3).
- 41.4.2. CLECINTRADO COMM may not order or use a UNE for the exclusive provision of Mobile Wireless Service. Facilities connecting Embarq's network and CMRS carriers' networks do not qualify as UNEs and will not be available to CLECINTRADO COMM as UNEs.
- 41.4.3. CLECINTRADO COMM may not order or use a UNE for the exclusive provision of Interexchange Services (*i.e.*, interLATA or intraLATA long distance). Facilities connecting Embarq's network and interexchange carriers' networks used by the interexchange carrier to exclusively provide such services to ~~end-users~~End-Users do not qualify as UNEs and will not be available to CLECINTRADO COMM as UNE.
- 41.4.4. CLECINTRADO COMM must use any UNE purchased from Embarq for the purpose of providing eligible telecommunications services (not exclusively Mobile Wireless Service or Interexchange Services). CLECINTRADO COMM may use a UNE for the provision of Interexchange Services, Mobile Wireless Service, or Information Services, if CLECINTRADO COMM is also providing an eligible telecommunications service over the same UNE. CLECINTRADO COMM may not order or use a UNE for the sole purpose of selling it to another carrier for the exclusive provision of Mobile Wireless Service or Interexchange Services.
- 41.4.5. An Information Service is not an eligible telecommunications service except that CLECINTRADO COMM can use unbundled loops to provide xDSL services in accordance with this Agreement.

42. BONA FIDE REQUEST PROCESS

- 42.1. Embarq shall promptly consider and analyze CLECINTRADO COMM requests for unbundled Network Elements included in this Agreement that are not currently developed by Embarq, network information that is reasonably required to determine what unbundled Network Elements it needs to serve a particular customer~~End-User~~ or development of and changes to Embarq work processes related to ordering, provisioning or installation of unbundled Network Elements with the submission of a Bona Fide Request ("BFR") hereunder.
- 42.2. A BFR shall be submitted in writing on the Embarq Standard BFR Form and shall include a clear technical description of each request.

- 42.3. CLECINTRADO COMM may cancel a BFR at any time, but shall pay all reasonable and demonstrable costs of processing and/or implementing the BFR up to the date of cancellation.
- 42.4. Within ten (10) Days of its receipt, the Embarq shall acknowledge receipt of the BFR.
- 42.5. Except under extraordinary circumstances, within thirty (30) Days of its receipt of a BFR, the Embarq shall provide to CLECINTRADO COMM a preliminary analysis of such BFR.
- 42.6. Upon receipt of the preliminary analysis, CLECINTRADO COMM shall, within thirty (30) Days, notify Embarq, in writing, of its intent to proceed or not to proceed.
- 42.7. Embarq shall promptly proceed with the BFR upon receipt of written authorization from CLECINTRADO COMM. When it receives such authorization, Embarq shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals.
- 42.8. As soon as feasible, but not more than ninety (90) Days after its receipt of authorization to proceed with developing the BFR, Embarq shall provide to CLECINTRADO COMM a BFR Quote which will include, at a minimum, a description of each service, the availability, the applicable rates and the installation intervals.
- 42.9. Within thirty (30) Days of its receipt of the BFR Quote, CLECINTRADO COMM must either confirm, in writing, its order for the BFR pursuant to the BFR Quote or if a disagreement arises, seek resolution of the dispute under the Dispute Resolution procedures in Part B of this Agreement.
- 42.10. If a Party to a BFR believes that the other Party is not requesting, negotiating or processing the BFR in good faith, or disputes a determination, or price or cost quote, such Party may seek resolution of the dispute pursuant to the Dispute Resolution provisions in Part B of this Agreement.

43. INDIVIDUAL CASE BASIS PRICING

- 43.1. Individual Case Basis (ICB) pricing will be provided by Embarq upon request from the CLECINTRADO COMM for ~~eustomer~~-INTRADO COMM-specific rates or terms for network services and features for UNEs that are not otherwise provided for in this Agreement.
- 43.2. Embarq will process ICB Pricing requests upon receipt from the CLECINTRADO COMM. Embarq will provide CLECINTRADO COMM a price quote within thirty (30) Business Days from the receipt of the request. Price quote intervals may vary depending upon the complexity of the request but shall not exceed thirty (30) Business Days from the receipt of the request.

44. NETWORK INTERFACE DEVICE

- 44.1. Embarq will offer unbundled access to the network interface device element (NID). The NID is defined as any means of interconnection of ~~end-user~~ customerEnd-User premises wiring to an incumbent LEC's distribution plant, such as a cross connect device used for that purpose. This includes all features, functions, and capabilities of the facilities used to connect the loop to ~~end-user~~ customerEnd-User premises wiring, regardless of the specific mechanical design.
- 44.2. The function of the NID is to establish the network demarcation point between a LEC (ILEC/CLECINTRADO COMM) and its ~~subscriber~~ End-User. The NID provides a protective ground connection, protection against lightning and other high voltage surges and is capable of terminating cables such as twisted pair cable.
- 44.3. CLECINTRADO COMM may connect its NID to Embarq's NID; may connect an unbundled loop to CLECINTRADO COMM's NID; or may connect CLECINTRADO COMM's own Loop to Embarq's NID, except that CLECINTRADO COMM may not disconnect Embarq's loop and leave it disconnected from Embarq's NID. Embarq will provide one NID termination with each loop. If additional NID terminations are required, CLECINTRADO COMM may request them pursuant to the process detailed in the Bona Fide Request Section herein.
- 44.4. Embarq will provide CLECINTRADO COMM with information that will enable their technician to locate ~~end-user~~ End-User inside wiring at NIDs terminating multiple ~~subscribers~~ End-Users. Embarq will dispatch a technician and tag the wiring at the CLECINTRADO COMM's request. In such cases the charges specified in Table One will apply.
- 44.5. Embarq will not provide specialized (Embarq non-standard) NIDS.
- 44.6. The Embarq NID shall provide a clean, accessible point of connection for the inside wiring and for the distribution media and/or cross connect to CLECINTRADO COMM's NID and shall maintain a connection to ground that meets applicable industry standards. Each Party shall ground its NID independently of the other ~~party~~ Party's NID.
- 44.7. When requested, Embarq will provide NIDs separately from loops for a separate price as shown in Table One. A NID will be provided with each unbundled loop and is included in the loop pricing shown in Table One.

45. LOOP

- 45.1. Embarq will provide CLECINTRADO COMM access to Local Loops, including Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops. The following section includes the terms and conditions for Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops.

Terms and conditions for making any network modifications resulting from CLECINTRADO COMM's request for Local Loops are contained in Section 54.

- 45.2. At CLECINTRADO COMM's request, and if Technically Feasible, Embarq will test and report trouble on conditioned loops for all of the line's features, functions, and capabilities, and will not restrict its testing to voice-transmission only. Testing shall include Basic Testing and Cooperative Testing. Optional Cooperative Testing and Joint Testing are performed only at CLECINTRADO COMM's request. To the extent CLECINTRADO COMM requests testing that would require Embarq to purchase new equipment, establish new procedures, or make systems modifications, CLECINTRADO COMM will compensate Embarq for costs incurred to provide such testing. Request for additional testing must be submitted pursuant to the BFR Process in Section 42.
- 45.2.1. Basic Testing shall include simple metallic measurements only. Basic Testing does not include cooperative or joint testing efforts that require Embarq's technician to work jointly with CLECINTRADO COMM's staff ("Cooperative Testing" or "Joint Testing").
- 45.2.2. Cooperative testingTesting is provided on service order activity only and will be provided by Embarq at CLECINTRADO COMM's expense. Embarq technicians will try to contact CLECINTRADO COMM's representative at the conclusion of installation. If the CLECINTRADO COMM does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLECINTRADO COMM's representative, and bill the CLECINTRADO COMM in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLECINTRADO COMM will be charged for the test and any additional technician time involved.
- 45.2.3. Joint Testing is provided on maintenance activity only and will be provided by Embarq at CLECINTRADO COMM's expense, when requested. Embarq technicians will try to contact CLECINTRADO COMM's representative to initiate Joint Testing after completing the requested activity. If the CLECINTRADO COMM does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLECINTRADO COMM's representative, and bill the CLECINTRADO COMM in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLECINTRADO COMM will be charged for the test and any additional technician time involved. Loops involving multiplexing prohibit the reading of a short.
- 45.2.4. Embarq will charge CLECINTRADO COMM at the rates set out on Table One, when the location of the trouble on a CLECINTRADO COMM-reported ticket is determined to be in CLECINTRADO

COMM's network or on the ~~CLEC-end-user~~INTRADO COMM End-User's side of the Demarcation Point.

45.3. Analog Loop Capabilities

- 45.3.1. Analog loops facilitate the transmission of voice grade signals in the 300-3000 Hz range and terminate in a 2-wire or 4-wire electrical interface at the CLECINTRADO COMM's end-userEnd-User's premises. CLECINTRADO COMM shall not install equipment on analog Loops that exceeds the specified bandwidth.
- 45.3.2. Embarq will provide analog Loops as Copper Loops, Hybrid Loops, and where required, FTTH Loops and FTTC Loops, based on available facilities.

45.4. Digital Loops

- 45.4.1. Embarq will provide digital Loops on the basis of the service that will be provisioned over the Loop. Digital Loops are Copper Loops over which CLECINTRADO COMM may deploy advanced services. Deployment of advanced services over digital loops by CLECINTRADO COMM will be consistent with the terms and conditions contained in Section 45.8. On digital Loops, Embarq will only provide electrical continuity and line balance.
- 45.4.2. Embarq shall employ industry accepted standards and practices to maximize binder group efficiency through analyzing the interference potential of each loop in a binder group, assigning an aggregate interference limit to the binder group, and then adding loops to the binder group until that limit is met. Disputes regarding the standards and practices employed in this regard shall be resolved through the Dispute Resolution Process set forth in Part B of this Agreement.
- 45.4.3. Reverse ADSL Loops. If a CLECINTRADO COMM's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the ~~subscriber~~End-User, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to ADSL transmission only and not part of Embarq's regular feeder or distribution plant.

45.5. Non-Standard Digital Loops

- 45.5.1. If CLECINTRADO COMM requests a digital Loop, for which the effective loop length exceeds the xDSL standard of 18 kft (subject to gauge design used in an area), Embarq will only provide a Non-Standard Digital Loop. Additional non-recurring charges for conditioning will apply. Non-Standard Digital Loops will not be subject to performance

measurements or technical specifications, however, all of the SMC requirements set forth in Section 45.4 are applicable.

45.6. DS1 Loops

- 45.6.1. Subject to the cap in Section 45.6.2, Embarq will provide ~~CLECINTRADO COMM~~ nondiscriminatory access to a DS1 Loop on an unbundled basis to any building not served by a Wire Center with at least 60,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS1 loop unbundling will be required in that ~~wire-center~~ Wire Center. DS1 ~~loops~~ Loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.
- 45.6.2. ~~CLECINTRADO COMM~~ may obtain a maximum of ten unbundled DS1 ~~loops~~ Loops to any single building in which DS1 ~~loops~~ Loops are available as unbundled loops.
- 45.6.3. Where Embarq is not required to provide unbundled DS1 ~~loops~~ Loops pursuant to Sections 45.6.1 and 45.6.2, ~~CLECINTRADO COMM~~ may not obtain new DS1 ~~loops~~ Loops as UNEs.
- 45.6.4. Any DS1 ~~loops~~ Loops that ~~CLECINTRADO COMM~~ previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.6.1 and 45.6.2, are subject to the following:
 - (a) Such DS1 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLECINTRADO COMM~~ fails to submit the necessary orders to convert the DS1 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Loops to comparable access services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of ~~CLECINTRADO COMM~~.
 - (b) Any service provided to ~~CLECINTRADO COMM~~ by Embarq after 03/10/06 over DS1 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such facilities
 - (c) Any service provided to ~~CLECINTRADO COMM~~ by Embarq between 03/11/05 and 03/10/06 over such DS1 Loops that ~~CLECINTRADO COMM~~ placed in service prior to 03/11/05 shall

be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.

45.6.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the DS1 Loop threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS1 ~~loops~~Loops for the identified ~~wire-centers~~Wire Centers after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a ~~wire-center~~Wire Center designation and the dispute was resolved by the Commission, the ~~parties~~Parties will abide by the Commission's decision. Any DS1 ~~loops~~Loops leased from Embarq within an identified Wire Center on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

(a) CLECINTRADO COMM must submit the necessary orders to convert such DS1 Loops to an alternative service arrangement within six (6) months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned the UNEs to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders before the end of the six (6) month period, Embarq will convert the DS1 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

45.7. DS3 Loops

45.7.1. Subject to the cap described in Section 45.7.2, Embarq shall provide CLECINTRADO COMM with nondiscriminatory access to a DS3 ~~loop~~Loop on an unbundled basis to any building not served by a Wire Center with at least 38,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS3 ~~loop~~Loop unbundling will be required in that Wire Center. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.

45.7.2. CLECINTRADO COMM may obtain a maximum of a single unbundled DS3 ~~loop~~Loop to any single building in which DS3 ~~loops~~Loops are available as unbundled loops.

- 45.7.3. Where Embarq is not required to provide unbundled DS3 ~~loops~~Loops pursuant to Sections 45.7.1 and 45.7.2, CLECINTRADO COMM may not obtain new DS3 ~~loops~~Loops as UNEs.
- 45.7.4. Any DS3 ~~loop~~Loop UNEs that CLECINTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.7.1 and 45.7.2, are subject to the following:
- (a) Such DS3 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert the DS3 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - (b) Any service provided to CLECINTRADO COMM by Embarq after 03/10/06 over DS3 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such facilities.
 - (c) Any service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 over such DS3 Loops that CLECINTRADO COMM placed in service prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.
- 45.7.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS3 ~~loops~~Loops for the identified wire-centersWire Centers after 90 Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a wire centerWire Center designation and the dispute was resolved by the Commission, the partiesParties will abide by the Commission's decision. Any DS3 ~~loops~~Loops leased from Embarq on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.
- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS3 Loops to an alternative service arrangement within six months of the above notice date. By the end of the six

month period, CLECINTRADO COMM must have transitioned the UNEs to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders by the end of the six (6) month period, Embarq will convert the DS3 Loops to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

45.8. Adherence to National Industry Standards

- 45.8.1. In providing advanced service loop technology, Embarq shall allow CLECINTRADO COMM to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.
- 45.8.2. Until long term industry standards and practices can be established, a particular technology shall be presumed acceptable for deployment under certain circumstances. Deployment that is consistent with at least one of the following circumstances presumes that such loop technology will not significantly degrade the performance of other advanced services or impair traditional analog circuit-switched voice band services:
 - (a) Complies with existing industry standards, including an industry-standard PSD mask, as well as modulation schemes and electrical characteristics;
 - (b) Is approved by an industry standards body, the FCC, or any state commission or;
 - (c) Has been successfully deployed by any CLECINTRADO COMM without significantly degrading the performance of other services.
- 45.8.3. Where CLECINTRADO COMM seeks to establish that deployment of a technology falls within the presumption of acceptability under Section 45.8.2, the burden is on CLECINTRADO COMM to demonstrate to the Commission that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services.
- 45.8.4. If a deployed technology significantly degrades other advanced services, the affected Party will notify the interfering partyParty and give them a reasonable opportunity to correct the problem. The interfering Party will immediately stop any new deployment until the problem is resolved to mitigate disruption of other carrier services. If the affected partiesParties are unable to resolve the problem, they will present factual evidence to the Commission for review and determination. If the

Commission determines that the deployed technology is the cause of the interference, the deploying ~~party~~Party will remedy the problem by reducing the number of existing ~~eustomers~~End-Users utilizing the technology or by migrating them to another technology that does not disturb.

- 45.8.5. When the only degraded service itself is a known disturber and the newly deployed technology is presumed acceptable pursuant to Section 45.8.2, the degraded service shall not prevail against the newly deployed technology.
- 45.8.6. If Embarq denies a request by CLECINTRADO COMM to deploy a technology, it will provide detailed, specific information providing the reasons for the rejection.
- 45.8.7. Parties agree to abide by national standards as developed by ANSI, i.e., Committee T1E1.4 group defining standards for loop technology. At the time the deployed technology is standardized by ANSI or the recognized standards body, the CLECINTRADO COMM will upgrade its equipment to the adopted standard within sixty (60) Days of the standard being adopted.
- 45.8.8. CLECINTRADO COMM shall meet the power spectral density requirement given in the respective technical references listed below:
 - (a) For Basic Rate ISDN: Telcordia TR-NWT-000393 Generic Requirements for ISDN Basic Access Digital Subscriber Lines.
 - (b) For HDSL installations: Telcordia TA-NWT-001210 Generic Requirements for High-Bit-Rate Digital Subscriber Lines. Some fractional T1 derived products operating at 768 kbps may use the same standard.
 - (c) For ADSL: ANSI T1.413-1998 (Issue 2 and subsequent revisions) Asymmetrical Digital Subscriber Line (ADSL) Metallic Interface.
 - (d) As an alternative to Section 45.8.8, CLECINTRADO COMM may meet the requirements given in ANSI document T1E1.4/2000-002R2 dated May 1, 2000. "Working Draft of Spectrum Management Standard" and subsequent revisions of this document.
- 45.9. Information to be Provided for Deployment of Advanced Services
 - 45.9.1. Upon request, Embarq shall provide to CLECINTRADO COMM:
 - (a) information with respect to the spectrum management procedures and policies that Embarq uses in determining which services can be deployed;

- (b) information with respect to the rejection of CLECINTRADO COMM's provision of advanced services, together with the specific reason for the rejection; and
- (c) information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops.

45.9.2. In connection with the provision of advanced services, CLECINTRADO COMM shall provide to Embarq the following information on the type of technology that CLECINTRADO COMM seeks to deploy where CLECINTRADO COMM asserts that the technology it seeks to deploy fits within a generic Power Spectral Density (PSD) mask:

- (a) information in writing (via the service order) regarding the Spectrum Management Class (SMC), as defined in the TIE1.4/2000-002R2 Draft, of the desired loop so that the loop and/or binder group may be engineered to meet the appropriate spectrum compatibility requirements;
- (b) the SMC (*i.e.*, PSD mask) of the service it seeks to deploy, at the time of ordering and if CLECINTRADO COMM requires a change in the SMC of a particular loop, CLECINTRADO COMM shall notify Embarq in writing of the requested change in SMC (via a service order);
- (c) to the extent not previously provided CLECINTRADO COMM must disclose to Embarq every SMC that the CLECINTRADO COMM has implemented on Embarq's facilities to permit effective Spectrum Management.

45.10. Hybrid Loops. Embarq will provide CLECINTRADO COMM access to Hybrid Loops for the provision of narrowband services as provided below. Embarq is not required to provide unbundled access to the packet switched features, functions, and capabilities of its Hybrid Loops.

45.10.1. When CLECINTRADO COMM requests access to a Hybrid Loop for the provision of narrowband services, Embarq will

- (a) Provide non-discriminatory unbundled access to the entire Hybrid Loop capable of providing voice-grade service (*i.e.*, equivalent to DS0 capacity) using time division multiplexing, or
- (b) Provide non-discriminatory unbundled access to a spare Copper Loop serving that end-user.

45.11. Fiber Loops

45.11.1. Dark Fiber Loops

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq that has not been activated through connections to optronics that light it, and thereby render it capable of carrying communications.
- (b) Embarq is not required to provide CLECINTRADO COMM with access to Drk Fiber Loop on an unbundled basis.
- (c) Any Dark Fiber Loop that CLECINTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.11 shall be subject to the following:
 - (i) Such Dark Fiber Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert such Dark Fiber Loops to an alternative service arrangement within such thirty (30) Day period, Embarq will have the right to disconnect such Dark Fiber Loops.
 - (ii) Any service provided by Embarq to CLECINTRADO COMM over Dark Fiber Loops between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber Loops immediately prior to that period, and any service provided by Embarq to CLECINTRADO COMM over Dark Fiber Loops after 09/05/06 and prior to such conversion or disconnection shall be billed at applicable rates for comparable access services based on the capacity of the electronics deployed by the CLECINTRADO COMM in connection with such Dark Fiber Loops.

45.12. FTTH and FTTC Fiber Loops

- 45.12.1. New builds. Embarq will not provide non-discriminatory access to FTTH Loop or a FTTC Loop on an unbundled basis when Embarq has deployed a FTTH or FTTC Loop to an ~~end-user-customer~~End-User premise that previously has not been served by any loop facility.
- 45.12.2. Overbuilds. Embarq will not provide non-discriminatory access to FTTH Loop or FTTC Loop on an unbundled basis when Embarq has deployed a FTTH Loop or FTTC Loop parallel to, or in replacement of, an existing loop facility, except that:
 - (a) Embarq will maintain the existing Copper Loop connected to a particular ~~eustomer~~End-User premises after deploying FTTH Loop or FTTC Loop and provide non-discriminatory access to the

Copper Loop on an unbundled basis unless Embarq has retired the Copper Loop as set forth below.

- (b) If Embarq deploys FTTH Loop or FTTC Loop and maintains the existing Copper Loop, Embarq will restore the Copper Loop to serviceable condition upon request and at CLECINTRADO COMM's expense.
- (c) If Embarq deploys FTTH Loop or FTTC Loop and retires the existing Copper Loop, Embarq will provide non-discriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the FTTH Loop or FTTC Loop.
- (d) Prior to retiring Copper Loop or copper subloop that has been replaced with FTTH Loop or FTTC Loop Embarq will comply with the notice requirements set forth in 251(c)(5) of the Act, §§ 51.325 through 51.335 of the Code of Federal Regulations and applicable Commission requirements, if any.

45.13. Tag and Label. At CLECINTRADO COMM's request, Embarq will tag and label unbundled loops at the Network Interface Device (NID). Tag and label may be ordered simultaneously with the ordering of the Loop or as a separate service subsequent to the ordering of the Loop.

- 45.13.1. Embarq will include the following information on the label: order number, due date, CLECINTRADO COMM name, and the circuit number.
- 45.13.2. CLECINTRADO COMM must specify on the order form whether each Loop should be tagged and labeled.
- 45.13.3. The rates for Loop tag and label and related services are set forth on Table One. A trip charge may be billed in addition to the Tag and Label charges.

46. SUBLOOPS

- 46.1. Embarq will offer unbundled access to copper subloops and subloops for access to multiunit premises wiring. Embarq will consider all requests for access to subloops through the ICB process due to the wide variety of interconnections available and the lack of standards. A written response will be provided to CLECINTRADO COMM covering the interconnection time intervals, prices and other information based on the ICB process as set forth in this Agreement.
- 46.2. Embarq is not required to provide CLECINTRADO COMM access to dark fiber subloops.
- 46.3. Copper Subloops. Embarq will make available access to copper subloops on an unbundled basis. A copper subloop is a portion of a Copper Loop, or Hybrid Loop, and is comprised entirely of copper wire or copper cable that acts as a

transmission facility between any accessible terminal in Embarq's outside plant, including inside wire owned or controlled by Embarq, and the ~~end-user customer~~End-User premises. A copper subloop can also include intermediate devices, such as repeaters, used to establish the transmission path. Copper subloops can be used by CLECINTRADO COMM to provide voice-grade services as well as digital subscriber line services. Access to copper subloops is subject to the collocation provisions of this Agreement. Copper subloop consists of the distribution portion of the Copper Loop. Embarq is not obligated to offer feeder loop plant as a stand-alone UNE.

- 46.3.1. An accessible terminal is any point on the loop where technicians can access a copper wire within the cable without removing a splice case. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, and the feeder/distribution interface.
- 46.4. Multiunit premises wiring. Embarq will make available to CLECINTRADO COMM access to subloops for access to multiunit premises wiring on an unbundled basis. The subloop for access to multiunit premises wiring is defined as any portion of the loop that it is technically feasible to access at a terminal in the incumbent LEC's outside plant at or near a multiunit premises, including inside wire. Inside wire is wire owned or controlled by Embarq at a multiunit customer~~End-User~~End-User premises between the minimum point of entry and the point of demarcation.
 - 46.4.1. An accessible terminal is any point in Embarq's network where a technician can access the wire within the cable (e.g., via screw posts, terminals, patch panels) without removing a splice case to reach the wire within to access the wiring in the multiunit premises. Such points include, but are not limited to, a pole or pedestal, the NID, the minimum point of entry, the single point of interconnection, and the feeder/distribution interface.
 - 46.4.2. Upon request for interconnection at a multiunit premises where Embarq owns, controls, or leases wiring, Embarq will provide a single point of interconnection that is suitable for use by multiple carriers. If the Parties do not agree on appropriate terms, conditions and rates for the single point of interconnection to multiunit premises wiring either Party may invoke the Dispute Resolution provisions of this Agreement.
- 46.5. Embarq will not provide or maintain inside wire in situations where it determines there are health or safety concerns in doing so.
- 46.6. Deployment of advanced services by CLECINTRADO COMM over subloops will be in accordance with the terms included in Section 45.8 and Section 45.9.

- 46.7. Reverse ADSL Loops. If a CLECINTRADO COMM's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the subscriberEnd-User, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to ADSL transmission only and not part of Embarq's regular feeder or distribution plant.

47. OPERATIONS SUPPORT SYSTEMS (OSS)

- 47.1. Embarq will offer unbundled access to Embarq's operations support systems to the extent technically feasible in a non-discriminatory manner at Parity. OSS consists of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by Embarq's databases and information. The OSS element includes access to all loop qualification information contained in Embarq's databases or other records, including information on whether a particular loop is capable of providing advanced services.

48. LOOP MAKE-UP INFORMATION

- 48.1. Embarq shall make available Loop Make-Up Information in a non-discriminatory manner at Parity with the data and access it gives itself and other CLECsINTRADO COMMs, including affiliates. The charges for Loop Make-Up Information are set forth in Table One to this Agreement.
- 48.2. Information provided to the CLECINTRADO COMM will not be filtered or digested in a manner that would affect the CLECINTRADO COMM's ability to qualify the loop for advanced services.
- 48.3. Embarq shall provide Loop Make-Up Information based on the individual telephone number or address of an end-user in a particular wire-centerWire Center or NXX code. Loop Make-Up Information requests will be rejected if the service address is not found within existing serving address information, if the telephone number provided is not a working number or if the POI identified is not a POI where the requesting CLECINTRADO COMM connects to the Embarq LTD network.
- 48.4. Errors identified in validation of the Loop Make-Up Information inquiry order will be returned to the CLECINTRADO COMM.
- 48.5. Embarq may provide the requested Loop Make-Up Information to the CLECsINTRADO COMMs in whatever manner Embarq would provide to their own internal personnel, without jeopardizing the integrity of proprietary information (*i.e.*, fax, intranet inquiry, document delivery, etc.). If the data is provided via fax, CLECINTRADO COMM must provide a unique fax number used solely for the receipt of Loop Make-Up Information.
- 48.6. If CLECINTRADO COMM does not order Loop Make-Up Information prior to placing an order for a loop for the purpose of provisioning of an advanced service

and the advanced service cannot be successfully implemented on that loop, CLECINTRADO COMM agrees that:

- 48.6.1. CLECINTRADO COMM will be charged a Trouble Isolation Charge to determine the cause of the failure;
- 48.6.2. If Embarq undertakes Loop Make-Up Information activity to determine the reason for such failure, CLECINTRADO COMM will be charged a Loop Make-Up Information Charge; and
- 48.6.3. If Embarq undertakes Conditioning activity for a particular loop to provide for the successful installation of advanced services, CLECINTRADO COMM will pay applicable conditioning charges as set forth in Table One pursuant to Section 54.3 of this Agreement.

49. LOCAL CIRCUIT SWITCHING

- 49.1. Embarq is not required to provide access to local circuit switching on an unbundled basis.
- 49.2. Any local circuit switching element that CLECINTRADO COMM previously obtained from Embarq on an unbundled basis, including local circuit switching previously provided as part of UNE-P, shall be subject to the following:
 - 49.2.1. Such local circuit switching must be converted to an alternative arrangement within thirty (30) Days after the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert and complete the transition of such local circuit switching element to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert such local circuit switching to comparable Wholesale Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - 49.2.2. Any local circuit switching, including local circuit switching provided by Embarq to CLECINTRADO COMM as part of UNE-P between 03/11/05 and 03/10/06 shall be subject to billing by Embarq at the transition rates established by the FCC, and any local circuit switching, including local circuit switching provided by Embarq to CLECINTRADO COMM as part of UNE-P after 03/10/06 shall be subject to billing at the rates charged by Embarq to CLECsINTRADO COMMs for such service under separate commercial agreements.

50. DEDICATED TRANSPORT

- 50.1. Embarq shall provide CLECINTRADO COMM with nondiscriminatory access to dedicated transport on an unbundled basis, as set forth in this Agreement. A "route" is a transmission path between one of Embarq's Wire Centers or switches

and another of Embarq's Wire Centers or switches. A route between two points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") may pass through one or more intermediate ~~wire-centers~~ Wire Centers or switches (e.g., Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Wire Centers or switches, if any.

- 50.1.1. Embarq is not obligated to provide a requesting carrier with unbundled access to dedicated transport that does not connect a pair of Embarq Wire Centers (*i.e.*, entrance facilities). Further, Embarq is not obligated to provide DSO or OC-N and above Dedicated Transport facilities as a UNE.
- 50.2. Dedicated DS1 transport shall be made available to ~~CLECINTRADO COMM~~ on an unbundled basis as set forth below. Dedicated DS1 transport consists of Embarq interoffice transmission facilities that have a total digital signal speed of 1.544 megabytes per second and are dedicated to a particular ~~eustomer~~ End-User or carrier.
 - 50.2.1. Embarq shall unbundle DS1 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in Part A, both ~~wire-centers~~ Wire Centers defining the route are Tier 1 Wire Centers. As such, Embarq will unbundle DS1 transport if a Wire Center at either end of a requested route is *not* a Tier 1 Wire Center, or if *neither* is a Tier 1 Wire Center.
 - 50.2.2. ~~CLECINTRADO COMM~~ may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.
 - 50.2.3. Where Embarq is not required to provide unbundled DS1 transport pursuant Sections 50.2.1 and 50.2.2, ~~CLECINTRADO COMM~~ may not obtain new DS1 transport as unbundled Network Elements.
 - 50.2.4. Any DS1 dedicated transport that ~~CLECINTRADO COMM~~ previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 50.2.1 and 50.2.2, shall be subject to the following:
 - (a) Such DS1 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLECINTRADO COMM~~ fails to submit the necessary orders to convert and complete the transition of such DS1 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion

charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

- (b) Any DS1 dedicated transport service provided to CLECINTRADO COMM by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such transport.
- (c) Any DS1 dedicated transport service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 that CLECINTRADO COMM ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.

50.2.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS1 Dedicated Transport circuit threshold for a route, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS1 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties~~Parties~~ will abide by the Commission's decision. Any DS1 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS1 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders within the six month period, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.3. Dedicated DS3 transport shall be made available to CLECINTRADO COMM on an unbundled basis as set forth below. Dedicated DS3 transport consists of

Embarq interoffice transmission facilities that have a total digital signal speed of 44.736 megabytes per second and are dedicated to a particular ~~customer~~End-User or carrier.

- 50.3.1. Embarq shall unbundle DS3 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in this Agreement, both Wire Centers defining the route are either Tier 1 or Tier 2 ~~wire-centers~~Wire Centers. As such, Embarq will unbundle DS3 transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.
- 50.3.2. ~~CLECINTRADO COMM~~ may obtain a maximum of twelve unbundled DS3 dedicated transport circuits on each route where DS3 dedicated transport is available on an unbundled basis.
- 50.3.3. Where Embarq is not required to provide unbundled DS3 transport pursuant to Sections 50.3.1 and 50.3.2, ~~CLECINTRADO COMM~~ may not obtain new DS3 transport as unbundled Network Elements.
- 50.3.4. Any DS3 dedicated transport UNE that ~~CLECINTRADO COMM~~ previously leased from Embarq as of 03/11/05 but which Embarq is not obligated to unbundle pursuant to Sections 50.3.1 and 50.3.2, shall be subject to the following:
 - (a) Such DS3 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLECINTRADO COMM~~ fails to convert and complete the transition of such DS3 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Dedicated Transport to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of ~~CLECINTRADO COMM~~.
 - (b) Any DS3 dedicated transport service provided to ~~CLECINTRADO COMM~~ by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such transport.
 - (c) Any DS3 dedicated transport service provided to ~~CLECINTRADO COMM~~ by Embarq between 03/11/05 and 03/10/06 that ~~CLECINTRADO COMM~~ ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.

50.3.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS3 Dedicated Transport circuit threshold for a route, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS3 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the ~~parties~~Parties will abide by the Commission's decision. Any DS3 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS3 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders before the end of six (6) month period, Embarq will convert the DS3 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.4. Technical Requirements for DS1 and DS3 Dedicated Transport

50.4.1. Where technologically feasible and available, Embarq shall offer Dedicated Transport consistent with the underlying technology as follows:

- (a) When Embarq provides Dedicated Transport, the entire designated transmission circuit (*e.g.*, DS1, DS3) shall be dedicated to CLECINTRADO COMM designated traffic.
- (b) Where Embarq has technology available, Embarq shall provide Dedicated Transport using currently available technologies including, but not limited to, DS1 and DS3 transport systems, SONET (or SDS) Bi-directional Line Switched Rings, SONET (or SDH) Unidirectional Path Switched Rings, and SONEfT (or SDS) point-to-point transport systems (including linear add-drop systems), at all available transmission bit rates.

50.5. Dedicated Dark Fiber Transport

50.5.1. General Rules and Definition

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq, that has not been activated through connections to optronics that light it, and thereby render it capable of carrying communications.
- (b) Embarq will unbundle Dark Fiber for Dedicated Transport as set forth in this Agreement and as follows:
 - (i) Embarq shall unbundle dark fiber transport between any pair of Embarq Wire Centers except where both wire centers Wire Centers defining the route are either Tier 1 or Tier 2 Wire Centers. Embarq will unbundle dark fiber transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.
 - (ii) Where Embarq is not required to provide unbundled dark fiber transport, CLECINTRADO COMM may not obtain new dark fiber transport as a UNE.
 - (iii) Any Dark Fiber transport that CLECINTRADO COMM previously leased from Embarq, but which Embarq is no longer obligated to unbundle pursuant to Section 50.5 shall be subject to the following:
 - (A) Such Dark Fiber transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert such Dark Fiber transport to an alternative arrangement within such thirty (30) Day period , Embarq will have the right to terminate and disconnect the Dark Fiber transport.
 - (B) Any Dark Fiber transport service provided by Embarq to CLECINTRADO COMM between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber transport immediately prior to that period, and any Dark Fiber transport service provided by Embarq to CLECINTRADO COMM after 09/05/06 and prior to such conversion or termination shall be billed at applicable rates for comparable access services, based on the capacity of the electronics deployed in connection with such Dark Fiber transit.
- (c) If Embarq identifies routes in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice

provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new Dark Fiber Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the ~~parties~~Parties will abide by the Commission's decision. Any Dark Fiber Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (i) CLECINTRADO COMM must submit the necessary orders to convert such dark fiber dedicated transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders, Embarq will convert the Dark Fiber Dedicated Transport to comparable Access Services, if available, or disconnect the Dark Fiber facilities. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.5.2. Fiber Availability

- (a) Spare fibers in a sheath are not considered available if Embarq has plans to put the fiber in use within the current year or the following year.
- (b) Embarq will also maintain fibers to facilitate maintenance, rearrangements and changes. Embarq will generally reserve eight percent (8%) of fibers in a sheath for maintenance, subject to a minimum of four (4) fibers and a maximum of twelve (12) fibers.
- (c) Dark fiber requests will be handled on a first come, first served basis, based on the date the Dark Fiber Application (DFA) is received.

50.5.3. Interconnection Arrangements

- (a) Rules for gaining access to unbundled network elements apply to Dark Fiber. Virtual and physical collocation arrangements may

be used by CLECINTRADO COMM to locate the optical electronic equipment necessary to "light" leased Dark Fiber.

- (b) The CLECINTRADO COMM that requests Dark Fiber must be able to connect to the Embarq fiber by means of fiber patch panel.
- (c) If fiber patch panels (FPPs) are not located within close enough proximity for a fiber patch cord, CLECINTRADO COMM must submit an ICB request for the purchase and installation of intraoffice cabling.
- (d) Establishment of applicable fiber optic transmission equipment or intermediate repeaters needed to power the unbundled Dark Fiber in order to carry Telecommunications Services is the responsibility of the CLECINTRADO COMM.

50.5.4. Dark Fiber Application and Ordering Procedure

- (a) CLECINTRADO COMM will submit a Dark Fiber Application (DFA) and application fee to request that Embarq determine the availability of Dark Fiber between the CLECINTRADO COMM-specified locations. See Table One for application fee amount.
- (b) Within twenty (20) Business Days of receipt of DFA, Embarq will provide CLECINTRADO COMM with a response regarding fiber availability and price.
 - (i) If Dark Fiber is not available, Embarq will notify CLECINTRADO COMM of the DFA rejection.
 - (ii) CLECINTRADO COMM will follow the Dispute Resolution Process provided in this Agreement if CLECINTRADO COMM wishes to contest the rejection.
- (c) If Dark Fiber is available, CLECINTRADO COMM will notify Embarq of acceptance/rejection of Dark Fiber quote, via a firm order, within ten (10) Business Days of receipt of quote. Embarq will reserve the requested Dark Fiber for the CLECINTRADO COMM during these ten (10) Business Days. If, however, CLECINTRADO COMM does not submit a firm order by the tenth (10th) business day, the fiber will no longer be reserved.
- (d) After ten (10) Business Days of receipt of the price quote, if CLECINTRADO COMM has not accepted, CLECINTRADO COMM must submit another DFA and application fee.
- (e) The CLECINTRADO COMM will submit a firm order for Dark Fiber via an access service request (ASR).

- (f) By submitting the Dark Fiber firm order, the CLECINTRADO COMM agrees to pay quoted monthly recurring and non-recurring charges. See Table One for monthly recurring and non-recurring charges.
- (g) Due Date. Embarq will provision Dark Fiber twenty (20) Business Days after it receives firm order from CLECINTRADO COMM. Billing of the monthly recurring and non-recurring charges will begin upon completion of Dark Fiber order. Embarq will allow CLECINTRADO COMM to extend due date for firm order completion up to sixty (60) Business Days from the date Embarq receives firm order from CLECINTRADO COMM. This extended due date must be specified on the firm order.
- (i) Billing of the monthly recurring and non-recurring charges will begin on the due date of the Dark Fiber order completion unless:
 - (A) CLECINTRADO COMM cancels firm order before the established due date. If this occurs, CLECINTRADO COMM agrees to reimburse Embarq for all costs incurred to date; or
 - (B) a third party submits firm order for same Dark Fiber. If this occurs, CLECINTRADO COMM must begin compensating Embarq for monthly recurring and non-recurring charges in order to reserve fiber, once Embarq is able to provide Dark Fiber to CLECINTRADO COMM.

50.5.5. Maintenance and Testing

- (a) Embarq is only responsible for maintaining the facilities that it owns.
- (b) Embarq will conduct an end-to-end test of Dark Fiber after receipt of the firm order.
- (c) For meet point arrangements, Embarq will conduct cooperative testing with another carrier at CLECINTRADO COMM's request. Additional rates and charges will apply.
- (d) Embarq does not guarantee that the transmission characteristics of the Dark Fiber will remain unchanged over time.
- (e) Embarq is not responsible for determining whether the transmission characteristics of the Dark Fiber will accommodate the CLECINTRADO COMM requirements.

50.5.6. Rules for Take Back

- (a) Embarq reserves the right to take back Dark Fiber to meet its carrier of last resort obligations.
- (b) Embarq will provide CLECINTRADO COMM twelve (12) months written notice prior to taking back fiber.
- (c) If multiple CLECsINTRADO COMMs have leased fiber within a single sheath, Embarq will take back the fiber that was the last to be leased.
- (d) Embarq will provide the CLECINTRADO COMM with alternative transport arrangements when Embarq takes back working fiber.
- (e) The Dispute Resolution Procedures found in this Agreement will be followed if CLECINTRADO COMM wishes to contest Embarq's decision to take back its leased fiber.

51. COMMINGLING

51.1. For the purpose of this Section, wholesale services includes both services CLECINTRADO COMM procures for resale pursuant to 251(c)(4) and exchange access service purchased from Embarq's access Tariffs.

51.2. CLECINTRADO COMM may Commingle an unbundled network element or combination of UNEs with wholesale services purchased from Embarq, subject to Section ~~53.5.4.53.5.3~~. Upon request, Embarq will perform the work necessary to Commingle such UNE or UNE combinations with wholesale services purchased from Embarq subject to Section 42. CLEC42 INTRADO COMM will compensate Embarq the costs of work performed to Commingle UNEs or UNE combinations with wholesale services. Each component of the commingled facility, either UNE or wholesale service, will be billed at the UNE or wholesale service rate for that component, plus applicable non-recurring charges. Embarq will not ratchet price individual components; that is, Embarq will not reflect a combination of UNE and wholesale rates for the same component. Wholesale service rates will be per the appropriate Tariff, including any applicable resale discounts pursuant to this Agreement.

52. LINE SPLITTING

52.1. Line Splitting

52.1.1. Line Splitting is an arrangement between two carriers where one carrier provides the voice services and another carrier provides advanced services over an unbundled loop.

- 52.1.2. Whenever CLECINTRADO COMM purchases the unbundled loop, CLECINTRADO COMM shall control the entire loop spectrum.
- 52.1.3. Embarq shall institute procedures to allow CLECINTRADO COMM or another carrier to order HFS data capabilities on a UNE loop.
- 52.2. When either CLECINTRADO COMM or the other carrier orders Line Splitting using CLECINTRADO COMM's OCN, CLECINTRADO COMM will be billed the charges for the Line Splitting service. When the other carrier orders Line Splitting using its own OCN, Embarq will bill the other carrier for the Line Splitting charges.

53. UNE COMBINATIONS

- 53.1. CLECINTRADO COMM may order UNEs either individually or in the combinations, including EEL as specifically set forth in this Section of the Agreement.
- 53.2. General Terms and Conditions
 - 53.2.1. Embarq will allow CLECINTRADO COMM to order each UNE individually in order to permit CLECINTRADO COMM to combine UNEs with other UNEs obtained from Embarq as provided for in this Agreement, or with network components provided by itself or by third parties to provide Telecommunications Services to its ~~end-users~~End-Users, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled network elements or to interconnect with Embarq's network or in combination with any other Network Elements that are currently combined in Embarq's Network. Upon request, Embarq will perform the functions necessary to combine UNEs, even if those elements are not ordinarily combined in Embarq's network, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled Network Elements or to interconnect with Embarq's network. CLECINTRADO COMM will compensate Embarq the costs of work performed to combine the requested UNEs. Any request by CLECINTRADO COMM for Embarq to provide combined UNEs that are not otherwise specifically provided for under this Agreement will be made in accordance with the BFR process described in Section 42 and made available to CLECINTRADO COMM upon implementation by Embarq of the necessary operational modifications.
- 53.3. The provisioning of combinations, including EEL, is limited to existing facilities and Embarq is not obligated to construct additional facilities to accommodate any request by CLECINTRADO COMM.
- 53.4. Specific Combinations and Pricing

53.4.1. In order to facilitate the provisioning of EELs, Embarq shall support the ordering and provisioning of this specific combination as set forth below.

53.5. Embarq Offers the Following Combinations of Network Elements

53.5.1. EEL is the combination of the NID, Loop, and Dedicated Transport network elements.

(a) Embarq will offer the combination of unbundled loops with wholesale services and unbundled Dedicated Transport, where Embarq is required to provide unbundled Dedicated Transport and Local Loops, to provide EELs at the applicable recurring and non-recurring charges as specified in Table One for Loops, Dedicated Transport, and where applicable, Multiplexing. Recurring and nonrecurring charges, including but not limited to cross connect charges and Service Order Charges will apply. Embarq will cross-connect unbundled 2- or 4-wire analog or 2-wire digital Loops to unbundled voice grade DS1 or DS3 Dedicated Transport facilities for CLECINTRADO COMM's provision of circuit switched telephone exchange service to CLEC's end usersINTRADO COMM's End-Users.

(b) Multiplexing shall be provided as necessary as part of Dedicated Transport.

53.5.2. In order to obtain the EEL combinations below, a requesting CLECINTRADO COMM must provide certification that it satisfies the service eligibility criteria for each circuit as set forth below. For existing EELs, CLECINTRADO COMM must recertify compliance with the EELs criteria within thirty (30) Days of the Effective Date of this Agreement. CLECINTRADO COMM must continue to be in compliance with the service eligibility criteria for as long as CLECINTRADO COMM continues to receive the services in this Section. Embarq will offer the following EEL Combinations:

- (a) Unbundled DS1 Loop in combination with UNE DS1 Dedicated Transport.
- (b) Unbundled DS1 Loop commingled with dedicated DS1 transport wholesale service.
- (c) Unbundled DS1 Loop in combination with UNE DS3 Dedicated Transport.
- (d) Unbundled DS1 Loop commingled with dedicated DS3 transport wholesale service.
- (e) Unbundled DS3 Loop in combination with UNE DS3 Dedicated Transport.

- (f) Unbundled DS3 Loop commingled with dedicated DS3 transport wholesale service.
- (g) Unbundled DS1 Dedicated Transport commingled with DS1 channel termination.
- (h) Unbundled DS3 Dedicated Transport commingled with DS1 channel termination service.
- (i) Unbundled DS3 Dedicated Transport commingled with DS3 channel termination service.

53.5.3. EEL Eligibility Criteria

- (a) CLECINTRADO COMM must have state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, CLECINTRADO COMM must have complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in the area served;
- (b) The following criteria must be satisfied for each combined circuit, including each DS1 circuit, each DS1 EEL, and each DS1-equivalent circuit on a DS3 EEL:
 - (i) Each circuit to be provided to each CLEC customerINTRADO COMM End-User must be assigned one local number prior to the provision of service over the circuit;
 - (ii) Each DS1-equivalent circuit on a DS3 EEL must have its own local number assignment, so that each DS3 has up to twenty-eight (28) local voice numbers assigned to it;
 - (iii) Each circuit to be provided to each customerEnd-User must provide 911 or E911 capability prior to the provision of service over the circuit;
 - (iv) Each circuit to be provided to each customerEnd-User must terminate into a collocation that meets one of the following requirements:
 - (A) a collocation established pursuant to §251(c)(6) of the Act and located at Embarq's premises within the same LATA as the CLECINTRADO COMM's customerEnd-User's premises, when Embarq is not the collocater; or

- (B) a collocation located at a third party's premises within the same LATA as the CLECINTRADO COMM's ~~customer~~End-User's premises, when Embarq is the collocator.
- (v) For each twenty-four (24) DS1 EELs or other facilities having equivalent capacity, CLECINTRADO COMM must maintain at least one active DS1 local service interconnection trunk and CLECINTRADO COMM is required to transmit the calling party's number in connection with calls exchanged over each trunk. Where CLECINTRADO COMM does not establish an interconnection arrangement with Embarq for the meaningful exchange of Local Traffic that flows in both directions, such interconnection arrangement shall not satisfy this criteria, and
- (vi) Each circuit to be provided to each ~~customer~~End-User will be served by a switch capable of switching local voice traffic.
- (c) Embarq has the right, upon thirty (30) Days notice, to audit CLECINTRADO COMM's compliance with the service eligibility criteria defined by the FCC and as set forth above. Embarq will hire and pay for an independent auditor to perform the audit. CLECINTRADO COMM will reimburse Embarq if the audit report concludes that CLECINTRADO COMM failed to materially comply with the service eligibility criteria. Embarq may request one audit in a calendar year. In the instance of non-compliance, CLECINTRADO COMM shall true-up any difference in payments, convert the non-compliant circuit to the appropriate service and make accurate payments going forward. These audit rights are in addition to Embarq's audit rights in Part B of this Agreement.

54. MODIFICATIONS TO EMBARQ'S PARTIES' EXISTING NETWORKS

54.1. Modifications to Embarq Unbundled Loop

- 54.1.1. Embarq will make routine network modifications to unbundled loop facilities used by CLECINTRADO COMM where the requested loop facility has already been constructed. Embarq will perform routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLECINTRADO COMM will compensate Embarq for the costs of such routine network modifications to unbundled loop facilities to the extent the costs are not recovered in

the unbundled loop rates in accordance with Table One or Embarq will provide a price quote via the ICB process.

- (a) In the case of unbundled loop facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers End-Users. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer and attaching electronic and other equipment that Embarq ordinarily attaches to a DSL Loop to activate such loop for its own customer End-User. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of new loop facilities or the installation of new aerial or buried cable for CLECINTRADO COMM.

54.2. Modifications to Embarq Dedicated Transport

54.2.1. Embarq will make routine network modifications to unbundled dedicated transport facilities used by CLECINTRADO COMM where the requested Dedicated Transport facilities have already been constructed. Embarq will perform the routine network modifications to unbundled Dedicated Transport facilities in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLECINTRADO COMM will compensate Embarq for the costs of such routine network modifications to unbundled Dedicated Transport facilities to the extent the costs are not recovered in the unbundled Dedicated Transport rates. Embarq will provide routine network modifications at the rates on Table One or Embarq will provide a price quote via the ICB process.

- (a) In the case of unbundled Dedicated Transport facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers End-Users. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications also include activities needed to enable CLECINTRADO COMM to light a Dark Fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications

do not include the installation of new aerial or buried cable for CLECINTRADO COMM.

54.3. Embarq Loop Conditioning

54.3.1. Conditioned loops are loops from which excessive bridge taps, load coils, low-pass filters, range extenders, and similar devices have been removed to enable the delivery of high-speed switched wireline telecommunications capability, including DSL. Embarq will condition loops at CLECINTRADO COMM's request and will assess charges for loop conditioning in accordance with the prices listed in Table One. Embarq recommends that CLECINTRADO COMM utilize the Loop Make-Up process in Section 48 prior to submitting orders for loops intended for advanced services.

54.4. Embarq is not obligated to build TDM capability into new packet-based networks or into existing packet-based networks that never had TDM capability. This includes packet-based networks that incorporate a packet to TDM format translation to connect to ~~end-user-customer~~End-User provided equipment.

54.5. Notwithstanding any other provision of this Agreement, INTRADO COMM shall have the right to deploy, upgrade, migrate and maintain its network components and facilities at its discretion. The Parties acknowledge that INTRADO COMM, at its election, may deploy equipment and facilities that may inhibit or facilitate Embarq's ability to provide service using certain technologies. Intrado Comm shall provide thirty (30) days advanced notice of such upgrades to Embarq prior to making upgrades. In the event such upgrades impact Embarq's End Users, both Parties shall work cooperatively to resolve any interoperability issues before such changes are made.

54.6. Nothing in this Agreement shall limit INTRADO COMM'S ability to modify its network through the incorporation of new equipment, software or facilities.

PART F – INTERCONNECTION

55. LOCAL INTERCONNECTION TRUNK ARRANGEMENT

55.1. The Parties shall reciprocally terminate Local Traffic and, IntraLATA/InterLATA toll calls, and 911 Service and E911 Service calls originating on the other Party's network as follows:

55.1.1. The Parties shall make available to each other two-way trunks for the reciprocal exchange of combined Local Traffic, and non-equal access IntraLATA toll traffic. Neither Party is obligated under this Agreement to order reciprocal trunks or build facilities in the establishment of interconnection arrangements for the delivery of Internet traffic. The Party serving the Internet service provider shall order trunks or facilities from the appropriate tariff of the other Party for such purposes and will be obligated to pay the full cost of such facility.

(a) The Parties agree to use two-way trunks (one-way trunks directionalized in each direction). Upon mutual agreement, the Parties will transition specified trunks from directionalized two-way trunks to bi-directional trunks, subject to any engineering, billing or other constraints, and subject to compensation for the cost of undertaking the conversion of such trunks.

55.1.2. Separate two-way trunks will be made available for the exchange of equal-access InterLATA or IntraLATA interexchange traffic.

55.1.3. ~~Separate trunks will be utilized for connecting CLEC's switch to each 911/E911 tandem.~~ One-way trunks shall be utilized for Local Interconnection of Embarq's network to Intrado's Intelligent Emergency Network™ for the purpose of emergency call routing applications where Intrado serves as the E911 Service provider and for Local Interconnection of Intrado's network to Embarq's Selective Routers or E911 Tandem Switches where Embarq serves as the E911 Service provider.

55.1.4. One-way trunks shall be utilized if the Parties deploy E9-1-1 inter-Selective Router/E911 Tandem trunking configurations. These trunk configurations shall be dependent upon the Embarq E9-1-1 Selective Router capabilities. E9-1-1 inter-Selective Router trunking shall allow the transfer of E9-1-1 calls between PSAPs subtending on each Party's respective E9-1-1 network.

55.2. Direct Interconnection Requirements

55.2.1. Point of Interconnection. CLECINTRADO COMM must establish a minimum of one POI within each LATA, at any technically feasible point, on Embarq's network. ~~In addition, CLEC shall establish additional POIs under the following circumstances:~~

- ~~(a) To the extent Embarq's network contains multiple tandems in the LATA, CLEC must establish a POI at each tandem where it wishes to exchange (i.e., receive or terminate) traffic with Embarq.~~
 - (a) INTRADO COMM will establish a POI at Embarq's E911 Tandem/Selective Router or other meet-point pursuant to Section 55.2.4 for the exchange of 911 Service or E911 Service calls.
 - (b) CLECINTRADO COMM must establish a POI at an Embarq end office when total traffic volumes exchanged between that particular Embarq end office and CLECINTRADO COMM exceeds a DS1 equivalent.
 - ~~(c) CLEC must establish a POI at any Embarq end office that subtends a non-Embarq tandem.~~
 - (c) In geographic areas in which INTRADO COMM has been designated as the E911 Selective Routing provider, Embarq shall exchange 911 Service and E911 Service traffic with INTRADO COMM pursuant to Section 55.4.
- 55.2.2. CLECINTRADO COMM will be responsible for engineering and maintaining its network on its side of the POI. Embarq will be responsible for engineering and maintaining its network on its side of the POI. Each Party is financially responsible for transport on its side of the POI.
- 55.2.3. Each Party is financially responsible for transporting its originated traffic to the POI.
- 55.2.4. ~~When the Parties choose~~INTRADO COMM requests to interconnect at a mid-span meet, CLECINTRADO COMM and Embarq will jointly provision the facilities that connect the two Parties' networks. Embarq will be the "controlling carrier" for purposes of MECOD guidelines, as described in the joint implementation plan. ~~Embarq~~Each Party will provide fifty percent (50%) of the facilities ~~or to its exchange boundary, whichever is less. The construction of new facilities for~~ at the mid-span meet ~~is only applicable when traffic is roughly balanced.~~ Notwithstanding any provision in this Agreement to the contrary, when the Parties interconnect using a mid-span meet, each Party will be financially responsible for the facilities on its side of the mid-span meet and will not bill the other Party for any portion of those facilities.
- 55.2.5. If third party (i.e., Competitive Access Provider or "CAP") leased facilities are used for interconnection, the POI will be defined as the Embarq office in which the third party's leased circuit terminates.
- 55.2.6. If CLECINTRADO COMM elects to lease any portion of the transport facility from Embarq or if CLECINTRADO COMM chooses to interconnect with Embarq using a meet-point arrangement (i.e., facilities

jointly provisioned by Embarq and another LEC), ~~CLEC~~INTRADO COMM will order those facilities that are wholly within Embarq's serving territory from Embarq's access tariff.

55.3. Technical Requirements for Interconnection

55.3.1. Interconnection at the Embarq Tandem

- (a) Interconnection to Embarq Tandem Switch(es) will provide ~~CLEC local interconnection~~INTRADO COMM Local Interconnection for local service purposes to the Embarq end offices and NXXs which subtend that tandem(s), where local trunking is provided, and access to the toll network.
- (b) Interconnection to an Embarq Tandem for transit purposes will provide access to telecommunications carriers which are connected to that Tandem Switch.
- (c) Where an Embarq Tandem Switch also provides End-Office Switch functions, interconnection to an Embarq tandem serving that exchange will also provide ~~CLEC~~INTRADO COMM access to Embarq's end offices.
- (d) the ~~CLEC~~INTRADO COMM is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

55.3.2. Interconnection at the Embarq End Office

- (a) Interconnection to Embarq End Office Switch will provide ~~CLEC local interconnection~~INTRADO COMM Local Interconnection for local service purposes to the Embarq NXX codes served by that end office and any Embarq NXXs served by remotes that subtend those End Offices.
- (b) the ~~CLEC~~INTRADO COMM is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

55.3.3. Interconnection to the INTRADO COMM Network

- (a) Embarq must maintain an official NENA Company Identifier and remain in good standing with NENA standards, including, but not limited to, the requirement that Embarq make live technical assistance available on a 24 hour, 7 day a week, basis, in the event a PSAP needs to contact Embarq for information that may assist with call tracing or problem resolution.

- (b) Embarq must provide an official Access Carrier Name Abbreviation (ACNA) (currently assigned by Telcordia Technologies, Inc.) and a valid national Operating Company Number (OCN) (currently assigned by the National Exchange Carrier Association (NECA)) for use in INTRADO COMM's ordering, billing, maintenance, and inventorying systems.

55.4 Interconnection of the Embarq Network to INTRADO COMM's Intelligent Emergency Network

- 55.4.1 In geographic areas in which INTRADO COMM has been designated as the E911 Selective Routing provider, Embarq will provide end office direct trunking to INTRADO COMM's Intelligent Emergency Network™ for the purpose of delivery of 911 Service and E911 Service traffic from Embarq's End-Users' emergency calls to PSAPs (End-Users) served by INTRADO COMM's Selective Routing system.
- 55.4.2 Embarq may aggregate and/or transport traffic from its chosen location to the INTRADO COMM Intelligent Emergency Network™ mutually agreed POI.
- 55.4.3 Embarq will provide E9-1-1 facility transport to the INTRADO COMM mutually agreed POI exclusively used for termination of End-User 911 Service and E911 Service traffic to the INTRADO COMM Intelligent Emergency Network™. The transport facility must be capable of termination at a DS1 level and shall be physically provisioned in a diverse manner such that there will be no single point of facility or hardware failure between the originating office serving Embarq's End-Users and each geographically diverse INTRADO COMM Intelligent Emergency Network™ mutually agreed POI.
- 55.4.4 Embarq will order from INTRADO COMM a sufficient quantity of DS1 and DS0 terminations to INTRADO COMM's E911 network via the INTRADO COMM Access Service Request (ASR) process, in quantities such that a P.01 grade of service is maintained for the end office trunk group established for use by Embarq's End-Users.
- 55.4.5 Embarq will order a minimum of two (2) DS0 terminations over each DS1 termination ordered from INTRADO COMM.
- 55.4.6 Embarq shall utilize Signaling System 7 (SS7) signaling protocol for DS0 terminations to INTRADO COMM's Intelligent Emergency Network™.
- 55.4.7 Embarq shall not deliver its End-User's calls originating outside of INTRADO COMM's E9-1-1 serving area to the INTRADO COMM Intelligent Emergency Network™ except as noted below.
 - 55.4.7.1 Split Wire Center Call Delivery Exception – Where

Embarq is technically incapable of segregating its End-User 911 Service or E911 Service call traffic associated with a Wire Center and where the Wire Center serves End-Users both within and outside of the INTRADO COMM Intelligent Emergency Network™ serving area, Embarq shall work cooperatively with INTRADO COMM and the affected E911 Authorities (i) to establish call routing and/or call handoff arrangements, (ii) to establish which E9-1-1 Service provider will serve as the “Primary” Selective Routing provider for direct trunking from the split Wire Center, and (iii) to establish which E91-1 service provider will serve as the “Secondary” Selective Routing provider receiving a call hand-off from the Primary Selective Routing provider.

55.4.7.2 Split Wire Center Call Delivery Cost - Embarq shall be responsible for any and all costs incurred by INTRADO COMM resulting from Embarq’s inability to segregate its End-User 911 Service or E911 Service call traffic and resulting in call hand-offs from INTRADO COMM’s Intelligent Emergency Network™ to another E9-1-1 service provider’s network.

55.4.7.3 Split Wire Center “Partially Deployed” 911 Exception – Where Embarq is technically incapable of segregating its End-User 911 Service or E911 Service call traffic associated with a specific Wire Center and where the Wire Center serves End-Users that are within the INTRADO COMM Intelligent Emergency Network™ serving area and End-Users that have not as yet deployed 911 Services or E911 Services, 911 Service or E911 Service call traffic for the entire end office shall be delivered to INTRADO COMM for call delivery to the appropriate PSAP,

55.5 Inter-Selective Router Trunking

55.5.1 INTRADO COMM and Embarq may deploy bi-directional inter-SR trunking using one way trunk configurations that will allow transfers between PSAPs subtending Embarq Selective Routers and PSAPs subtending on the INTRADO COMM Selective Routers.

55.5.2 INTRADO COMM will be responsible for deploying and maintaining one way trunks from the INTRADO COMM’s E911 routing network for PSAP call transfers from INTRADO COMM subtending PSAPs to Embarq subtending PSAPs.

55.5.3 Embarq will be responsible for deploying and maintaining one way trunks from the Embarq SR for PSAP call transfers from the Embarq subtending PSAPs to INTRADO COMM subtending PSAPs.

55.5.4 The configuration of these inter-Selective Router trunk groups shall be designed to support the existing E911 generic of the Embarq Selective Router tandem. Embarq will notify INTRADO COMM of any upgrades to the Embarq E911 generic in the SR that would allow for a different trunking configuration to support inter-Selective Router tandem transfer. This may include, but is not limited to:

- (a) Establishment and maintenance of location specific route index dial plan translations to enable PSAP-to-PSAP inter-SR call transfers.
- (b) Establishment and maintenance of trunk routing translations to enable PSAP-to-PSAP call transfers; consistent with generic capabilities of the Embarq SR.
- (c) Notification to the connecting Party of impending changes to call transfer translations and/or changes to the inter-Selective Router tandem trunk group at least thirty (30) Days in advance of the activation date, as well as coordination of testing coincident with activation of the changes.

55.5.5 Each Party will have a sufficient number of inter-Selective Router tandem trunks to support simultaneous inter-Selective Router tandem PSAP call transfers such that a P.01 grade of service is attained.

55.5.6 Embarq will alert INTRADO COMM of any Embarq Selective Routing generic software modifications applied that will enable PSAP-to-PSAP call transfer applications for PSAPs served by an Embarq Selective Router that was formerly identified as being technically incapable of accommodating those call transfer arrangements as defined in Section 55.5.4(i) or (ii)

55.5.7 Where technically capable, each Party will establish and maintain appropriate Selective Routing database updates and/or trunk routing translations as necessary to support inter-tandem E9-1-1 PSAP call transfer capability requested by the 911 Authority.

55.5.8 Embarq will provide the appropriate number of one-way outgoing 911/E911 trunks over diversely routed facilities that will accommodate the existing E911 software generic of the Embarq SR so as to enable Embarq to transfer a 911 call to PSAPs served by INTRADO COMM's E911 routing network from PSAPs subtending the Embarq SR.

55.5.9 The Parties will maintain appropriate dial plans to support inter-Selective Router tandem transfer and each Party shall notify the other of changes, additions, or deletions to their respective inter-Selective Router dial plans.

55.5.10 Each Party will be responsible for alarming and monitoring their respective originating E911 inter-Selective Routing trunks. Each Party shall notify the other of any service outages on their respective inter-Selective Routing trunk(s), and work cooperatively to restore service in accordance with federal, state and local 911 rules.

56. INTERCARRIER COMPENSATION

[Note: If it is an Opt-in state and CLECINTRADO COMM accepts offer, the only applicable Section is Section 56.3. All other provisions may be deleted, including Section 56.1 through and including Section 56.4.1.

56.1. Compensation for Local Traffic Transport and Termination [**DELETE THIS SECTION 56.1**WHERE FCC RATES APPLY TO ALL TRAFFIC (i.e. CLECINTRADO COMM has accepted offer). This Section 56.1 remains if either (1) It's a non-opt-in state; or (2) CLECINTRADO COMM reject our offer)]

56.1.1. The transport and termination charges for Local Traffic flowing through a POI shall be as follows:

- (a) In a mid-span meet arrangement, when calls from CLECINTRADO COMM are terminating on Embarq's network through the Embarq Tandem Switch, CLECINTRADO COMM will pay Embarq a charge for Tandem Switching, common transport to the end office, and end-office termination.
- (b) When the POI is at the Embarq Tandem Switch, CLECINTRADO COMM shall pay a charge for Tandem Switching, common transport to the end office and end-office termination.
- (c) Charges billed to Embarq by CLECINTRADO COMM for the transport and termination of Local Traffic will be equal to those that Embarq assesses the CLECINTRADO COMM for the same services. Where CLECINTRADO COMM is interconnected at an Embarq tandem and Embarq delivers its traffic to CLECINTRADO COMM directly from an end office, Embarq shall pay CLECINTRADO COMM end office termination. Where CLECINTRADO COMM is interconnected at an Embarq tandem and Embarq delivers its traffic to CLECINTRADO COMM from the tandem and the CLECINTRADO COMM switch serves a geographical area greater than or equal to the area served by the Embarq tandem, Embarq shall pay CLECINTRADO COMM for Tandem Switching, common transport, and end-office termination.

If the CLECINTRADO COMM switch serves a geographical area less than the area served by the Embarq tandem, Embarq shall pay CLECINTRADO COMM end-office termination.

- (d) To validate the geographic area CLECINTRADO COMM must provide documentation supporting the following:
 - (i) that CLECINTRADO COMM's switch serves a geographic area that is roughly the same size as the area served by the Embarq Tandem Switch;
 - (ii) that CLECINTRADO COMM has obtained NPA/NXX codes to serve the exchanges within the geographic area; and,
 - (iii) that CLECINTRADO COMM is serving the area using its own switch with its own facilities or a combination of its own facilities and leased facilities connected to its collocation arrangements.
- (e) Where direct end office trunks are established, for CLECINTRADO COMM-originated calls, CLECINTRADO COMM shall pay Embarq end-office termination. For Embarq originated traffic terminating to CLECINTRADO COMM at that end office, compensation payable by Embarq shall be the same as that detailed in Section 56.1.1 above.

56.2. The rates to be charged for the exchange of Local Traffic are set forth in Table One and shall be applied consistent with the provisions of Part F of this Agreement. ISP-Bound Traffic will be exchanged on a Bill and Keep basis. The Parties agree to "Bill and Keep" for mutual reciprocal compensation for the termination of ISP-Bound Traffic on the network of one Party which originates on the network of the other Party.

56.2.1. The Parties agree that by executing this Agreement and carrying out the intercarrier compensation rates, terms and conditions herein, neither Party waives any of its rights, and expressly reserves all of its rights, under the *Order on Remand and Report and Order*, FCC 01-131, CC Dockets No. 96-98 and 99-68, adopted April 18, 2001 (the "ISP Compensation Order"), including but not limited to Embarq's option to invoke on a date specified by Embarq the FCC's ISP interim compensation regime, after which date ISP-bound traffic will be subject to the FCC's prescribed interim compensation regime including the terminating compensation rates, and other terms and conditions. CLECINTRADO COMM agrees that on the date designated by ILEC, the Parties will begin billing Reciprocal Compensation to each other at the rates, terms and conditions specified in the FCC's ISP

Compensation Order, unless the Parties are exchanging traffic (Local Traffic and/or ISP-Bound traffic) at Bill and Keep, such Bill and Keep arrangement shall continue.

- 56.3. Compensation for the termination of toll traffic and the origination of 800 traffic between the interconnecting parties Parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations and consistent with the provisions of Part F of this Agreement. If CLECINTRADO COMM is acting as an IXC and a competitive local exchange carrier, CLECINTRADO COMM must have a unique CIC for each type of service order. Specifically, CLECINTRADO COMM must have two CICs, one that is used for ordering IXC facilities for interexchange toll traffic and one that is used to order facilities for local exchange traffic.
- 56.4. VNXX calls not Local for purposes of intercarrier compensation and CLECINTRADO COMM will pay Embarq's originating access rates. Both Parties represent and warrant that they are not exchanging Virtual NXX traffic as of the effective date of this Agreement; however, Embarq may perform traffic studies at any time. CLECINTRADO COMM agrees that it will provide data necessary to determine geographic location of CLEC's customers INTRADO COMM's End-Users when requested to assist with VNXX traffic study. Should the traffic study indicate that there is VNXX traffic; the Parties agree to implement a percentage of traffic that shall be deemed to occur via a VNXX arrangement that will apply on a retrospective basis to the effective date of the Agreement. Should the traffic studies thereafter indicate that the percentage should be changed by Embarq, the Parties agree to implement the correct percentage on a prospective basis without amending the agreement..
- 56.5. Voice calls that are transmitted, in whole or in part, via the public Internet or a private IP network (VoIP) shall be compensated in the same manner as voice traffic (*e.g.*, reciprocal compensation, interstate access and intrastate access).
- 56.6. A call placed on a non-local basis (*e.g.*, a toll call or 8yy call) to an ISP shall not be treated as ISP-Bound Traffic for compensation purposes. The Parties agree that, to the extent such "non-Local" ISP calls are placed, that the rates, terms and conditions for IntraLATA and/or InterLATA calling shall apply, including but not limited to rating and routing according to the terminating parties' Party's Exchange Access intrastate and/or interstate tariffs.
- 56.7. CLECINTRADO COMM will identify the Percent Local Usage (PLU) factor on each interconnection order to identify its "Local Traffic," as defined herein, for reciprocal compensation purposes. Embarq may request CLECINTRADO COMM's traffic study documentation of the PLU at any time to verify the factor, and may compare the documentation to studies developed by Embarq. Should the documentation indicate that the factor should be changed by Embarq; the Parties agree that any changes will be retroactive to traffic for the previous two years. Should the documentation indicate it is warranted such change in the factor may

be back to the effective date of the Agreement. For non-local traffic, the Parties agree to exchange traffic and compensate one another based on the rates and elements included in each ~~party~~Party's access tariffs. CLECINTRADO COMM will transmit calling party number (CPN) as required by FCC rules (47 CFR 64.1601).

- 56.7.1. To the extent technically feasible, each Party will transmit calling party number (CPN) for each call being terminated on the other's network. If the percentage of calls transmitted with CPN is greater than ninety percent (90%), all calls exchanged without CPN will be billed as local or intrastate in proportion to the MOUs of calls exchanged with CPN. If the percentage of calls transmitted with CPN is less than ninety percent (90%), all calls transmitted without CPN will be billed at intrastate access rates.
- 56.8. To the extent Embarq identifies, either through its own recording capabilities or through call detail records provided by another carrier, Local Traffic that is originated by CLECINTRADO COMM and terminated indirectly to Embarq through an intermediary carrier (transit carrier), Embarq shall bill CLECINTRADO COMM terminating compensation according to Section 56. In addition, CLECINTRADO COMM will reimburse Embarq for any transit charges billed by the intermediary carrier for Local Traffic or ISP-bound Traffic originated by Embarq.
- 56.9. Each Party shall take steps to ensure that all traffic that it delivers to the receiving Party include a call record, and that such call records are transmitted intact to the receiving Party. Neither Party shall: (i) remove call records, (ii) alter or replace call records, (ii) alter or replace jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Using reasonable efforts and to the extent technically feasible, each Party also shall undertake steps to ensure that any service provider who hands off traffic for delivery to the other Party does not: (i) remove call records, (ii) alter or replace call records, (ii) alter or replace jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Neither Party shall knowingly and intentionally (a) strip or alter call records to disguise the jurisdiction of the a call or (b) permit third parties to do so for traffic the Party delivers to the other Party.
- 56.10. Either Party may request an audit of the traffic types exchanged between the Parties. Each Party will provide upon request traffic study documentation of traffic being delivered to the other Party. Audit periods may include the period beginning with the month after the last audit or the Effective Date of the Agreement through, and including, the month prior to the audit request. Traffic study documentation can include records produced either from Embarq or CLECINTRADO COMM internal recording and monitoring systems or from third party vendors that record intercarrier traffic SS7 call records. These audit rights are in addition to the audit rights in Part A of this Agreement

- 56.11. 911 Service or E911 Service calls delivered to either Embarq's or Intrado's E9-1-1 networks shall not be billed at reciprocal compensation rates, access rates, or transit rates.

57. SIGNALING NETWORK INTERCONNECTION

- 57.1. Embarq will offer interconnection to its signaling transfer points (STPs) for CLECINTRADO COMM switches which connect to Embarq's STPs via "A" links or for CLECINTRADO COMM's "B" or "D" links which are dedicated to the transport of signaling for ~~local interconnection~~ Local Interconnection. Embarq's signaling service will be charged at tariff rates to CLECsINTRADO COMMs that order such service.
- 57.2. Signaling protocol. The ~~parties~~ Parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in FR 905 Telcordia Standards including ISDN User Part (ISUP) for trunk signaling and TCAP for CCS-based features in the interconnection of their networks. All Network Operations Forum (NOF) adopted standards shall be adhered to.
- 57.3. Standard interconnection facilities shall be Extended Superframe (ESF) with B8ZS line code. Where ESF/B8ZS is not available, CLECINTRADO COMM will use other interconnection protocols on an interim basis until the standard ESF/B8ZS is available. Embarq will provide anticipated dates of availability for those areas not currently ESF/B8ZS compatible.
- 57.4. Where CLECINTRADO COMM is unwilling to utilize an alternate interconnection protocol, CLECINTRADO COMM will provide Embarq an initial forecast of 64 Kbps clear channel capability ("64K CCC") trunk quantities within thirty (30) Days of the Effective Date consistent with the forecasting agreements between the ~~parties~~ Parties. Upon receipt of this forecast, the ~~parties~~ Parties will begin joint planning for the engineering, procurement, and installation of the segregated 64K CCC Local Interconnection Trunk Groups, and the associated ESF facilities, for the sole purpose of transmitting 64K CCC data calls between CLECINTRADO COMM and Embarq. Where additional equipment is required, such equipment would be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job for IXC, CLECINTRADO COMM, or Embarq internal customer ~~End-User~~ demand for 64K CCC trunks.
- 57.5. Signaling Systems
- 57.5.1. Signaling Link Transport
- (a) Signaling Link Transport is a set of two or four dedicated 56 Kbps transmission paths between CLECINTRADO COMM-designated Signaling Points of Interconnection (SPOI) that provides

appropriate physical diversity and a cross connect at an Embarq STP site.

- (b) Technical Requirements. Signaling Link transport shall consist of full duplex mode 56 Kbps transmission paths.

57.5.2. Signaling Transfer Points (STPs)

STPs provide functionality that enables the exchange of SS7 messages among and between switching elements, databases and third party signaling transfer points.

- 57.6. Technical Requirements. STPs provide interconnection to the functions of signaling networks or to third party SS7 networks connected to the Embarq SS7 network. These functions include:

- 57.6.1. Embarq local switching or Tandem Switching;

- 57.6.2. Embarq Service Control Points (SCPs)/Databases if arranged for under separate agreements;

- 57.6.3. Third-party local or Tandem Switching systems subject to any additional conditions or terms of the Third Party and

- 57.6.4. Third party provider STPs subject to any additional conditions or terms of the Third Party.

- 57.7. Interface Requirements. Embarq shall provide the following STP options to connect ~~CLECINTRADO COMM~~ or ~~CLECINTRADO COMM~~-designated local switching systems or STPs to the Embarq SS7 network:

- 57.7.1. An A-link interface from ~~CLECINTRADO COMM~~ local switching systems; and

- 57.7.2. B- or D-link interface from ~~CLECINTRADO COMM~~ STPs.

- 57.7.3. Each type of interface shall be provided by one or more sets (layers) of signaling links, as follows:

- (a) An A-link layer shall consist of two (2) links,

- (b) A B- or D-link layer shall consist of four (4) links,

- 57.8. Signaling Point of Interconnection (SPOI) for each link shall be located at a cross-connect element, such as a DSX-1, in the Central Office (CO) where the Embarq STP is located. Interface to Embarq's STP shall be the 56kb rate. The 56kb rate can be part of a larger facility, and ~~CLECINTRADO COMM~~ shall pay multiplexing/demultiplexing and channel termination, plus mileage of any leased facility.

58. TRUNK FORECASTING

- 58.1. CLECINTRADO COMM shall provide forecasts for traffic utilization over trunk groups. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as facilities and/or equipment are available. Embarq shall make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate orders when facilities are not available. Company forecast information must be provided by CLECINTRADO COMM to Embarq twice a year. The initial trunk forecast meeting should take place soon after the first implementation meeting. A forecast should be provided at or prior to the first implementation meeting. The semi-annual forecasts shall project trunk gain/loss on a monthly basis for the forecast period, and shall include:
- 58.1.1. Semi-annual forecasted trunk quantities (which include baseline data that reflect actual Tandem and end office Local Interconnection and meet point trunks and Tandem-subtending Local Interconnection end office equivalent trunk requirements) for no more than two years (current plus one year);
 - 58.1.2. The use of Common Language Location Identifier (CLLI-MSG), which are described in Telcordia documents BR 795-100-100 and BR 795-400-100;
 - 58.1.3. Description of major network projects that affect the other Party will be provided in the semi-annual forecasts. Major network projects include but are not limited to trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities by CLECINTRADO COMM that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.
 - 58.1.4. Parties shall meet to review and reconcile the forecasts if forecasts vary significantly.
- 58.2. CLECINTRADO COMM shall provide an updated trunk forecast when ordering or requesting additional trunks from Embarq anytime after the initial trunk implementation.
- 58.3. Embarq shall provide to INTRADO COMM an updated E911 trunk forecast on an annual basis.
- ~~58.4.~~ 58.3. Each Party shall provide a specified point of contact for planning forecasting and trunk servicing purposes.
- ~~58.5.~~ 58.4. Trunking can be established to Tandems or end offices or a combination of both via either one-way or two-way trunks. Trunking will be at the DS0, DS1, DS3/OC3 level, or higher, as agreed upon by CLECINTRADO COMM and Embarq.
- ~~58.6.~~ 58.5. The parties ~~Parties~~ agree to abide by the following if a forecast cannot be agreed to: ~~local interconnection~~ Local Interconnection trunk groups will be

provisioned to the higher forecast. A blocking standard of one percent (1%) during the average busy hour shall be maintained. Should the Parties not agree upon the forecast, and the Parties engineer facilities at the higher forecast, the Parties agree to abide by the following:

- 58.6.1. ~~58.5.1.~~ In the event that ~~CLEC~~either Party over-forecasts its trunking requirements by twenty percent (20%) or more, and ~~Embarq~~the other Party acts upon ~~this~~the forecast to its detriment, ~~Embarq~~the Party relying on the over-forecast may recoup any actual and reasonable expense it incurs.
- 58.6.2. ~~58.5.2.~~ The calculation of the twenty percent (20%) over-forecast will be based on the number of DS1 equivalents for the total traffic volume to ~~Embarq~~each Party.
- 58.6.3. ~~58.5.3.~~ Expenses will only be recouped for non-recoverable facilities that cannot otherwise be used at any time within twelve (12) months after the initial installation for another purpose including but not limited to: other traffic growth between the Parties, internal use, or use with another party.
- 58.7. ~~58.6.~~ Grade of Service. An overall blocking standard of one percent (1%) during the average busy hour, as defined by each Party's standards, shall be maintained for final trunk groups between a ~~CLEC~~ end office and an ~~Embarq~~ access Tandem~~the Parties' networks~~ carrying meet point traffic ~~shall be maintained~~. All other Tandem trunk groups are to be engineered with a blocking standard of one percent (1%). Direct end office trunk groups are to be engineered with a blocking standard of one percent (1%).
- 58.8. ~~58.7.~~ Trunk Servicing. Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an ASR, ~~RASR~~remote ASR or other industry standard format as specified by Embarq for trunk ordering.

59. NETWORK MANAGEMENT

- 59.1. Protective Protocols. Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic toward each other's network, when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload. ~~CLEC~~INTRADO COMM and Embarq will immediately notify each other of any protective control action planned or executed.
- 59.2. Expansive Protocols. Where the capability exists, originating or terminating traffic reroutes may be implemented by either ~~party~~Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes will not be used to circumvent normal trunk servicing. Expansive controls will only be used when mutually agreed to by the ~~parties~~Parties.

- 59.3. Mass Calling. CLECINTRADO COMM and Embarq shall cooperate and share pre-planning information, where available, regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, to prevent or mitigate the impact of these events on the public switched network.

60. INDIRECT TRAFFIC

60.1. Interconnection

- 60.1.1. The Parties may send each other Indirect Traffic. This Section 60 does not apply to the inter-Selective Router transfer of traffic. Such traffic is governed by 55.4.7.
- 60.1.2. For purposes of exchanging Indirect Traffic there is no physical or direct point of interconnection between the Parties, therefore neither Party is required to construct new facilities or make mid-span meet arrangements available to the other Party for Indirect Traffic.
- 60.1.3. Indirect interconnection with SprintEmbarq shall only be allowed to the extent CLECINTRADO COMM is interconnected at the tandem switch which SprintEmbarq's end office subtends.
- 60.1.4. Interconnection to CLECINTRADO COMM will provide SprintEmbarq with access to CLECINTRADO COMM's end-users and to other companies which are likewise connected to CLECINTRADO COMM for local and toll service purposes.
- 60.1.5. Notwithstanding any other provision to the contrary, once the Indirect Traffic volume between CLECINTRADO COMM and a SprintEmbarq end office exceeds a DS1 equivalent of traffic, SprintEmbarq will no longer allow indirect interconnection and CLECINTRADO COMM must establish a direct interconnection with SprintEmbarq's end office for the mutual exchange of traffic. Within sixty (60) days of when the indirect traffic exceeds a DS1, CLECINTRADO COMM shall establish a direct interconnection with SprintEmbarq's end office.

60.2. Exchange Of Traffic

- 60.2.1. Each Party acknowledges that it is the originating Party's responsibility to enter into transiting arrangements with the third party providing the transit services.
- 60.2.2. Each terminating Party is responsible for billing the originating company for traffic terminated on its respective network. For this Indirect Traffic, the originating Party will provide the originating billing information to the terminating Party, if technically feasible. If the originating Party cannot provide the originating billing information to the terminating Party, then the terminating Party must obtain the originating billing information from the third-party transit company. Any direct costs incurred by the

terminating Party to obtain the records from a third party will be billed back to the originating Party.

60.2.3. It is each Party's responsibility to enter into appropriate contractual arrangements with the third-party transit company in order to obtain the originating billing information from the transit company.

60.2.4. Until Indirect traffic exceeds a DS1, each Party is responsible for the payment of transit charges for its originating traffic assessed by the transiting party. After Indirect traffic exceeds a DS1, if CLECINTRADO COMM has not established a direct end office trunking 60 days after Embarq notifies CLECINTRADO COMM in accordance with section 20, CLECINTRADO COMM will reimburse Embarq for any transit charges billed by an intermediary carrier for Local Traffic or ISP-Bound Traffic originated by Embarq.

60.3. Compensation for Indirect Traffic

60.3.1. Non-Local and Non-ISP-Bound Indirect Traffic

60.3.1.1. Compensation for the termination of non-Local traffic, non-ISP-Bound Traffic and the origination of 800 traffic between the interconnecting Parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations.

60.3.1.2. Toll traffic, switched access, and special access traffic, if separately chargeable, shall be charged the appropriate rate out of the terminating LEC's tariff or via other appropriate meet point access arrangements. Where exact transport mileage is not available, an average, arrived at by mutual agreement of the Parties, will be used.

60.3.2. Local Traffic and ISP-Bound Traffic. The rates set forth on Table One shall apply, in accordance with Part F of this Agreement.

61. USAGE MEASUREMENT

61.1. Each Party shall calculate terminating interconnection minutes of use based on standard AMA recordings made within each Party's network, these recordings being necessary for each Party to generate bills to the other Party. In the event either Party cannot measure minutes terminating on its network where technically feasible, the other Party shall provide the measuring mechanism or the Parties shall otherwise agree on an alternate arrangement.

61.2. Measurement of minutes of use over Local Interconnection trunk groups shall be in actual conversation seconds. The total conversation seconds over each

individual Local Interconnection trunk group will be totaled for the entire monthly bill period and then rounded to the next whole minute.

- 61.3. Prior to the commencement of billing for interconnection, each Party shall provide to the other, the PLU of the traffic terminated to each other over the Local Interconnection trunk groups.

61.3.1. The Parties agree to review the accuracy of the PLU on a regular basis. If the initial PLU is determined to be inaccurate by more than twenty percent (20%), the Parties agree to implement the new PLU retroactively to the Effective Date of the contract.

62. RESPONSIBILITIES OF THE PARTIES

- 62.1. Embarq and CLECINTRADO COMM will review engineering requirements consistent with the Implementation Plan described in Part B, Part C, Part F and as otherwise set forth in this Agreement.

- 62.2. CLECINTRADO COMM and Embarq shall share responsibility for all Control Office functions for Local Interconnection Trunks and Trunk Groups, and both partiesParties shall share the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

- 62.3. CLECINTRADO COMM and Embarq shall:

62.3.1. Provide trained personnel with adequate and compatible test equipment to work with each other's technicians.

62.3.2. Notify each other when there is any change affecting the service requested, including the due date.

62.3.3. Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure its interconnection trunks/trunk groups are installed per the interconnection order, meet agreed-upon acceptance test requirements, and are placed in service by the due date.

62.3.4. Perform sectionalization to determine if a trouble is located in its facility or its portion of the interconnection trunks prior to referring the trouble to each other.

62.3.5. Advise each other's Control Office if there is an equipment failure which may affect the interconnection trunks.

62.3.6. Provide each other with a trouble reporting/repair contact number that is readily accessible and available twenty-four (24) hours/seven (7) days a week. Any changes to this contact arrangement must be immediately provided to the other partyParty.

62.3.7. Provide to each other test-line numbers and access to test lines.

- 62.3.8. Cooperatively plan and implement coordinated repair procedures for the meet point and Local Interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.

PART G – LOCAL NUMBER PORTABILITY**63. INTRODUCTION**

- 63.1. Upon implementation of LNP, both Parties agree to conform and provide such LNP pursuant to FCC regulations and compliance with the Industry Forum Guidelines. To the extent consistent with the FCC and Industry Guidelines as amended from time to time, the requirements for LNP shall include the following:
- 63.2. ~~End-users-Users~~ must be able to change local service providers and retain the same telephone number(s) within the serving rate center utilizing the portability method as defined by the FCC.
- 63.3. The LNP network architecture shall not subject Parties to any degradation of service in any relevant measure, including transmission quality, switching and transport costs, increased call set-up time and post-dial delay.
 - 63.3.1. Parties agree that when an NXX is defined as portable, it shall also be defined as portable in all LNP capable switches serving the rate center.
 - 63.3.2. When an ~~end-user~~End-User ports to another service provider and has previously secured a reservation of line numbers from the donor provider under contract or tariff for possible activation at some future point, these reserved but inactive numbers shall port along with the active numbers being ported by the ~~end-user~~End-User.
 - 63.3.3. NXX Availability. Not all NXXs in each CO may be available for porting.
 - 63.3.4. LERG Reassignment. Portability for an entire NXX shall be provided by utilizing reassignment of the NXX to ~~CLEC~~INTRADO COMM through the LERG.
 - 63.3.5. Coordination of service order work outside normal business hours (8:00 a.m. to 5:00 p.m.) shall be at requesting Party's expense. Premium rates will apply for service order work performed outside normal business hours, weekends, and holidays.
 - 63.3.6. Mass Calling Events. Parties will notify each other at least seven (7) Days in advance where ported numbers are utilized. Parties will only port mass calling numbers using switch translations and a choke network for call routing. Porting on mass calling numbers will be handled outside the normal porting process and comply with any applicable federal regulatory requirements or industry guidelines developed for mass calling numbers.

64. TESTING

- 64.1. An Interconnection Agreement (or Memorandum of Understanding, or Porting Agreement) detailing conditions for LNP must be in effect between the Parties prior to testing.
- 64.2. Testing and operational issues will be addressed in the implementation plans as described in Part B, Section 33 of the agreement.
- 64.3. ~~CLECINTRADO COMM~~ must be NPAC certified and have met Embarq testing parameters prior to activating LNP. After initial LNP implementation by a ~~CLECINTRADO COMM~~/CMRS provider testing and porting will be done at ~~CLECINTRADO COMM~~'s expense.
- 64.4. Parties will cooperate to ensure effective maintenance testing through activities such as routine testing practices, network trouble isolation processes and review of operational elements for translations, routing and network fault isolation.
- 64.5. Parties shall cooperate in testing performed to ensure interconnectivity between systems. All LNP providers shall notify each connected provider of any system updates that may affect the ~~CLECINTRADO COMM~~ or Embarq network. Each LNP provider shall, at each other's request, jointly perform tests to validate the operation of the network. Additional testing requirements may apply as specified by this Agreement or in the Implementation Plan.

65. ENGINEERING AND MAINTENANCE

- 65.1. Each LNP provider will monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.
- 65.2. It will be the responsibility of the Parties to ensure that the network is stable and maintenance and performance levels are maintained in accordance with state commission requirements. It will be the responsibility of the Parties to perform fault isolation in their network before involving other providers.
- 65.3. Additional engineering and maintenance requirements shall apply as specified in this Agreement or the Implementation Plan.

66. E911/911

- 66.1. When a subscriber~~End-User~~ ports to another service provider, the donor provider shall unlock the information in the 911/ALI database. The porting provider is responsible for updating the 911 tandem switch routing tables and 911/ALI database to correctly route, and provide accurate information to the PSAP call centers.

- 66.2. Prior to implementation of LNP, the Parties agree to develop, implement, and maintain efficient methods to maintain 911 database integrity when a ~~subscriber~~End-User ports to another service provider. The Parties agree that the ~~customer~~End-User shall not be dropped from the 911 database during the transition.

67. BILLING FOR PORTED NUMBERS

- 67.1. When an IXC terminates an InterLATA or IntraLATA toll call to either ~~party~~Party's local exchange ~~customer~~End-User whose telephone number has been ported from one ~~party~~Party to the other, the ~~parties~~Parties agree that the ~~party~~Party to whom the number has been ported shall be entitled to revenue from the IXC for those access elements it actually provides including, but not limited to end office switching, local transport, RIC, and CCL. The ~~party~~Party from whom the number has been ported shall be entitled to receive revenue from the IXC for those access elements it actually provides including, but not limited to any entrance facility fees, access tandem fees and appropriate local transport charges.
- 67.2. Non-Payment. ~~Customers~~End-Users lose the right to the ported telephone number upon suspension of service. Embarq will not port telephone numbers of ~~eustomers~~End-Users whose service has been suspended.

PART H – LINE SHARING

68. LINE SHARING

68.1. General Terms

- 68.1.1. Under this Agreement, Embarq will not provide access to the HFPL for line sharing by CLECINTRADO COMM except pursuant to the following terms and conditions.
- 68.1.2. For HFPLs in service prior to 10/02/03, Embarq will continue to bill HFPL at the rate that was effective for that arrangement on 10/02/03 as long as that HFPL remains in service to the particular CLECINTRADO COMM end-user premises.
- 68.1.3. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLECINTRADO COMM end-user premises during the period 10/01/04 and 10/01/05, the rate billed for HFPL will be fifty percent (50%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.4. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLECINTRADO COMM end-user premises during the period 10/02/05 and 10/01/06, the rate billed for HFPL will be seventy-five (75%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.5. After 10/01/06, CLECINTRADO COMM must order a stand-alone loop or negotiate a line splitting arrangement with another Telecommunications Carrier.
- 68.2. Embarq Line Sharing provided HFPL to CLECINTRADO COMM only those instances when Embarq is the provider of analog circuit-switched voice band service on that same Copper Loop to the same End -User.
- 68.3. In the event that the end-user~~End-User~~ being served by CLECINTRADO COMM via HFPL terminates its Embarq-provided retail voice service, or when Embarq provided retail voice service is disconnected due to “denial for non-pay,” Embarq shall provide reasonable notice to CLECINTRADO COMM prior to disconnect. CLECINTRADO COMM shall have the option of purchasing an entire stand-alone UNE digital loop if it wishes to continue to provide advanced services to that end user~~End-User~~. If CLECINTRADO COMM notifies Embarq that it chooses this option, CLECINTRADO COMM and Embarq shall cooperate to transition DSL service from the HFPL to the stand-alone loop without any interruption of service pursuant to the provisions set forth below. If CLECINTRADO COMM declines to purchase the entire stand alone UNE digital loop, Embarq may terminate the HFPL.
- 68.4. Embarq will use reasonable efforts to accommodate the continued use by CLECINTRADO COMM as a stand-alone UNE digital loop of the Copper Loop

facilities over which CLECINTRADO COMM is provisioning advanced services at the time that the Embarq-provided retail voice service terminates; if:

- 68.4.1. adequate facilities are available to allow the provisioning of voice service over such other facilities, and
 - 68.4.2. CLECINTRADO COMM agrees to pay any additional ordering charges associated with the conversion from the provisioning of HFPL to a stand alone unbundled digital loop as specified in Table One (excluding conditioning charges).
- 68.5. Any additional maintenance of service conducted at CLECINTRADO COMM's request by Embarq on behalf of the CLECINTRADO COMM solely for the benefit of the CLECINTRADO COMM's services will be paid for by CLECINTRADO COMM at prices negotiated by Embarq and CLECINTRADO COMM.
- 68.6. Deployment and Interference
- 68.6.1. In providing services utilizing the HFPL, Embarq shall allow CLECINTRADO COMM to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.
 - 68.6.2. For any technology, CLECINTRADO COMM represents that its use of any Embarq network element, or of its own equipment or facilities in conjunction with any Embarq network element, will not materially interfere with or impair service over any facilities of Embarq, its affiliated companies or connecting and concurring carriers, cause damage to Embarq's plant, impair the privacy of any communications carried over Embarq's facilities or create hazards to employees or the public. Upon reasonable written notice and after a reasonable opportunity to cure, Embarq may discontinue service if CLECINTRADO COMM violates this provision. The termination of service will be limited to CLECINTRADO COMM's use of the element(s) causing the violation. Embarq will not disconnect the elements causing the violation if, after receipt of written notice and opportunity to cure, CLECINTRADO COMM demonstrates that their use of the network element is not the cause of the network harm.

PART I – NON-251 SERVICES

69. CALL-RELATED DATABASES

69.1. Embarq will offer access to call-related databases (non-251 services), including, but not limited to, Toll Free Calling database, Number Portability database, and Calling Name (CNAM) database. Call-related databases under this Part I excludes those call-related databases covered by Part J of this Agreement. Embarq reserves the right to decline to offer access to certain AIN software that qualifies for proprietary treatment. The rates for access to these call-related databases are set forth on Table One.

69.1.1. The CNAM database is a transaction-oriented database accessible via the CCS network. CNAM provides the calling parties'party's name to be delivered and displayed to the terminating caller with 'Caller ID with Name'. Use of Embarq's CNAM Database by ~~CLEC~~ and ~~CLEC's~~ customers INTRADO COMM and INTRADO COMM's End-Users is limited to obtaining CNAM responses and using the information contained in those responses only on a call by call basis and only to support service related to a call in progress. ~~CLEC~~INTRADO COMM will not capture, cache, or store any information contained in a CNAM response.

69.1.2. The Toll Free Number Database provides functionality necessary for toll free (e.g., 800 and 888) number services by providing routing information and additional vertical features (i.e., time of day routing by location, by carrier and routing to multiple geographic locations) during call setup in response to queries from ~~CLEC~~INTRADO COMM's switch. Use of Embarq's Toll Free Database by ~~CLEC~~INTRADO COMM and its customers End-Users is limited to obtaining information, on a call-by-call basis, for proper routing of calls in the provision of toll free exchange access service or local toll free service.

69.1.3. Local Number Portability Local Routing Query Service. TCAP messages originated by ~~CLEC~~INTRADO COMM's SSPs and received by Embarq's database will be provided a response upon completion of a database lookup to determine the LRN. This information will be populated in industry standard format and returned to ~~CLEC~~INTRADO COMM so that it can then terminate the call in progress to the telephone number now residing in the switch designated by the LRN.

- (a) ~~CLEC~~INTRADO COMM agrees to obtain, prior to the initiation of any LNP query, a NPAC/SMS User Agreement with Neustar. ~~CLEC~~INTRADO COMM will maintain the NPAC/SMS User Agreement with Neustar, or its successor, as long as it continues to make LNP queries to the Embarq database. Failure to obtain and maintain the NPAC/SMS User Agreement is considered a breach of this Agreement and is cause for immediate termination of

service. Embarq shall not be liable for any direct or consequential damages due to termination because of lack of a NPAC/SMS User Agreement.

- (b) Embarq's LNP Database service offering does not include the cost of any charges or assessments by Number Portability Administrative Centers, whether under the NPAC/SMS User Agreement with Lockheed, or otherwise, or any charges assessed directly against CLECINTRADO COMM as the result of the FCC LNP Orders or otherwise by any third-party. These costs include the costs assessed against telecommunications carriers to pay for NPAC functions as permitted by the FCC and applicable legal or regulatory bodies. Embarq shall have no liability to CLECINTRADO COMM or the NPAC for any of these fees or charges applicable to CLECINTRADO COMM, even though it may pay such charges for other Embarq companies.

70. TRANSIT TRAFFIC

- 70.1. Transit Service (non-251 service) means the delivery of Transit Traffic, i.e. Local Traffic or ISP-Bound Traffic originated by CLECINTRADO COMM terminated to a third party LEC, ILEC, or CMRS provider or originated by a third party and terminated to CLECINTRADO COMM using Embarq's tandem switch over the local/intraLATA interconnection trunks.
- 70.2. To the extent network and contractual arrangements exist with all necessary parties throughout the term of this Agreement, and where indirectly interconnected parties have an interconnection to the same Embarq tandem, Embarq will provide Transit Services for CLECINTRADO COMM's connection of its end-user~~End-User~~ to a local end-user~~End-User~~ of: (1) CLECsINTRADO COMMs, (2) an ILEC other than Embarq, and (3) other CMRS carriers.
- 70.3. Embarq may require separate trunking for the delivery of such Transit Traffic in order to accurately measure and bill it.
- 70.4. Terms and Conditions
 - 70.4.1. Each Party acknowledges that a third-party LEC may block transit traffic. To the extent the originated Party's traffic is blocked by a third party, Embarq shall have no obligation to resolve the dispute. CLECINTRADO COMM acknowledges that Embarq does not have any responsibility to pay any third-party Telecommunications Carrier charges for termination of any identifiable Transit Traffic from the originating Party. Each Party acknowledges that it is the originating Party's responsibility to enter into arrangements with each third party LEC, CLECINTRADO COMM, or CMRS provider for the exchange of transit traffic to that third party.

70.4.2. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between CLECINTRADO COMM and a third party exceeds a DS1 equivalent of traffic, Embarq will no longer provide transit service and CLECINTRADO COMM must establish a direct interconnection with the third party for the exchange of such traffic. Within sixty (60) Days of when traffic exceeds this threshold, CLECINTRADO COMM shall establish a direct interconnection with such third party. After sixty (60) Days, if CLECINTRADO COMM has not established a direct interconnection and if CLECINTRADO COMM is exercising its best efforts to implement a direct connection with such third party, Embarq shall continue to transit the traffic. If Embarq disagrees that CLECINTRADO COMM is using its best efforts to implement a direct connection, Embarq may seek relief pursuant to the Dispute Resolution provisions.

70.5. Payment Terms and Conditions

70.5.1. The originating Party shall pay to Embarq a transit service charge as set forth in Table One.

70.5.2. CLECINTRADO COMM shall pay a transit rate as set forth in Table One of this Part when CLECINTRADO COMM uses an Embarq access tandem to terminate a local or ISP-bound call to a third party LEC, CLECINTRADO COMM or CMRS provider. CLECINTRADO COMM may be required to compensate Embarq for transit charges for traffic originated by an ILEC, transited by Embarq and terminated to CLECINTRADO COMM.

70.6. Billing Records and Exchange of Data

70.6.1. Parties will use their best efforts to convert all networks transporting transit traffic to deliver each call to the other Party's network with SS7 Common Channel Interoffice Signaling (CCIS) and other appropriate TCAP messages in order to facilitate full interoperability and billing functions. The Parties agree to send all message indicators, including originating telephone number, local routing number and CIC.

70.6.2. Upon request by the terminating Party and to the extent possible, Embarq agrees to provide the terminating Party information on traffic originated by a third party CLECsINTRADO COMMs or CMRS provider. To the extent Embarq incurs additional cost in providing this billing information, CLECINTRADO COMM agrees to reimburse Embarq for its direct costs of providing this information.

70.6.3. To the extent that the industry adopts a standard record format for recording originating and/or terminating transit calls, both Parties agree to comply with the industry-adopted format to exchange records.

70.7. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between CLECINTRADO COMM and a third party exceeds the

equivalent of three (3) DS1s of traffic, Embarq may, but shall not be obligated to require CLECINTRADO COMM to establish a direct connection with the parties to whom they are sending traffic. Embarq also reserves the right to require CLECINTRADO COMM to establish a direct connection to the third party if, in Embarq's sole discretion, the tandem is at or approaching capacity limitations. These limitations may include but are not limited to a lack of trunk port capacity or processor capacity based on the then existing tandem and network configuration. Within sixty (60) Days after Embarq notifies CLECINTRADO COMM of the requirement to direct connect, CLECINTRADO COMM shall establish a direct interconnection with such third party. After sixty (60) Days, if CLECINTRADO COMM has not established a direct interconnection, Embarq may thereafter charge CLECINTRADO COMM for such transit service at Intrastate Access rates, or discontinue providing transit service to CLECINTRADO COMM, at the sole discretion of Embarq, provided however, that Embarq shall exercise such discretion in a non-discriminatory manner.

PART J – GENERAL BUSINESS REQUIREMENTS**71. PROCEDURES****71.1. Contact with End Users**

- 71.1.1. Each Party at all times shall be the primary contact and account control for all interactions with its ~~end-users~~End-Users, except as specified by that Party. ~~Subscribers~~End-Users include active ~~end-users~~End-Users as well as those for whom service orders are pending.
- 71.1.2. Each Party shall ensure that any of its personnel who may receive ~~end user~~End-User inquiries, or otherwise have opportunity for ~~end-user~~End-User contact from the other Party's ~~end-user~~End-User regarding the other Party's services: (i) provide appropriate referrals to ~~subscribers~~End-Users who inquire about the other Party's services or products; (ii) do not in any way disparage or discriminate against the other Party, or its products or services; and (iii) do not provide information about its products or services during that same inquiry or ~~end-user~~End-User contact.
- 71.1.3. Embarq shall not use CLECINTRADO COMM's request for ~~end user~~End-User information, order submission, or any other aspect of CLECINTRADO COMM's processes or services to aid Embarq's marketing or sales efforts.

71.2. Expedite and Escalation Procedures

- 71.2.1. Embarq and CLECINTRADO COMM shall develop mutually acceptable escalation and expedite procedures which may be invoked at any point in the Service Ordering, Provisioning, Maintenance, and Subscriber Usage Data transfer processes to facilitate rapid and timely resolution of disputes. In addition, Embarq and CLECINTRADO COMM will establish intercompany contacts lists for purposes of handling ~~end-user~~End-User and other matters which require attention/resolution outside of normal business procedures within thirty (30) Days after CLECINTRADO COMM's request. Each ~~party~~Party shall notify the other ~~party~~Party of any changes to its escalation contact list as soon as practicable before such changes are effective.
- 71.2.2. No later than thirty (30) Days after CLECINTRADO COMM's request Embarq shall provide CLECINTRADO COMM with contingency plans for those cases in which normal Service Ordering, Provisioning, Maintenance, Billing, and other procedures for Embarq's unbundled Network Elements, features, functions, and resale services are inoperable.

71.3. **Subscriber of Record.** Embarq shall recognize ~~CLEC~~INTRADO COMM as the ~~Subscriber~~subscriber of ~~Record~~record for all Network Elements or services for resale ordered by ~~CLEC~~INTRADO COMM and shall send all notices, invoices, and information which pertain to such ordered services directly to ~~CLEC~~INTRADO COMM. INTRADO COMM will provide Embarq with addresses to which Embarq shall send all such notices, invoices, and information.

71.4. **Service Offerings**

71.4.1. Embarq shall provide ~~CLEC~~INTRADO COMM with access to new services, features and functions concurrent with Embarq's notice to ~~CLEC~~INTRADO COMM of such changes, if such service, feature or function is installed and available in the network or as soon thereafter as it is installed and available in the network, so that ~~CLEC~~INTRADO COMM may conduct market testing.

71.4.2. **Essential Services.** For purposes of service restoral, Embarq shall designate a ~~CLEC~~INTRADO COMM access line as an Essential Service Line (ESL) at Parity with Embarq's treatment of its own ~~end-users~~End-Users and applicable state law or regulation, if any.

71.4.3. **Blocking Services.** Upon request from ~~CLEC~~INTRADO COMM, employing Embarq-approved LSR documentation, Embarq shall provide blocking of 700, 900, and 976 services, or other services of similar type as may now exist or be developed in the future, and shall provide Billed Number Screening (BNS), including required LIDB updates, or equivalent service for blocking completion of bill-to-third party and collect calls, on a line, PBX, or individual service basis. Blocking shall be provided to the extent (a) it is an available option for the Telecommunications Service resold by ~~CLEC~~INTRADO COMM, or (b) it is technically feasible when requested by ~~CLEC~~INTRADO COMM as a function of unbundled Network Elements.

71.4.4. **Training Support.** Embarq shall provide training, on a non-discriminatory basis, for all Embarq employees who may communicate, either by telephone or face-to-face, with ~~CLEC~~ ~~end-users~~INTRADO COMM ~~End-Users~~. Such training shall include compliance with the branding requirements of this Agreement including without limitation provisions of forms, and unbranded "Not at Home" notices.

72. ORDERING AND PROVISIONING

72.1. **Ordering and Provisioning Parity.** Embarq shall provide necessary ordering and provisioning business process support as well as those technical and systems interfaces as may be required to enable ~~CLEC~~INTRADO COMM to provide the same level and quality of service for all resale services, functions, features, capabilities and unbundled Network Elements at Parity.

72.2. **National Exchange Access Center (NEAC)**

- 72.2.1. Embarq shall provide a NEAC or equivalent which shall serve as CLECINTRADO COMM's point of contact for all activities involved in the ordering and provisioning of Embarq's unbundled Network Elements, features, functions, and resale services.
- 72.2.2. The NEAC shall provide to CLECINTRADO COMM a nationwide telephone number (available from 6:00 a.m. to 8:00 p.m. Eastern Standard Time, Monday through Friday, and 8:00 am through 5:00 P.M. Eastern Standard Time on Saturday) answered by competent, knowledgeable personnel trained to answer questions and resolve problems in connection with the ordering and provisioning of unbundled Network Elements (except those associated with local trunking interconnection), features, functions, capabilities, and resale services.
- 72.2.3. Embarq shall provide, as requested by CLECINTRADO COMM, through the NEAC, provisioning and premises visit installation support in the form of coordinated scheduling, status, and dispatch capabilities during Embarq's standard business hours and at other times as agreed upon by the ~~parties~~Parties to meet ~~end-user~~End-User demand.
- 72.3. Master Street Index~~Address~~ Guide (SIGMSAG). Within thirty (30) Days of ~~CLEC~~either Party's written request, Embarq~~the other Party~~ shall provide to ~~CLEC~~the SIGMSAG data in the National Emergency Number Association Two (NENA2) format. A CDROM containing the SIGMSAG data will be shipped to the ~~CLEC~~requesting Party's designated contact on a monthly basis until the request is cancelled.
- 72.4. CLASS and Custom Features. Where generally available in Embarq's serving area, CLECINTRADO COMM, at the tariff rate, may order the entire set of CLASS, CENTREX and Custom features and functions, or a subset of any one of such features.
- 72.5. Number Administration/Number Reservation
- 72.5.1. Embarq shall provide testing and loading of CLECINTRADO COMM's NXX on the same basis as Embarq provides itself or its affiliates. Further, Embarq shall provide CLECINTRADO COMM with access to abbreviated dialing codes, and the ability to obtain telephone numbers, including vanity numbers, while a ~~subscriber~~End-User is on the phone with CLECINTRADO COMM. When CLECINTRADO COMM uses numbers from an Embarq NXX, Embarq shall provide the same range of number choices to CLECINTRADO COMM, including choice of exchange number, as Embarq provides its own ~~subscribers~~End-User. Reservation and aging of Embarq NXX's shall remain Embarq's responsibility.
- 72.5.2. In conjunction with an order for service, Embarq shall accept CLECINTRADO COMM orders for vanity numbers and blocks of numbers for use with complex services including, but not limited to,

DID, CENTREX, and Hunting arrangements, as requested by CLECINTRADO COMM.

- 72.5.3. For simple services number reservations and aging of Embarq's numbers, Embarq shall provide real-time confirmation of the number reservation when the Electronic Interface has been implemented. For number reservations associated with complex services, Embarq shall provide confirmation of the number reservation within twenty-four (24) hours of CLECINTRADO COMM's request. Consistent with the manner in which Embarq provides numbers to its own ~~subscribers~~End-User, no telephone number assignment is guaranteed until service has been installed.

72.6. Service Order Process Requirements

72.6.1. Service Migrations and New ~~Subscriber~~End-User Additions

- (a) For resale services, other than for a CLECINTRADO COMM order to convert "as is" a ~~CLEC-subscriber~~INTRADO COMM End-User, Embarq shall not disconnect any ~~subscriber~~End-User service or existing features at any time during the migration of that ~~subscriber~~End-User to CLECINTRADO COMM service without prior CLECINTRADO COMM agreement.
- (b) For services provided through UNEs, Embarq shall recognize CLECINTRADO COMM as an agent, in accordance with OBF developed processes, for the ~~subscriber~~End-User in coordinating the disconnection of services provided by another CLECINTRADO COMM or Embarq. In addition, Embarq and CLECINTRADO COMM will work cooperatively to minimize service interruptions during the conversion.
- (c) Unless otherwise directed by CLECINTRADO COMM and when technically capable, when CLECINTRADO COMM orders resale Telecommunications Services all trunk or telephone numbers currently associated with existing services shall be retained without loss of feature capability and without loss of associated ancillary services including, but not limited to, Directory Assistance and 911/E911 capability.
- (d) For ~~subscriber~~End-User conversions requiring coordinated cut-over activities, on a per order basis, Embarq, to the extent resources are readily available, and CLECINTRADO COMM will agree on a scheduled conversion time, which will be a designated time period within a designated date.
- (e) Any request made by CLECINTRADO COMM to coordinate conversions after normal working hours, or on Saturdays or

Sundays or Embarq holidays shall be performed at CLECINTRADO COMM's expense.

- (f) A general Letter of Agency (LOA) initiated by CLECINTRADO COMM or Embarq will be required to process a PLC or PIC change order. Providing the LOA, or a copy of the LOA, signed by the ~~end-user~~End-User will not be required to process a PLC or PIC change ordered by CLECINTRADO COMM or Embarq. CLECINTRADO COMM and Embarq agree that PLC and PIC change orders will be supported with appropriate documentation and verification as required by FCC and Commission rules. In the event of a ~~subscriber~~End-User complaint of an unauthorized PLC record change where the Party that ordered such change is unable to produce appropriate documentation and verification as required by FCC and Commission rules (or, if there are no rules applicable to PLC record changes, then such rules as are applicable to changes in long distance carriers of record), such Party shall be liable to pay and shall pay all nonrecurring and/or other charges associated with reestablishing the ~~subscriber~~End-User's local service with the original local carrier.

72.6.2. Intercept Treatment and Transfer Service Announcements. Embarq shall provide unbranded intercept treatment and transfer of service announcements to CLEC's ~~subscribers~~INTRADO COMM's End-Users. Embarq shall provide such treatment and transfer of service announcement in accordance with local tariffs and as provided to similarly situated Embarq ~~subscribers~~End-Users for all service disconnects, suspensions, or transfers.

72.6.3. Due Date

- (a) Embarq shall supply CLECINTRADO COMM with due date intervals to be used by CLECINTRADO COMM personnel to determine service installation dates.
- (b) Embarq shall use reasonable efforts to complete orders by the CLECINTRADO COMM requested DDD within agreed upon intervals.
- (c) SubscriberEnd-User Premises Inspections and Installations

 - (i) CLECINTRADO COMM shall perform or contract for all CLECINTRADO COMM's needs assessments, including equipment and installation requirements required beyond the Demarcation/NID, located at the ~~subscriber~~End-User premises.
 - (ii) Embarq shall provide CLECINTRADO COMM with the ability to schedule ~~subscriber~~End-User premises installations

at the same morning and evening commitment level of service offered Embarq's own ~~customers~~End-Users. The ~~parties~~Parties shall mutually agree on an interim process to provide this functionality during the implementation planning process.

(d) Firm Order Confirmation (FOC)

- (i) Embarq shall provide to CLECINTRADO COMM, a Firm Order Confirmation (FOC) for each CLECINTRADO COMM order. The FOC shall contain the appropriate data elements as defined by the OBF standards.
- (ii) For a revised FOC, Embarq shall provide standard detail as defined by the OBF standards.
- (iii) Embarq shall provide to CLECINTRADO COMM the date that service is scheduled to be installed.

72.6.4. Order Rejections

- (a) Embarq shall reject and return to CLECINTRADO COMM any order that Embarq cannot provision, due to technical reasons, missing information, or jeopardy conditions resulting from CLECINTRADO COMM ordering service at less than the standard order interval. When an order is rejected, Embarq shall, in its reject notification, specifically describe all of the reasons for which the order was rejected. Embarq shall reject any orders on account of the customer Desired Due Date conflicts with published Embarq order provisioning interval requirements.

72.6.5. Service Order Changes

- (a) In no event will Embarq change a CLECINTRADO COMM initiated service order without a new service order directing said change. If an installation or other CLECINTRADO COMM ordered work requires a change from the original CLECINTRADO COMM service order in any manner, CLECINTRADO COMM shall initiate a revised service order. If requested by CLECINTRADO COMM, Embarq shall then provide CLECINTRADO COMM an estimate of additional labor hours and/or materials.
- (b) When a service order is completed, the cost of the work performed will be reported promptly to CLECINTRADO COMM.
- (c) If a ~~CLEC~~subscriberINTRADO COMM End-User requests a service change at the time of installation or other work being performed by Embarq on behalf of CLECINTRADO COMM, Embarq, while at the subscriber~~End-User~~ premises, shall direct the

~~CLEC subscriber~~ INTRADO COMM End-User to contact CLECINTRADO COMM, and CLECINTRADO COMM will initiate a new service order.

- 72.7. Network Testing. Embarq shall perform all its standard pre-service testing prior to the completion of the service order.
- 72.8. Service Suspensions/Restorations. Upon CLECINTRADO COMM's request through an Industry Standard, OBF, Suspend/Restore Order, or mutually agreed upon interim procedure, Embarq shall suspend or restore the functionality of any Network Element, feature, function, or resale service to which suspend/restore is applicable. Embarq shall provide restoration priority on a per network element basis in a manner that conforms with any applicable regulatory Rules and Regulations or government requirements.
- 72.9. Order Completion Notification. Upon completion of the requests submitted by CLECINTRADO COMM, Embarq shall provide to CLECINTRADO COMM a completion notification in an industry standard, OBF, or in a mutually agreed format. The completion notification shall include detail of the work performed, to the extent this is defined within OBF guidelines, and in an interim method until such standards are defined.
- 72.10. Specific Unbundling Requirements. CLECINTRADO COMM may order and Embarq shall provision unbundled Network Elements. However, it is CLECINTRADO COMM's responsibility to combine the individual network elements should it desire to do so.
- 72.11. Systems Interfaces and Information Exchanges
 - 72.11.1. General Requirements
 - (a) Embarq shall provide to CLECINTRADO COMM Electronic Interface(s) for transferring and receiving information and executing transactions for all business functions directly or indirectly related to Service Ordering and Provisioning of Network Elements, features, functions and Telecommunications Services, to the extent available.
 - (b) Until the Electronic Interface is available, Embarq agrees that the NEAC or similar function will accept CLECINTRADO COMM orders. Orders will be transmitted to the NEAC via an interface or method agreed upon by CLECINTRADO COMM and Embarq.
 - (c) If the method of connectivity is File Transfer Protocol (FTP), the response(s) will be loaded to the server every hour and it is the responsibility of CLECINTRADO COMM to retrieve their response(s) from the server.

- (d) It is the responsibility of CLECINTRADO COMM to provide Embarq with the LOA (Letter of Authorization) when another party is involved and is working on their behalf.

72.11.2. For any prospective ~~CLEC subscriber~~INTRADO COMM End-User, Embarq shall provide CLECINTRADO COMM with access to that ~~subscriber~~End-User's CPNI without requiring CLECINTRADO COMM to produce a signed LOA, subject to applicable rules, orders, and decisions, and based on CLECINTRADO COMM's blanket representation that ~~subscriber~~the End-User has authorized CLECINTRADO COMM to obtain such CPNI.

- (a) The preordering Electronic Interface includes the provisioning of CPNI from Embarq to CLECINTRADO COMM. The Parties agree to request ~~end-user~~End-User CPNI only when the ~~end user~~End-User has specifically given permission to receive CPNI. The Parties agree that they will conform to FCC and/or state regulations regarding the provisioning of CPNI between the ~~parties~~Parties, and regarding the use of that information by the requesting ~~party~~Party.
- (b) The requesting Party will document ~~end user~~End-User permission obtained to receive CPNI, whether or not the ~~end-user~~End-User has agreed to change local service providers. With respect to ~~end users~~End-Users whose CPNI has been received by CLECINTRADO COMM, Embarq may request documentation from CLECINTRADO COMM to substantiate that CLECINTRADO COMM has requested and received permission from all such ~~end-users~~End-Users. If CLECINTRADO COMM is not able to provide adequate documentation reflecting such permission from at least ninety-five (95%) of such ~~end-users~~End-Users, Embarq reserves the right to immediately disconnect the preordering Electronic Interface.
- (c) The Parties agree to execute carrier changes as specified by the FCC in 47 CFR 64.1120. Documentation reflecting the request for a carrier change and verification in the form set forth in 47 CFR 64.1120 may be requested by the Party whose CPNI has been accessed in connection with such requested carrier change to investigate possible slamming incidents, and for other reasons agreed to by the Parties. A Party's failure to obtain and maintain adequate documentation of the request for a carrier change and verification of the same in the form set forth in 47 CFR 64.1120 before changing service from the other Party, or failure to produce documentation of such request and verification upon request of the other Party shall be considered a breach of the Agreement. A Party can cure the breach by submitting to the other Party a copy

of such documentation within three (3) Business Days of notification of the breach.

- (d) If CLECINTRADO COMM is not able to provide the LOA for ninety-five percent (95%) of the ~~end-users~~End-Users requested by Embarq, or if Embarq determines that an LOA is inadequate, CLECINTRADO COMM will be considered in breach of the agreement. CLECINTRADO COMM can cure the breach by submitting to Embarq evidence of an LOA for each inadequate or omitted LOA within three (3) Business Days of notification of the breach.
- (e) Should CLECINTRADO COMM not be able to cure the breach in the timeframe noted above, Embarq will discontinue processing new service orders until, in Embarq's determination, CLECINTRADO COMM has corrected the problem that caused the breach.
- (f) Embarq will resume processing new service orders upon Embarq's timely review and acceptance of evidence provided by CLECINTRADO COMM to correct the problem that caused the breach.
- (g) If CLECINTRADO COMM and Embarq do not agree that CLECINTRADO COMM has appropriate documentation or verification of a requested carrier change by a specific ~~end user~~End-User, or that Embarq has erred in not accepting proof of such carrier change request, the Parties may immediately request dispute resolution in accordance with Part B. Embarq will not disconnect the preordering Electronic Interface during the Alternate Dispute Resolution process.

72.12. CLECINTRADO COMM may use Embarq's ordering process (IRES) to:

72.12.1. to assign telephone number(s) (if the ~~subscriber~~End-User does not already have a telephone number or requests a change of telephone number) at Parity.

- (a) to schedule dispatch and installation appointments at Parity.
- (b) to access Embarq ~~subscriber~~End-User information systems which will allow CLECINTRADO COMM to determine if a service call is needed to install the line or service at Parity.
- (c) to access Embarq information systems which will allow CLECINTRADO COMM to provide service availability dates at Parity.

- (d) transmit status information on service orders, including acknowledgement, firm order confirmation, and completion at Parity.

72.13. Standards

72.13.1. General Requirements. ~~CLEC~~INTRADO COMM and Embarq shall agree upon the appropriate ordering and provisioning codes to be used for UNEs. These codes shall apply to all aspects of the unbundling of that element and shall be known as data elements as defined by the Telecommunications Industry Forum Electronic Data Interchange Service Order Subcommittee (TCIF-EDI-SOSC).

72.14 INTRADO COMM Ordering Processes

72.14.1 Where Embarq is ordering interconnection to INTRADO COMM's Intelligent Emergency Network™, Embarq will follow INTRADO COMM's INTRADO ordering processes as posted on the INTRADO COMM website.

73. PROVISION OF USAGE DATA

73.1. This Section sets forth the terms and conditions for Embarq's provision of Recorded Usage Data (as defined in this Part) to ~~CLEC~~INTRADO COMM and for information exchange regarding long distance and access billing. The ~~parties~~Parties agree to record call information for interconnection in accordance with this Section. To the extent technically feasible, each ~~party~~Party shall record all call detail information associated with completed calls originated by or terminated to the other Party's local exchange subscriber~~End-User~~, and long distance calls transited through one Party's network to the terminating provider. Embarq shall record for ~~CLEC~~INTRADO COMM the messages that Embarq records for and bills to its ~~end-users~~End-Users and records for billing of interexchange carriers. These records shall be provided at a ~~party~~Party's request and shall be formatted pursuant to Telcordia's EMI standards and the terms and conditions of this Agreement. These records shall be transmitted to the other ~~party~~Party on non-holiday Business Days in EMI format via CDN, or provided on a cartridge. Embarq and ~~CLEC~~INTRADO COMM agree that they shall retain, at each ~~party~~Party's sole expense, copies of all EMI records transmitted to the other ~~party~~Party for at least forty-five (45) Days after transmission to the other ~~party~~Party.

73.2. General Procedures

- 73.2.1. Embarq shall comply with various industry and OBF standards referred to throughout this Agreement.
- 73.2.2. Embarq shall comply with OBF standards when recording and transmitting Usage Data.
- 73.2.3. Embarq shall record all usage originating from ~~CLEC~~end usersINTRADO COMM End-Users using resold services ordered by

CLECINTRADO COMM, where Embarq records those same services for Embarq ~~end-users~~End-Users. Recorded Usage Data includes, but is not limited to, the following categories of information:

- (a) Use of CLASS/LASS/Custom Features that Embarq records and bills for its ~~end-users~~End-Users on a per usage basis.
- (b) Calls to Information Providers (IP) reached via Embarq facilities will be provided in accordance with Section ~~72.2.7~~73.2.7.
- (c) Calls to Directory Assistance where Embarq provides such service to a ~~CLEC-end-user~~INTRADO COMM End-User.
- (d) Calls completed via Embarq-provided Operator Services where Embarq provides such service to CLECINTRADO COMM's local service ~~end-user~~End-User and where Embarq records such usage for its ~~end-users~~End-Users using Industry Standard Telcordia EMI billing records.
- (e) Access records related to long distance calling.
- (f) For Embarq-provided Centrex Service, station level detail.

73.2.4. Retention of Records. Embarq shall maintain a machine readable back-up copy of the message detail provided to CLECINTRADO COMM for a minimum of forty-five (45) Days. During the forty-five (45) day period, Embarq shall provide any data back-up to CLECINTRADO COMM upon the request of CLECINTRADO COMM. If the forty-five (45) day period has expired, Embarq may provide the data back-up at CLECINTRADO COMM's expense.

73.2.5. Embarq shall provide to CLECINTRADO COMM Recorded Usage Data for ~~CLEC end-users~~INTRADO COMM End-Users. Embarq shall not submit other CLECINTRADO COMM local usage data as part of the CLECINTRADO COMM Recorded Usage Data.

73.2.6. Embarq shall not bill directly to ~~CLEC subscribers~~INTRADO COMM End-Users any recurring or non-recurring charges for CLECINTRADO COMM's services to the ~~end-user~~End-User except where explicitly permitted to do so within a written agreement between Embarq and CLECINTRADO COMM.

73.2.7. Embarq will record 976/N11 calls and transmit them to the IP for billing. Embarq will not bill these calls to either the CLECINTRADO COMM or the ~~CLEC's end-user~~INTRADO COMM's End-User.

73.2.8. Embarq shall provide Recorded Usage Data to CLECINTRADO COMM billing locations as agreed to by the Parties.

- 73.2.9. Embarq shall provide a single point of contact to respond to CLECINTRADO COMM call usage, data error, and record transmission inquiries.
- 73.2.10. Embarq shall provide CLECINTRADO COMM with a single point of contact and remote identifiers (IDs) for each sending location.
- 73.2.11. CLECINTRADO COMM shall provide a single point of contact responsible for receiving usage transmitted by Embarq and receiving usage tapes from a courier service in the event of a facility outage.
- 73.2.12. Embarq shall bill and CLECINTRADO COMM shall pay the charges for Recorded Usage Data. Billing and payment shall be in accordance with the applicable terms and conditions set forth herein.

73.3. Charges

- 73.3.1. Access services, including revenues associated therewith, provided in connection with the resale of services hereunder shall be the responsibility of Embarq and Embarq shall directly bill and receive payment on its own behalf from an IXC for access related to interexchange calls generated by resold or rebranded ~~customers~~End-Users.
- 73.3.2. Embarq will be responsible for returning EMI records to IXCs with the proper EMI Return Code along with the Operating Company Number (OCN) of the associated ANI, (*i.e.*, Billing Number).
- 73.3.3. Embarq will deliver a monthly statement for Wholesale Services in the medium (e.g.: NDM, paper, or CD-ROM) requested by CLECINTRADO COMM as follows:
 - (a) Invoices will be provided in a standard Carrier Access Billing format or other such format as Embarq may determine;
 - (b) Where local usage charges apply and message detail is created to support available services, the originating local usage at the call detail level in standard EMI industry format will be exchanged daily or at other mutually agreed upon intervals, and CLECINTRADO COMM will pay Embarq for providing such call detail;
 - (c) The Parties will work cooperatively to exchange information to facilitate the billing of in and out collect and inter/intra-region alternately billed messages;
 - (d) Embarq agrees to provide information on the end-user's selection of special features where Embarq maintains such information (e.g.: billing method, special language) when CLECINTRADO COMM places the order for service;

- (e) Monthly recurring charges for Telecommunications Services sold pursuant to this Agreement shall be billed monthly in advance.
- (f) Embarq shall bill for message provisioning and, if applicable data tape charges, related to the provision of usage records. Embarq shall also bill CLECINTRADO COMM for additional copies of the monthly invoice.

73.3.4. For billing purposes, and except as otherwise specifically agreed to in writing, the Telecommunications Services provided hereunder are furnished for a minimum term of one month. Each month is presumed to have thirty (30) Days.

73.4. Central Clearinghouse and Settlement

- 73.4.1. Embarq and CLECINTRADO COMM shall agree upon Clearinghouse and Incollect/Outcollect procedures.
- 73.4.2. Embarq shall settle with CLECINTRADO COMM for both intra-region and inter-region billing exchanges of calling card, bill-to-third party, and collect calls under separately negotiated settlement arrangements.

73.5. Lost Data

- 73.5.1. Loss of Recorded Usage Data. CLECINTRADO COMM Recorded Usage Data determined to have been lost, damaged or destroyed as a result of an error or omission by Embarq in its performance of the recording function shall be recovered by Embarq at no charge to CLECINTRADO COMM. In the event the data cannot be recovered by Embarq, Embarq shall estimate the messages and associated revenue, with assistance from CLECINTRADO COMM, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by Embarq and CLECINTRADO COMM. This estimate shall be used to adjust amounts CLECINTRADO COMM owes Embarq for services Embarq provides in conjunction with the provision of Recorded Usage Data.
- 73.5.2. Partial Loss. Embarq shall review its daily controls to determine if data has been lost. When there has been a partial loss, actual message and minute volumes shall be reported, if possible through recovery as discussed in Section ~~72.5~~73.5 above. Where actual data are not available, a full day shall be estimated for the recording entity, as outlined in the following paragraphs. The amount of the partial loss is then determined by subtracting the data actually recorded for such day from the estimated total for such day.
- 73.5.3. Complete Loss. When Embarq is unable to recover data as discussed in Section ~~72.5~~73.5 above estimated message and minute volumes for each loss consisting of an entire AMA tape or entire data volume due to its loss prior to or during processing, lost after receipt, degaussed before

processing, receipt of a blank or unreadable tape, or lost for other causes, shall be reported.

73.5.4. Estimated Volumes. From message and minute volume reports for the entity experiencing the loss, Embarq shall secure message/minute counts for the four (4) corresponding days of the weeks preceding that in which the loss occurred and compute an average of these volumes. Embarq shall apply the appropriate average revenue per message ("arpm") agreed to by CLECINTRADO COMM and Embarq to the estimated message volume for messages for which usage charges apply to the subscriber End-User to arrive at the estimated lost revenue.

73.5.5. If the day of loss is not a holiday but one (1) (or more) of the preceding corresponding days is a holiday, use additional preceding weeks in order to procure volumes for two (2) non-holidays in the previous two (2) weeks that correspond to the day of the week that is the day of the loss.

73.5.6. If the loss occurs on a weekday that is a holiday (except Christmas and Mother's day), Embarq shall use volumes from the two (2) preceding Sundays.

73.5.7. If the loss occurs on Mother's day or Christmas day, Embarq shall use volumes from that day in the preceding year multiplied by a growth factor derived from an average of CLECINTRADO COMM's most recent three (3) month message volume growth. If a previous year's message volumes are not available, a settlement shall be negotiated.

73.6. Testing, Changes and Controls

73.6.1. The Recorded Usage Data, EMI format, content, and transmission process shall be tested as agreed upon by CLECINTRADO COMM and Embarq.

73.6.2. Control procedures for all usage transferred between Embarq and CLECINTRADO COMM shall be available for periodic review. This review may be included as part of an Audit of Embarq by CLECINTRADO COMM or as part of the normal production interface management function. Breakdowns which impact the flow of usage between Embarq and CLECINTRADO COMM must be identified and jointly resolved as they occur. The resolution may include changes to control procedures, so similar problems would be avoided in the future. Any changes to control procedures would need to be mutually agreed upon by CLECINTRADO COMM and Embarq.

73.6.3. Embarq Software Changes

(a) When Embarq plans to introduce any software changes which impact the format or content structure of the usage data feed to CLECINTRADO COMM, designated Embarq personnel shall

notify CLECINTRADO COMM no less than ninety (90) Days before such changes are implemented.

- (b) Embarq shall communicate the projected changes to CLECINTRADO COMM's single point of contact so that potential impacts on CLECINTRADO COMM processing can be determined.
- (c) CLECINTRADO COMM personnel shall review the impact of the change on the entire control structure. CLECINTRADO COMM shall negotiate any perceived problems with Embarq and shall arrange to have the data tested utilizing the modified software if required.
- (d) If it is necessary for Embarq to request changes in the schedule, content or format of usage data transmitted to CLECINTRADO COMM, Embarq shall notify CLECINTRADO COMM.

73.6.4. CLECINTRADO COMM Requested Changes:

- (a) CLECINTRADO COMM may submit a purchase order to negotiate and pay for changes in the content and format of the usage data transmitted by Embarq.
- (b) When the negotiated changes are to be implemented, CLECINTRADO COMM and/or Embarq shall arrange for testing of the modified data.

73.7. Information Exchange and Interfaces

- 73.7.1. Product/Service Specific. Embarq shall provide a Telcordia standard 42-50-01 miscellaneous charge record to support the Special Features Star Services if these features are part of Embarq's offering and are provided for Embarq's subscribers End-Users on a per usage basis.

73.8. Rejected Recorded Usage Data

- 73.8.1.1. Upon agreement between CLECINTRADO COMM and Embarq, messages that cannot be rated and/or billed by CLECINTRADO COMM may be returned to Embarq via CDN or other medium as agreed by the Parties. Returned messages shall be sent directly to Embarq in their original EMI format utilizing standard EMI return codes.
- 73.8.1.2. Embarq may correct and resubmit to CLECINTRADO COMM any messages returned to Embarq. Embarq will not be liable for any records determined by Embarq to be billable to a CLEC end-user. CLECINTRADO COMM End-User. INTRADO COMM will not return a message that has been corrected and resubmitted by Embarq.

Embarq will only assume liability for errors and unguideables caused by Embarq.

74. GENERAL NETWORK REQUIREMENTS

- 74.1. Embarq shall provide repair, maintenance and testing for all resold Telecommunications Services and such UNEs that Embarq is able to test, in accordance with the terms and conditions of this Agreement.
- 74.2. During the term of this Agreement, Embarq shall provide necessary maintenance business process support as well as those technical and systems interfaces at Parity. Embarq shall provide CLECINTRADO COMM with maintenance support at Parity.
- 74.3. Embarq shall provide on a regional basis, a point of contact for CLECINTRADO COMM to report vital telephone maintenance issues and trouble reports twenty four (24) hours and seven (7) days a week.
- 74.4. Embarq shall provide CLECINTRADO COMM maintenance dispatch personnel on the same schedule that it provides its own subscribersEnd-Users.
- 74.5. Embarq shall cooperate with CLECINTRADO COMM to meet maintenance standards for all Telecommunications Services and unbundled network elements ordered under this Agreement. Such maintenance standards shall include, without limitation, standards for testing, network management, call gapping, and notification of upgrades as they become available.
- 74.6. All Embarq employees or contractors who perform repair service for CLEC end usersINTRADO COMM End-Users shall follow Embarq standard procedures in all their communications with CLEC end usersINTRADO COMM End-Users. These procedures and protocols shall ensure that:
 - 74.6.1. Embarq employees or contractors shall perform repair service that is equal in quality to that provided to Embarq end usersEnd-Users; and
 - 74.6.2. Trouble calls from CLECINTRADO COMM shall receive response time priority that is equal to that of Embarq end usersEnd-Users and shall be handled on a "first come first served" basis regardless of whether the end userEnd-User is a CLEC end userINTRADO COMM End-User or an Embarq end userEnd-User.
- 74.7. Embarq shall provide CLECINTRADO COMM with scheduled maintenance for resold lines, including, without limitation, required and recommended maintenance intervals and procedures, for all Telecommunications Services and network elements provided to CLECINTRADO COMM under this Agreement equal in quality to that currently provided by Embarq in the maintenance of its own network. CLECINTRADO COMM shall perform its own testing for UNEs.
- 74.8. Embarq shall give maximum advanced notice to CLECINTRADO COMM of all non-scheduled maintenance or other planned network activities to be performed

by Embarq on any network element, including any hardware, equipment, software, or system, providing service functionality of which CLECINTRADO COMM has advised Embarq may potentially impact ~~CLEC end-users~~INTRADO COMM End-Users.

- 74.9. Notice of Network Event. Each ~~party~~Party has the duty to alert the other of any network events that can result or have resulted in service interruption, blocked calls, or negative changes in network performance.
- 74.10. On all misdirected calls from ~~CLEC end-users~~INTRADO COMM End-Users requesting repair, Embarq shall provide such ~~CLEC end-user~~INTRADO COMM End-User with the correct CLECINTRADO COMM repair telephone number as such number is provided to Embarq by CLECINTRADO COMM. Once the Electronic Interface is established between Embarq and CLECINTRADO COMM, Embarq agrees that CLECINTRADO COMM may report troubles directly to a single Embarq repair/maintenance center for both residential and small business ~~end-users~~End-Users, unless otherwise agreed to by CLECINTRADO COMM.
- 74.11. Upon establishment of an Electronic Interface, Embarq shall notify CLECINTRADO COMM via such electronic interface upon completion of trouble report. The report shall not be considered closed until such notification is made. CLECINTRADO COMM will contact its ~~end-user~~End-User to determine if repairs were completed and confirm the trouble no longer exists.
- 74.12. Embarq shall perform all testing for resold Telecommunications Services.
- 74.13. Embarq shall provide test results to CLECINTRADO COMM, if appropriate, for trouble clearance. In all instances, Embarq shall provide CLECINTRADO COMM with the disposition of the trouble.
- 74.14. If Embarq initiates trouble handling procedures, it will bear all costs associated with that activity. If CLECINTRADO COMM requests the trouble dispatch, and either there is no trouble found, or the trouble is determined to be beyond the ~~end user~~End-User demarcation point, then CLECINTRADO COMM will bear the cost.
- 74.15. Embarq shall make available a 7x24 number for INTRADO COMM's use in obtaining and/or validating caller information and performance of call traces for in-progress emergency calls if required.

75. MISCELLANEOUS SERVICES AND FUNCTIONS

75.1. General

- 75.1.1. The services described in Section 74 ~~only apply~~ 75 shall only be available to the ~~CLEC both Parties~~ under this Agreement (i) when Embarq~~either Party~~ is providing the service to itself, or (ii) in areas where Embarq~~either Party~~ is providing such service to Embarq's ~~end-~~

~~user subscribers, and (iii) subject to the limitations specified herein. To the extent that Embarq does not provide the services described in this Section 74 to itself, or the requested service is not available to Embarq's end-user subscribers in such areas, CLEC must secure any desired services under a separate commercial agreement with Embarq or another provider.~~ its End-Users.

75.2. Basic 911 and E911 Service

75.2.1. Basic 911 and E911 provides a caller access to the appropriate emergency service bureau by dialing a 3-digit universal telephone number (911).

75.2.2. Basic 911 and E911 functions shall ~~only~~will be provided to CLECINTRADO COMM for resale services, and shall be at Parity with the support and services that Embarq provides to its subscribers End-Users for such similar functionality.

(a) Where it may be appropriate for Embarq to update the ALI database, Embarq shall update such database with CLECINTRADO COMM data in an interval at Parity with that experienced by Embarq ~~end-users~~End-Users.

(b) Embarq shall transmit to CLECINTRADO COMM daily all changes, alterations, modifications, and updates to the emergency public agency telephone numbers linked to all NPA NXXs. This transmission shall be electronic and be a separate feed from the subscriber End-User listing feed.

75.2.3. In government jurisdictions where Embarq has obligations under existing agreements as the primary provider of the 911 System to the county (Host Embarq), CLECINTRADO COMM shall participate in the provision of the 911 System in accordance with applicable tariffs, ~~or if no tariff is applicable, then pursuant to a separate commercial agreement with Embarq~~this Agreement.

75.2.4. ~~In government jurisdictions where INTRADO COMM has obligations under existing agreements as the primary provider of the 911 system to the county (Host INTRADO COMM), Embarq shall participate in the provision of the 911 system in accordance with this Agreement.~~

75.2.4. ~~75.2.5~~ If a third party is the primary provider of the 911 System to a ~~government agency, CLEC~~system to a E911 Authority, the Parties shall negotiate separately with such third party with regard to the provision of 911 ~~service~~Service to the ~~agency~~E911 Authority. All relations between such third party and ~~CLEC~~the Parties are totally separate from this Agreement and Embarq ~~neither Party~~ makes ~~no~~any representations on behalf of the third party.

~~75.2.5.~~ 75.2.6 Basic 911 and E911 Database Requirements

- (a) Where Embarq has been designated as the primary E911 Service provider by the E911 Authority, the ALI database shall be managed by Embarq, but is the property of Embarq and CLECINTRADO COMM for those records provided by CLECINTRADO COMM. Where INTRADO COMM has been designated as the primary E911 Service provider by the E911 Authority, the ALI database shall be managed by INTRADO COMM.
- (b) ToWhere Embarq manages the Selective Router and/or ALI database and to the extent allowed by the governmental agencyE911 Authority, and where available, copies of the SIGMSAG shall be provided by Embarq within three (3) Business Days from the time requested and provided on diskette, or in a format suitable for use with desktop computers. disk (or other mutually agreed medium), in a format compliant with mutually agreed NENA standards. Where INTRADO COMM manages the Selective Router and/or ALI data, INTRADO COMM shall provide an initial MSAG load and daily updates to Embarq for use in submitting MSAG valid End-User record information to the INTRADO COMM 911 database system. It shall be the responsibility of Embarq to accept and maintain the daily updates from INTRADO COMM.
- (c) CLECINTRADO COMM shall be solely responsible for providing CLECINTRADO COMM database records to Embarq for inclusion in Embarq's Selective Router and/or ALI database on a timely basis. Embarq shall be solely responsible for providing Embarq database records to INTRADO COMM for inclusion in INTRADO COMM'S Selective Router and/or ALI database on a timely basis.
- (d) Embarq and CLECINTRADO COMM shall arrange for the automated input and periodic updating of the E911 database information related to CLEC end usersEmbarq and INTRADO COMM End-Users. Embarq and INTRADO COMM shall work cooperatively with CLEC to ensure the accuracy of the data transfer by verifying it against the SIGMSAG. Embarq shall accept and submit electronically transmitted files that conform to NENA Version #2-format.
- (e) CLECINTRADO COMM and Embarq shall assign an E911 database coordinator charged with the responsibility of forwarding CLEC end user ALI record information to Embarq End-User SOI to the appropriate E911 ALI database management provider or via a third-party entity, charged with the responsibility of ALISOI

record transfer. ~~CLEC~~~~assumes~~The Parties assume all responsibility for the accuracy of the data that ~~CLEC~~each provides to ~~Embarq~~the appropriate E911 database management provider.

- (f) ~~CLEC~~The Parties shall provide information on new subscribers to ~~Embarq~~End-Users to the appropriate E911 database management provider within one (1) business day of the order completion. ~~Embarq~~The designated E911 Services provider shall update the database within two (2) Business Days of receiving the data from ~~CLEC~~. If ~~Embarq~~ detects an error in the ~~CLEC~~the other Party. If errors are detected in the submitting Party's provided data, the data shall be returned to ~~CLEC~~the submitting Party within two (2) Business Days from when it was provided to ~~Embarq~~. ~~CLEC~~recieved by the designated E911 Services provider. The submitting Party shall respond to requests from ~~Embarq~~the designated E911 Services provider to make corrections to database record errors by uploading corrected SOI records within two (2) Business Days. Manual entry shall be allowed only in the event that the system is not functioning properly.
- (g) ~~Embarq~~The designated E911 Service provider agrees to treat all ~~End-User~~ data on ~~CLEC~~ subscribers provided under this Agreement as confidential and to use ~~End-User~~ data on ~~CLEC~~ subscribers only for the purpose of providing E911 emergency communications services.
- (h) Parties shall load pANI Shell Records and update ALI steering tables in both the Embarq and INTRADO COMM ALI databases to support PSAP-to-PSAP call transfer with ALI for dynamic ALI type calls (e.g. wireless and nomadic VoIP calls).
- (i) Embarq and INTRADO COMM shall employ PAM as the protocol for interoperability between the ALI systems for ALI retrieval from each Party's ALI database when no record found ALI steering conditions occur.

75.3. Directory Listings Service

- 75.3.1. These requirements pertain to Embarq's Listings Service Request process that enables ~~CLEC~~INTRADO COMM to (a) submit ~~CLEC~~ subscriber~~INTRADO COMM~~ End-User information for inclusion in Directory Listings databases; (b) submit ~~CLEC~~ subscriber~~INTRADO COMM~~ End-User information for inclusion in published directories; and (c) provide ~~CLEC~~ subscriber~~INTRADO COMM~~ End-User delivery address information to enable Embarq to fulfill directory distribution obligations.

- 75.3.2. When implemented by the Parties, Embarq shall accept orders on a real-time basis via electronic interface in accordance with OBF Directory Service Request standards within three (3) months of the effective date of this Agreement. In the interim, Embarq shall create a standard format and order process by which CLECINTRADO COMM can place an order with a single point of contact within Embarq.
- 75.3.3. Embarq will provide to CLECINTRADO COMM the following Directory Listing Migration Options:
- (a) Migrate with no Changes. Retain all white page listings for the subscriberEnd-User in both DA and DL. Transfer ownership and billing for white page listings to CLECINTRADO COMM.
 - (b) Migrate with Additions. Retain all white page listings for the subscriberEnd-User in DL. Incorporate the specified additional listings order. Transfer ownership and billing for the white page listings to CLECINTRADO COMM.
 - (c) Migrate with Deletions. Retain all white page listings for the subscriberEnd-User in DL. Delete the specified listings from the listing order. Transfer ownership and billing for the white page listings to CLECINTRADO COMM.
 - (d) To ensure accurate order processing, Embarq or its directory publisher shall provide to CLECINTRADO COMM the following information, with updates promptly upon changes:
 - (e) A matrix of NXX to central office;
 - (f) Geographical maps if available of Embarq service area;
 - (g) A description of calling areas covered by each directory, including but not limited to maps of calling areas and matrices depicting calling privileges within and between calling areas;
 - (h) Listing format rules;
 - (i) Standard abbreviations acceptable for use in listings and addresses;
 - (j) Titles and designations; and
 - (k) A list of all available directories and their Business Office close dates
- 75.3.4. Embarq shall update and maintain directory listings information to reflect which of the following categories CLEC-subscribersINTRADO COMM End-Users fall into:
- (a) "LISTED" means the listing information is available for all directory requirements;

- (b) "NON-LISTED" means the listing information is available for all directory requirements, but the information does not appear in the published street directory;
 - (c) "NON-PUBLISHED" means that a directory service may confirm, by name and address, the presence of a listing, but the telephone number is not available. The listing information is not available in either the published directory or directory assistance.
- 75.3.5. Based on changes submitted by CLECINTRADO COMM, Embarq shall update and maintain directory listings data for CLEC subscribersINTRADO COMM End-Users who:
- (a) Disconnect Service;
 - (b) Change CLECINTRADO COMM;
 - (c) Install Service;
 - (d) Change any service which affects DA information;
 - (e) Specify Non-Solicitation; and
 - (f) Change categories from Non-Published, Non-Listed, or Listed.
- 75.3.6. The charge for storage of CLEC subscriberINTRADO COMM End-User information in the DL systems is included in the rates where CLECINTRADO COMM is buying UNE Loops or resold services with respect to specific addresses. CLECsINTRADO COMMs that are not buying UNE Loops or resold services shall pay for such storage services at the rate reflected on Table One.
- 75.3.7. CLECINTRADO COMM acknowledges that many directory functions including but not limited to directory proofing, and directory distribution are not performed by Embarq but rather are performed by and are under the control of the directory publisher, and Embarq shall not have any liability to CLECINTRADO COMM for any acts or omissions of the publisher. Embarq shall use reasonable efforts to assist CLECINTRADO COMM in obtaining an agreement with the directory publisher that treats CLECINTRADO COMM at Parity with the publisher's treatment of Embarq.
- 75.3.8. CLECINTRADO COMM acknowledges that for a CLEC subscriberINTRADO COMM End-User's name to appear in a directory, CLECINTRADO COMM must submit a Directory Service Request (DSR).
- 75.3.9. CLECINTRADO COMM shall provide directory listings to Embarq pursuant to the directory listing and delivery requirements in the approved OBF format, at a mutually agreed upon timeframe. Other

formats and requirements shall not be used unless mutually agreed to by the ~~parties~~Parties.

75.3.10. Traditional White Pages Listings.

- (a) Embarq shall include in its master ~~subscriber~~End-User system database all white pages listing information for ~~CLEC subscribers~~INTRADO COMM End-Users whose information was properly submitted a DSR.
- (b) One basic White pages listing for each ~~CLEC customer~~INTRADO COMM End-User is included in the rates where ~~CLEC~~INTRADO COMM is buying UNE Loops or resold services at a specific address and additional listings for a specific address shall be provided at the rates reflected on Table 1. If ~~CLEC~~INTRADO COMM requests a listing for an address where ~~CLEC~~INTRADO COMM is not buying UNE Loops or resold services, ~~CLEC~~INTRADO COMM shall pay for all requested listings for such address at the rate reflected on Table One. A basic White Pages listing is defined as a ~~customer~~End-User name, address and either the ~~CLEC~~INTRADO COMM assigned number for a ~~customer~~End-User or the number for which number portability is provided, but not both numbers. Basic White Pages listings of ~~CLEC customers~~INTRADO COMM End-Users will be interfiled with listings of Embarq ~~End-Users~~ and other LEC customers.
- (c) ~~CLEC~~INTRADO COMM agrees to provide ~~customer~~listing information for ~~CLEC's subscribers~~INTRADO COMM's End-Users, including without limitation directory distribution information, to Embarq, at no charge. Embarq will provide ~~CLEC~~INTRADO COMM with the appropriate format for provision of ~~CLEC customer~~INTRADO COMM listing information to Embarq. The ~~parties~~Parties agree to adopt a mutually acceptable electronic format for the provision of such information as soon as practicable. In the event OBF adopts an industry-standard format for the provision of such information, the ~~parties~~Parties agree to adopt such format.
- (d) Embarq agrees to provide White Pages database maintenance services to ~~CLEC~~INTRADO COMM. ~~CLEC~~INTRADO COMM will be charged a Service Order entry fee upon submission of Service Orders into Embarq's Service Order Entry (SOE) System, which will include compensation for such database maintenance services. Service Order entry fees apply when Service Orders containing directory records are entered into Embarq's SOE System initially, and when Service Orders are entered in order to process a requested change to directory records.

- (e) ~~CLEC-customer~~INTRADO COMM listing information will be used solely for the provision of directory services, including the sale of directory advertising to ~~CLEC-customer~~INTRADO COMM End-Users.
- (f) In addition to a basic White Pages listing, Embarq will provide, tariffed White Pages listings (e.g.: additional, alternate, foreign and non-published listings) for ~~CLEC~~INTRADO COMM to offer for resale to ~~CLEC's-customer~~INTRADO COMM's End-Users.
- (g) Embarq, or its directory publisher, will provide White Pages distribution services to ~~CLEC-customer~~INTRADO COMM End-Users, in areas where Embarq is providing such service to Embarq's ~~end-user-subscribers~~End-User, at no additional charge to ~~CLEC~~INTRADO COMM at times of regularly scheduled distribution to all ~~customers~~End-Users. Embarq represents that the quality, timeliness, and manner of such distribution services will be at Parity with those provided to Embarq and to other ~~CLEC-customer~~INTRADO COMM End-Users.
- (h) Embarq agrees to include critical contact information pertaining to ~~CLEC~~INTRADO COMM in the "Information Pages" of those of its White Pages directories containing information pages, if ~~CLEC~~INTRADO COMM meets criteria established by its directory publisher. Critical contact information includes ~~CLEC~~INTRADO COMM's business office number, repair number, billing information number, and any other information required to comply with applicable regulations, but not advertising or purely promotional material. ~~CLEC~~INTRADO COMM will not be charged for inclusion of its critical contact information. The format, content and appearance of ~~CLEC~~INTRADO COMM's critical contact information must conform to applicable Embarq directory publisher's guidelines and will be consistent with the format, content and appearance of critical contact information pertaining to all ~~CLECs~~INTRADO COMMs in a directory.
- (i) Embarq will accord ~~CLEC-customer~~INTRADO COMM listing information the same level of confidentiality that Embarq accords its own proprietary ~~customer-listing~~ information. Embarq shall ensure that access to ~~CLEC-customer~~INTRADO COMM proprietary listing information will be limited solely to those of Embarq and Embarq's directory publisher's employees, agents and contractors that are directly involved in the preparation of listings, the production and distribution of directories, and the sale of directory advertising. Embarq will advise its own employees, agents and contractors and its directory publisher of the existence of this confidentiality obligation and will take appropriate measures to ensure their compliance with this obligation.

Notwithstanding any provision herein to the contrary, the furnishing of White Pages proofs to a CLECINTRADO COMM that contains ~~customer~~End-User listings of both Embarq and CLECINTRADO COMM will not be deemed a violation of this confidentiality provision.

- (j) Embarq will provide CLECINTRADO COMM's ~~customer-listing information~~information to any third party to the extent required by Applicable Rules.

75.4. Other Directory Services.

- 75.4.1. Embarq will exercise reasonable efforts to cause its directory publisher to enter into a separate agreement with CLECINTRADO COMM which will address other directory services desired by CLECINTRADO COMM as described in this Section ~~74.4.75.4~~. Both ~~parties~~Parties acknowledge that Embarq's directory publisher is not a party to this Agreement and that the provisions contained in this Section ~~74.4.75.4~~ are not binding upon Embarq's directory publisher.
- 75.4.2. Embarq will request that its publisher make available to CLECINTRADO COMM the provision of a basic Yellow Pages listing to ~~CLEC customers~~INTRADO COMM End-Users located within the geographic scope of publisher's Yellow Pages directories and distribution of Yellow Pages directories to ~~CLEC customers~~INTRADO COMM End-Users.
- 75.4.3. Embarq will request that its publisher make directory advertising available to ~~CLEC customers~~INTRADO COMM End-Users on a nondiscriminatory basis and subject to the same terms and conditions that such advertising is offered to Embarq and other ~~CLEC customers~~INTRADO COMM End-Users. Directory advertising will be billed to ~~CLEC customers~~INTRADO COMM End-Users by directory publisher.
- 75.4.4. Embarq will request that its publisher use commercially reasonable efforts to ensure that directory advertising purchased by ~~customers~~End-Users who switch their service to CLECINTRADO COMM is maintained without interruption.
- 75.4.5. Embarq will request that its publisher make available information pages, in addition to any information page or portion of an information page containing critical contact information as described above in Section 74.3.9, subject to applicable directory publisher guidelines, criteria, and regulatory requirements.
- 75.4.6. The directory publisher shall maintain full authority as publisher over its publishing policies, standards and practices, including decisions regarding directory coverage area, directory issue period, compilation,

headings, covers, design, content or format of directories, and directory advertising sales.

75.5. Directory Assistance Data.

75.5.1. Directory Assistance Data consists of information within residential, business, and government ~~subscriber~~End-User records that can be used to create and maintain databases for the provision of live or automated operator assisted Directory Assistance.

75.5.2. Under a separate agreement, Embarq will provide ~~CLEC~~INTRADO COMM with unbundled and non-discriminatory access to the residential, business and government ~~subscriber~~End-User records for the purpose of obtaining Directory Assistance Data that is needed to enable telephone exchange ~~CLECs~~INTRADO COMMs to swiftly and accurately respond to requests by end-users for directory information, including, but not limited to name, address and phone numbers. The separate agreement shall provide for each of the following:

- (a) ~~Subscriber~~End-User records. ~~CLEC~~INTRADO COMM shall have access to the same ~~subscriber~~End-User record information that Embarq used to create and maintain its databases for the provision of live or automated operator assisted Directory Assistance.
- (b) Data Transfer. Embarq shall provide to ~~CLEC~~INTRADO COMM, at ~~CLEC~~INTRADO COMM's request, all published Subscriber List Information (including such information that resides in Embarq's master ~~subscriber~~End-User system/accounts master file for the purpose of publishing directories in any format as specified by the Act) via an electronic data transfer medium and in a mutually agreed to format, on the same terms and conditions and at the same rates that the Embarq provides Subscriber List Information to itself or to other third parties. All changes to the Subscriber List Information shall be provided to ~~CLEC~~INTRADO COMM pursuant to a mutually agreed format and schedule. Both the initial List and all subsequent Lists shall indicate for each ~~subscriber~~End-User whether the ~~subscriber~~End-User is classified as residence or business class of service.

PART K – REPORTING STANDARDS

76. GENERAL

- 76.1. Embarq shall satisfy all service standards, intervals, measurements, specifications, performance requirements, technical requirements, and performance standards and will pay any penalties for violation of the performance standards that are required by law or regulation. In addition, Embarq's performance under this agreement shall be provided to CLECINTRADO COMM at parity with the performance Embarq provides itself for like service(s).

PART L – COLLOCATION

77. SCOPE OF COLLOCATION TERMS

- 77.1. Embarq will provide Collocation to CLECINTRADO COMM in accordance with this Agreement for the purposes of Interconnection to Embarq pursuant to the Act (including 47 USC § 251(c)(2)) and for obtaining access to Embarq's UNEs pursuant to the Act (including 47 USC § 251(c)(3)). Collocation shall be provided on a nondiscriminatory basis, on a "first-come, first-served" basis, and otherwise in accordance with the requirements of the Act (including 47 USC § 251(c)(6)).
- 77.2. Prices and fees for collocation and other services under this Agreement are contained in Table Two. In the event Embarq files tariffs for pricing of collocation and other services covered by this agreement, such pricing in the tariffs will control over Table Two as of the date the tariff becomes effective. The terms and conditions of this Agreement will control over any terms and conditions in the tariff.
- 77.3. This Agreement states the general terms and conditions upon which Embarq will grant to CLECINTRADO COMM the non-exclusive right to gain access to and occupy the Collocation Space, and other associated facilities as may be necessary, for the sole and exclusive purpose of providing telecommunications service upon submission of an approved and provisioned Application for collocation service. Such service will be provided by installing, maintaining and operating CLECINTRADO COMM's equipment, which will interconnect with Telecommunications Services and facilities provided by Embarq or others in accordance with this Agreement.

78. TERMINATION OF COLLOCATION SPACE

- 78.1. CLECINTRADO COMM may terminate occupancy in a particular Collocation Space upon thirty (30) Days prior written notice to Embarq. Upon termination of such occupancy, CLECINTRADO COMM at its expense shall remove its equipment and other property from the Collocation Space. CLECINTRADO COMM shall have thirty (30) Days from the termination date to complete such removal, including the removal of all equipment and facilities of CLECINTRADO COMM's Guests; provided, however, that CLECINTRADO COMM shall continue payment of monthly fees to Embarq until such date as CLECINTRADO COMM has fully vacated the Collocation Space. CLECINTRADO COMM will surrender the Collocation Space to Embarq in the same condition as when first occupied by CLECINTRADO COMM, except for ordinary wear and tear.
- 78.2. CLECINTRADO COMM shall be responsible for the cost of removing any enclosure, together with all supporting structures (e.g., racking, conduits), of an

Adjacent Collocation arrangement at the termination of occupancy and restoring the grounds to their original condition.

- 78.3. Upon termination of CLECINTRADO COMM's right to possession of a Collocation Space, CLECINTRADO COMM shall surrender possession and vacate the Collocation Space within thirty (30) Days. Failure to surrender the Collocation Space within thirty (30) Days shall be considered abandonment and Embarq will have the right to remove the equipment and other property of CLECINTRADO COMM or the CLECINTRADO COMM's Guest at CLECINTRADO COMM's expense and with no liability for damage or injury to CLECINTRADO COMM's property.
- 78.4. Should Embarq under any Section of this Agreement remove any of CLECINTRADO COMM's equipment from its collocation space, Embarq will deliver to CLECINTRADO COMM any equipment removed by Embarq only upon payment by CLECINTRADO COMM of the cost of removal, storage and delivery, and all other amounts due Embarq under this Agreement. Should CLECINTRADO COMM fail to remove any of its equipment deemed abandoned, title thereto shall pass to Embarq under this Agreement as if by a Bill of Sale. Nothing herein shall limit Embarq from pursuing, at its option, any other remedy in law, equity, or otherwise related to CLECINTRADO COMM's occupancy in the Collocation Space, including any other remedy provided in this Agreement.
- 78.5. CLECINTRADO COMM shall surrender all keys, access cards and Embarq-provided photo identification cards to the Collocation Space and the Building to Embarq, and shall make known to Embarq the combination of all combination locks remaining on the Collocation Space.
- 78.6. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives available, Embarq shall have the right, for good cause shown, and upon thirty (30) Days prior notice, to reclaim the Collocation Space or any portion thereof, any Inner Duct, Outside Cable Duct, Cable Vault space or other Embarq-provided facility in order to fulfill its common carrier obligations, any order or rule of the state commission or the FCC, or Embarq's tariffs to provide Telecommunications Services to its end-user customers~~End-User~~. In such cases, Embarq will reimburse CLECINTRADO COMM for reasonable direct costs and expenses in connection with such reclamation.
- 78.7. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives, to require CLECINTRADO COMM to move to equivalent space in the Premises upon receipt of sixty (60) Days written notice from Embarq, in which event, Embarq shall pay all moving costs, and the Collocation License Fee provided for herein shall remain the same.

79. COLLOCATION OPTIONS

- 79.1. Embarq will offer Collocation Space to allow CLECINTRADO COMM to collocate its equipment and facilities, and without requiring the construction of a

cage or similar structure. Embarq shall make cageless collocation available in single bay increments. For equipment requiring special technical considerations, CLECINTRADO COMM must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in Telcordia GR-63-Core and shall be responsible for constructing all special technical requirements associated with such equipment pursuant to this Agreement.

79.2. Embarq will authorize the enclosure of CLECINTRADO COMM's equipment and facilities at CLECINTRADO COMM's option. Embarq will provide guidelines and specifications upon request. Based on CLECINTRADO COMM's request, space and cage enclosures in amounts as small as that sufficient to house and maintain a single rack or bay or equipment will be made available. At CLECINTRADO COMM's option, Embarq will permit CLECINTRADO COMM to arrange with a third party vendor to construct a Collocation Arrangement enclosure at CLECINTRADO COMM's sole expense. CLECINTRADO COMM's third party vendor will be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. The third party vendor shall bill CLECINTRADO COMM directly for all work performed for CLECINTRADO COMM and Embarq will have no liability for nor responsibility to pay such charges imposed by the third party vendor. CLECINTRADO COMM must provide the local Embarq building contact with one Access key used to enter the locked enclosure. Except in case of emergency, Embarq will not access CLECINTRADO COMM's locked enclosure prior to notifying CLECINTRADO COMM and obtaining authorization.

79.2.1. Embarq has the right to review CLECINTRADO COMM's plans and specifications prior to allowing construction to start. Embarq will complete its review within fifteen (15) Days of receipt of such plans. Embarq has the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications. Embarq can require CLECINTRADO COMM to remove or correct, at its cost, any structure that does not meet these plans.

79.3. CLECINTRADO COMM may allow other telecommunications carriers to share its caged collocation arrangement pursuant to terms and conditions agreed to by CLECINTRADO COMM ("Host") and other telecommunications carriers ("Guests"). CLECINTRADO COMM will notify Embarq in writing upon execution of any agreement between the Host and its Guest within twelve (12) Days of its execution. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall contain a certification by CLECINTRADO COMM that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement.

79.3.1. As Host, CLECINTRADO COMM will be the sole interface and responsible party to Embarq for the purpose of submitting applications for initial and additional equipment placements of Guest (to the extent required under other Sections of this Agreement); for

assessment and payment of rates and charges applicable to the Collocations space; and for the purposes of ensuring that the safety and security requirements of this Agreement are fully complied with by the Guest, its employees and agents. In making shared cage arrangements, Embarq will not increase the cost of site preparation or nonrecurring charges above the cost of provisioning a similar caged arrangement to a CLECINTRADO COMM.

- 79.3.2. Embarq will not place unreasonable restrictions on CLECINTRADO COMM's use of a cage, and as such will allow CLECINTRADO COMM to contract with other CLECsINTRADO COMMS to share the cage in a sublease type arrangement. If two (2) or more CLECsINTRADO COMMS that have interconnection agreements with Embarq utilize a shared collocation cage, Embarq will permit each CLECINTRADO COMM to order UNEs and provision service from the shared collocation space, regardless of which CLECINTRADO COMM was the original collocator.
- 79.3.3. If Host terminates a Collocation Arrangement, Host will provide Guest thirty (30) Days notice. Guest will assume all obligations and rights of Host as to that Collocation Arrangement if Guest remains in the Collocation Space, including payment of all charges.
- 79.4. Embarq will provide adjacent collocation arrangements ("Adjacent Arrangement") where space within the Premises is legitimately exhausted, subject to technical feasibility. Both Parties will mutually agree on the location of the designated space on the Embarq property where the adjacent structure (such as a CEV or similar structure) will be placed. If a mutual agreement cannot be reached, Embarq will decide the location, subject to zoning or other state and local regulations and future use by Embarq or other requesting Telecommunications Carriers pursuant to an application submitted under Section 80.
 - 79.4.1. CLECINTRADO COMM will provide a concrete pad, the structure housing the arrangement, HVAC, lighting, and all facilities that connect the structure (*i.e.*, racking, conduits, etc.) to the Embarq point of interconnection. Should CLECINTRADO COMM elect such an option, CLECINTRADO COMM must arrange with a third party vendor to construct an Adjacent Arrangement structure in accordance with this Agreement.
 - 79.4.2. Embarq maintains the right to review CLECINTRADO COMM's plans and specifications prior to construction of an Adjacent Arrangement(s). Embarq will complete its review within thirty (30) Days of site selection and receipt of plans. Except that such time period may be extended if any delay is due to the actions of CLECINTRADO COMM. Embarq may inspect the Adjacent Arrangement(s) following construction and prior to commencement to ensure the design and construction comply

with submitted plans. Embarq may require CLECINTRADO COMM to correct any deviations from approved plans found during such inspection(s).

- 79.4.3. Embarq will provide AC power, as requested, subject to being technically feasible. At its option, CLECINTRADO COMM may choose to provide its own AC power to the adjacent structure as long as the AC power source is from the same provider as Embarq's.
- 79.4.4. Subject to CLECINTRADO COMM being on the waiting list, in the event that space in an Embarq Premises becomes available, Embarq will provide the option to the CLECINTRADO COMM to relocate its equipment from an Adjacent Facility into the Embarq Premises. In the event CLECINTRADO COMM chooses to relocate its equipment, appropriate charges will apply, including charges to vacate the adjacent collocation arrangement and charges applicable for collocation within the Embarq Premises.
- 79.5. To the extent possible, Embarq will provide CLECINTRADO COMM with contiguous space for any subsequent request for physical collocation space, but makes no assurances that contiguous space will be available.
- 79.6. Embarq will provide virtual collocation, subject to being technically feasible, if physical collocation is not practical for technical reasons or because of space limitations and in accordance with the Act (including 47 USC § 251(c)(6) and 47 CFR § 51.321).
 - 79.6.1. CLECINTRADO COMM may lease to Embarq, at no cost to Embarq, equipment that meets applicable FCC requirements and in accordance with this Agreement, for the sole purpose of having Embarq install and maintain the equipment in accordance with terms and conditions mutually agreed upon by the Parties.
 - 79.6.2. Virtually collocated equipment shall be purchased by CLECINTRADO COMM. Embarq does not assume any responsibility for the design, engineering, testing or performance for the end-to-end connection of CLECINTRADO COMM's equipment, arrangement or facilities.
 - 79.6.3. Embarq will install, maintain, and repair CLECINTRADO COMM's collocated equipment within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of Embarq, Embarq's affiliates or third parties. The following services are not covered by this Agreement:
 - (a) services to resolve software or hardware problems resulting from products provided by parties other than Embarq or causes beyond the control of Embarq;
 - (b) service of attached, related, collateral or ancillary equipment or software not covered by this Section;

- (c) repairing damage caused to CLECINTRADO COMM's collocated equipment by persons other than Embarq, or its authorized contractors, or
- (d) repairing damage to other property or equipment caused by operation of CLECINTRADO COMM's collocated equipment and not caused by the sole negligence of Embarq.

79.6.4. CLECINTRADO COMM warrants that Embarq shall have quiet enjoyment of the equipment. Embarq will be entitled to the benefit of any applicable manufacturer's warranties and indemnities and, to the extent assignable, such warranties and indemnities are hereby assigned by CLECINTRADO COMM for the benefit of Embarq and CLECINTRADO COMM shall take all reasonable action to enforce such warranties and indemnities where available to Embarq. CLECINTRADO COMM shall execute, upon presentation, such documents and instruments as may be required to allow Embarq manufacturer's warranty coverage for any equipment. CLECINTRADO COMM warrants that it has full authority to lease the equipment under the terms and conditions set forth herein and that there are no restrictions, legal or otherwise, which would preclude it from so doing.

- (a) In the event Embarq's right to quiet enjoyment is breached, either by CLECINTRADO COMM's failure to make or cause to be made payment to the equipment manufacturer of the full purchase price for the equipment when such payment becomes due, or otherwise, Embarq may give written notice to CLECINTRADO COMM and all of Embarq's obligations relating to the affected equipment shall terminate immediately.

79.6.5. Embarq's preparation, if any, of the Premises (e.g., Power, environmental, etc.) for the Virtual Collocation equipment will be charged to CLECINTRADO COMM at rates on Table Two or as filed in a tariff and approved by the Commission.

80. DEMARCATION POINT

80.1. ~~Embarq will designate the point of demarcation, unless otherwise mutually agreed to by the Parties, in or adjacent to its Collocation Space. At CLECA~~ CLECINTRADO COMM's request, Embarq will identify the location(s) of other possible demarcation points available to CLECINTRADO COMM, and CLECINTRADO COMM will designate from these location(s) the point(s) of demarcation between its collocated equipment and Embarq's equipment. Embarq will use its best efforts to identify the closest demarcation point to CLECINTRADO COMM's equipment that is available.

80.2. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point.

- 80.3. At CLECINTRADO COMM's option and expense, a point of termination (POT) bay, frame or digital cross-connect may be placed in or adjacent to the Collocation Space that may, at CLECINTRADO COMM's option, serve as the demarcation point. If CLECINTRADO COMM elects not to provide a POT frame, Embarq will agree to handoff the interconnection cables to CLECINTRADO COMM at its equipment, at CLECINTRADO COMM's designated demarcation point. When CLECINTRADO COMM elects to install its own POT frame/cabinet, Embarq must still provide and install the required DC power panel.

81. APPLICATION PROCESS

- 81.1. Upon CLECINTRADO COMM's selection of a Premises in which it desires to collocate its Equipment, Embarq will provide a then current collocation application form (the "Application") to CLEC. ~~CLECINTRADO COMM~~. INTRADO COMM will submit an Application when initially requesting Collocation Space, or modifying the use of the Collocation Space. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in CLECINTRADO COMM's Collocation Space(s), the amount of square footage required (or, in the case of Cageless Collocation, bay space) for the current year plus the next calendar year from the date of application, as well as the associated power requirements, floor loading, and heat release of each piece.
- 81.1.1. CLECINTRADO COMM will complete the Application, and return it, along with the appropriate Application Fee, to Embarq. The Application shall include complete details of the collocation and interconnection requested, including, but not limited to, specific floor space, power, and environmental conditioning requirements. Embarq will not process an Application until both the Application and the applicable Application fee are received.
- 81.1.2. In the event CLECINTRADO COMM desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Embarq, CLECINTRADO COMM will complete a subsequent Application detailing all information regarding the modification to the Collocation Space together with payment of the appropriate Application Augment Fee. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions.
- 81.1.3. Where CLECINTRADO COMM modifies the use of the Collocation Space or adds equipment that requires no additional engineering or preparation work on the part of Embarq, Embarq will not impose additional charges or additional intervals that would delay CLECINTRADO COMM's operation. CLECINTRADO COMM will

notify Embarq of the modifications or additional equipment prior to installation.

- 81.1.4. If Collocation Space is unavailable or CLECINTRADO COMM withdraws its request, the Application fee, less the costs incurred by Embarq (e.g., engineering record search and administrative activities required to process the Application) will be refunded.
- 81.2. If CLECINTRADO COMM wishes Embarq to consider multiple methods for collocation on a single Application, CLECINTRADO COMM will need to include in each Application a prioritized list of its preferred methods of collocating, e.g., caged, shared, or other, as well as adequate information, (e.g., specific layout requirements, cage size, number of bays, requirements relative to adjacent bays, etc.) for Embarq to process the Application for each of the preferred methods. If CLECINTRADO COMM provides adequate information and its preferences with its Application, Embarq may not require an additional Application, nor would CLECINTRADO COMM be required to restart the quotation interval should its first choice not be available in a requested Premises. Only one collocation arrangement will be provisioned per Application. Embarq will not select for CLECINTRADO COMM the type of collocation to be ordered.
- 81.3. Within ten (10) Days after receiving CLECINTRADO COMM's Application for collocation, Embarq will inform CLECINTRADO COMM whether the Application meets each of Embarq's established collocation standards. Should CLECINTRADO COMM submit a revised Application curing any deficiencies in an Application for collocation within ten Days after being informed of them, CLECINTRADO COMM shall retain its original position within any collocation queue that Embarq maintains. If Embarq informs CLECINTRADO COMM that there is a deficiency in an Application, Embarq will provide sufficient detail so that CLECINTRADO COMM has a reasonable opportunity to cure each deficiency.
- 81.4. All revisions to an initial request for a Physical Collocation Arrangement submitted by CLECINTRADO COMM must be in writing. A new interval for the Physical Collocation Arrangement will be established which shall not exceed two months beyond the originally established date. CLECINTRADO COMM will be required to pay any applicable Application fees.
- 81.5. Embarq shall provide confirmation of space availability within ten (10) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications submitted. Space availability response will be increased by five (5) Days for every five (5) additional Applications received.
- 81.5.1. Embarq will notify CLECINTRADO COMM in writing as to whether its request for Collocation Space has been granted or denied due to lack of space. The notification will also include a possible future space relief date, if applicable.

81.5.2. In order to increase the amount of space available for collocation, Embarq will, upon request, remove obsolete unused equipment, from its Premises to increase the amount of space available for collocation.

81.6. After notifying the CLECINTRADO COMM that Embarq has no available space for Physical Collocation in the requested Central Office ("Denial of Application"), Embarq will allow the CLECINTRADO COMM, upon request, to tour the entire Central Office within ten (10) Days, or other mutually agreeable timeframe, of such Denial of Application. In order to schedule said tour the request for a tour of the Central Office must be received by Embarq within five (5) Days of the Denial of Application.

81.6.1. If CLECINTRADO COMM contests Embarq's notice that there is not sufficient space for Physical Collocation in the Central Office, the ~~parties~~Parties agree to seek expedited resolution of the dispute at the Commission pursuant to § 251(c)(6) of the Act. If the Commission determines that space is not available, Embarq will not be required to conduct a review of floor space availability in the same central office more frequently than once every six months.

81.6.2. On a first come, first serve basis, Embarq will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate.

81.6.3. Embarq will simultaneously notify the telecommunications carriers on the waiting list when space becomes available if there is enough space to accommodate additional collocation. Subsequent to the granting of a Petition for Waiver, if CLECINTRADO COMM has been denied Physical Collocation space at an Embarq Premises and challenges Embarq on space availability at said Premises, CLECINTRADO COMM will be given priority for space assignment if, as a result of the challenge, space is found to be available. CLECINTRADO COMM will reaffirm its collocation request within thirty (30) Days of such notification; otherwise, it will be dropped to the bottom of the list. Upon request, Embarq will advise CLECINTRADO COMM as to its position on the list.

81.6.4. If CLECINTRADO COMM's Application for Physical Collocation is denied due to lack of space, Embarq will place CLECINTRADO COMM on the waiting list for collocation in particular Premises according to the date CLECINTRADO COMM submitted its Application and not the date of denial for lack of space.

81.6.5. Embarq will maintain on its Website a notification document that will indicate all Premises that are without available space. Embarq will update such document within ten (10) Days of the date at which a Premises runs out of physical collocation space.

- 81.7. Embarq will provide a price quote within thirty (30) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications. Price quote response will be increased by five (5) Days for every five (5) additional Applications received. The quotation will include the applicable nonrecurring and recurring rates.
- 81.8. CLECINTRADO COMM has thirty (30) Days from receipt of the quotation to accept the quotation in writing. The quotation expires after thirty (30) Days. After thirty (30) Days, a new Application and Application fee are required. Collocation Space is not reserved until the quotation is accepted. Embarq need not meet the deadlines for provisioning Physical Collocation if, after receipt of any price quotation provided by Embarq, CLECINTRADO COMM does not notify Embarq that physical collocation should proceed.
- 81.9. CLECINTRADO COMM will indicate its intent to proceed with equipment installation in an Embarq Premises by accepting the price quote, which constitutes a Bona Fide Firm Order ("BFFO"). If CLECINTRADO COMM makes changes to its Application in light of Embarq's written Application Response, Embarq may be required to re-evaluate and respond to the change(s). In this event, CLECINTRADO COMM's Application will be treated as a Revision.
- 81.10. Space preparation for the Collocation Space will not begin until Embarq receives the BFFO and all applicable fees, including all non-recurring charges required by Embarq at the time of the BFFO.

82. SPACE RESERVATION

- 82.1. The ~~parties~~Parties may reserve physical collocation space for their own specific uses for the remainder of the current year, plus twelve (12) months in accordance with Section 80. Neither Embarq, nor any of its affiliates, will reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use.

83. PROVISIONING INTERVALS

- 83.1. Embarq will complete construction of Caged Physical (including Shared Caged), Cageless Physical, and Virtual Collocation arrangements within ninety (90) Days of receipt of a BFFO. If Embarq is unable to complete construction as provided herein, the ~~parties~~Parties may agree to a mutually acceptable interval or Embarq may petition the Commission for waiver.

84. CONSTRUCTION AND COMMENCEMENT OF BILLING

- 84.1. Embarq shall permit CLECINTRADO COMM or its designated subcontractor to perform the construction of physical collocation space, provided however, that any such CLECINTRADO COMM subcontractor shall be subject to Embarq's security standards. Embarq reserves the right to reject any CLECINTRADO

COMM subcontractor upon the same criteria that Embarq would use on its own subcontractors. CLECINTRADO COMM will notify Embarq in writing when construction of physical collocation space is complete.

- 84.2. Embarq shall have the right to inspect CLECINTRADO COMM's completed installation of equipment and facilities prior to CLECINTRADO COMM turning up such equipment and facilities. CLECINTRADO COMM shall provide written notification to Embarq when CLECINTRADO COMM has completed its installation of equipment and facilities in the Collocation space, and Embarq shall, within five (5) Business Days of receipt of such notice, either (i) inspect such Collocation space or (ii) notify CLECINTRADO COMM that Embarq is not exercising its right to inspect such Collocation space at that time and that CLECINTRADO COMM may turn up its equipment and facilities. Failure of Embarq to either inspect the Collocation space or notify CLECINTRADO COMM of its election not to inspect such space within the foregoing five (5) Business Day period shall be deemed an election by Embarq not to inspect such Collocation space. CLECINTRADO COMM shall have the right to be present at such inspection, and if CLECINTRADO COMM is found to be in non-compliance with the terms and conditions of this Agreement that relate to the installation and use of CLECINTRADO COMM's Collocated equipment and facilities, CLECINTRADO COMM shall modify its installation to achieve compliance prior to turning up its equipment and facilities.
- 84.3. To the extent Embarq performs the construction of the Physical Collocation Arrangement, Embarq shall construct the Collocated Space in compliance with a mutually agreed to collocation request. Any deviation to CLECINTRADO COMM's order must thereafter be approved by CLECINTRADO COMM. The Parties acknowledge that CLECINTRADO COMM approved deviations may require additional construction time and may incur additional CLECINTRADO COMM expenses. CLECINTRADO COMM shall pay the incremental cost incurred by Embarq as the result of any Revision to the Collocation request. CLECINTRADO COMM will pay all applicable fees, including any nonrecurring charges required by Embarq, prior to Embarq commencing construction of the collocation space.
- 84.4. CLECINTRADO COMM will be responsible for all extraordinary costs, as determined in accordance with the Act, incurred by Embarq to prepare the Collocation space for the installation of CLECINTRADO COMM's equipment and for extraordinary costs to maintain the Collocation space for CLECINTRADO COMM's equipment on a going-forward basis. Extraordinary costs may include costs for such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, increasing the DC power system infrastructure capacity, increasing the capacity of the standby AC system (if available) or the existing commercial power facility, conversion of non-Collocation space, compliance with federal and state requirements, or other modifications required by local ordinances. Embarq will charge for these extraordinary costs on a time-sensitive or time-and-materials basis and will allocate the costs fairly among itself, CLECINTRADO COMM and

other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to CLECINTRADO COMM prior to commencing such work. Extraordinary costs will only be billed to CLECINTRADO COMM if such costs have been authorized by CLECINTRADO COMM. Embarq must advise CLECINTRADO COMM if extraordinary costs will be incurred.

- 84.5. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents.
- 84.6. Embarq will notify CLECINTRADO COMM when construction of a Collocation Space is complete. The Parties will complete an acceptance walk through of each provisioned Collocation Space. Embarq will commence to correct any deviations to CLECINTRADO COMM's original or jointly amended requirements within five (5) Days after the walk through. If CLECINTRADO COMM does not conduct an acceptance walk through within fifteen (15) Days of the notification that the Collocation Space construction is complete, CLECINTRADO COMM will be deemed to have accepted the Collocation Space and billing will commence.
- 84.7. CLECINTRADO COMM must submit a written request to cancel its order for Physical, Caged, Shared Cage, Adjacent Space, or Virtual Collocation. CLECINTRADO COMM will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.

85. EQUIPMENT

- 85.1. CLECINTRADO COMM may only locate equipment necessary for interconnection to Embarq or accessing Embarq's unbundled network elements in accordance with Applicable Rules, including but not limited to 47 USC 251(C)(3), 47 USC 251(C)(2), and 47 CFR 51.323(b-c).
- 85.2. CLECINTRADO COMM's equipment and facilities shall not be placed or operated in such a manner that creates hazards or causes physical harm to any individual or the public. CLECINTRADO COMM is responsible for the shipping delivery of all equipment or materials associated with the collocation arrangement, and CLECINTRADO COMM shall instruct equipment vendors to ship equipment or materials directly to the CLECINTRADO COMM or their Embarq approved contractor on the CLECINTRADO COMM's behalf. No CLECINTRADO COMM equipment or supplies may be delivered (other than by CLECINTRADO COMM or their Embarq approved contractor) to a Premises containing the Collocation Space, nor shall such equipment or supplies be stored or staged outside of the licensed Collocation Space.
- 85.3. All equipment to be collocated must meet Level 1 safety requirements as set forth in Telcordia Network Equipment and Building Specifications ("NEBS"), but Embarq will not impose safety requirements on CLECINTRADO COMM that are

more stringent than the safety requirements it imposes on its own equipment. If Embarq denies collocation of CLECINTRADO COMM's equipment, citing safety standards, Embarq must provide to CLECINTRADO COMM within five (5) Business Days of the denial a list of all equipment that Embarq locates within the Premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that Embarq contends the competitor's equipment fails to meet. In the event that Embarq believes that the collocated equipment is not necessary for interconnection or access to unbundled network elements or determines that CLECINTRADO COMM's equipment does not meet NEBS Level 1 safety requirements, CLECINTRADO COMM will be given ten (10) Days to comply with the requirements or remove the equipment from the collocation space. If the ~~parties~~Parties do not resolve the dispute, the Parties may file a complaint at the Commission seeking a formal resolution of the dispute. While the dispute is pending, CLECINTRADO COMM will not install said equipment.

- 85.4. CLECINTRADO COMM must notify Embarq in writing that collocation equipment installation is complete and is operational with Embarq's network. If CLECINTRADO COMM fails to place operational telecommunications equipment in the collocated space and either interconnect to Embarq or install UNEs to its collocation arrangement (per 47 USC 251 §251(c)(6)) within one-hundred-eighty (180) Days of CLECINTRADO COMM's acceptance of Embarq's price quote, or other time period mutually agreed to by the CLECINTRADO COMM and Embarq, Embarq may terminate the applicable Collocation Space upon written notice. CLECINTRADO COMM will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.
- 85.5. If CLECINTRADO COMM has provisioned services to any customers~~End-User~~ without being in compliance with 84.485.4 above, CLECINTRADO COMM will be billed access rates for all services for the period beginning with the installation of the services until the collocation arrangement is decommissioned or until it is brought into compliance.

86. AUGMENTS AND ADDITIONS

- 86.1. When CLECINTRADO COMM modifies the Collocation Arrangement or adds equipment that requires no additional space preparation work on the part of Embarq, Embarq may not impose additional charges or additional intervals that would delay the CLECINTRADO COMM's operation. CLECINTRADO COMM will notify Embarq of the modifications or additional equipment prior to installation.
- 86.2. In the event CLECINTRADO COMM desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Embarq, CLECINTRADO COMM will complete a subsequent Application detailing all information regarding the modification to the

Collocation Space. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions. A major or minor Augments fee will apply. Major Augments include adding or removing power cables, entrance cables, cross-connect cables and switchboard cables. Minor Augments include changes to DC power fuses and extensions of occasional use AC power circuits used temporarily for outlets and light.

- 86.3. CLECINTRADO COMM must submit an Application and applicable Application fee to obtain a price quote. CLECINTRADO COMM must provide an accurate front equipment view (a.k.a. rack elevation drawing) specifying bay(s) for the CLECINTRADO COMM's point of termination. The price quote will contain the charges and the construction interval for that application. The construction interval for augments will not exceed ninety (90) Days from BFFO. If special or major construction is required, Embarq will work cooperatively with CLECINTRADO COMM to negotiate mutually agreeable construction intervals for augments.

87. USE OF COMMON AREAS

- 87.1. CLECINTRADO COMM, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by Embarq from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas for vehicles of persons while working for or on behalf of CLECINTRADO COMM at the Collocation Space; provided, however, that Embarq shall have the right to reserve parking spaces for Embarq's exclusive use or use by other occupants of the Building. Embarq does not guarantee that there is or will be sufficient parking spaces in parking areas to meet CLECINTRADO COMM's needs. Embarq does not guarantee that restroom facilities or water will be available. All common areas shall remain under the exclusive control and management of Embarq, and Embarq shall have the right to change the level, location and arrangement of parking areas and other common areas, as Embarq may deem necessary. Use of all common areas shall be subject to such reasonable rules and regulations as Embarq may from time to time impose, consistent with CLECINTRADO COMM's right to access its Collocation Space.
- 87.2. Embarq, where water is available for its own use, shall furnish running water from regular Building outlets for drinking, lavatory and toilet purposes drawn through fixtures installed by Embarq, for the non-exclusive use of CLECINTRADO COMM, Embarq and any other building occupant. CLECINTRADO COMM shall not waste or permit the waste of water.
- 87.3. Embarq shall furnish Building and Premises security in accordance with its normal business practices. Other than the locks on the entrances to the Collocation Space, Embarq shall provide no security specific to CLECINTRADO COMM's Collocation Space. Embarq shall not be liable to CLECINTRADO COMM

COMM or any other party for loss of or damage to the Collocation Space or CLECINTRADO COMM equipment unless Embarq has failed to provide Building and Premises security in accordance with its normal business practices.

- 87.4. Embarq shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which CLECINTRADO COMM has access pursuant to the terms of this Agreement twenty-four (24) hours a day, seven (7) days a week. Freight elevator service when used by CLECINTRADO COMM's contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Embarq.

88. CO-CARRIER CROSS CONNECTION

- 88.1. Co-carrier cross-connects ("CCXC's") are connections between CLECINTRADO COMM and another collocated Telecommunications Carrier other than Embarq, and are only available when both collocation arrangements (either caged, cageless, and/or virtual) being interconnected are within the same Embarq Premises, provided that the collocated equipment is also used for interconnection with Embarq and/or for access to Embarq's unbundled Network Elements. Embarq shall provide such CCXC's from CLECINTRADO COMM's collocation arrangement to the collocation arrangement of another Telecommunications Carrier in the same Embarq premises under the terms and conditions of this Agreement. CCXC is provided at the same transmission level from CLECINTRADO COMM to another Telecommunications Carrier.

- 88.1.1. Embarq will provide such CCXC's for non-adjacent collocation arrangements at the expense of CLECINTRADO COMM per CLECINTRADO COMM's request. Embarq will provide connections between CLECINTRADO COMM's own non-adjacent virtual and/or physical collocation arrangements within the same central office at the expense of CLECINTRADO COMM and provisioned per CLECINTRADO COMM's order.
- 88.1.2. Embarq, at its sole discretion, shall permit CLECINTRADO COMM to self-provision CCXC's to interconnect its network with that of another adjacently collocated Telecommunications Carrier in the same Embarq Premises without application.
- 88.1.3. In those cases where CLECINTRADO COMM's Virtual and/or Physical Collocation space is adjacent in the Central Office, CLECINTRADO COMM may have the option, at Embarq's sole discretion, of using CLECINTRADO COMM's own technicians to deploy direct connections ("DC's") using either electrical or optical facilities between the collocation spaces and constructing its own dedicated cable support structure according to Embarq's technical and safety standards.

- 88.2. The term "Adjacent" in this Section 8788 refers to collocation arrangements in the same Premises that have a common border; and is not referring to the form of Physical Collocation as described in 47 CFR 51.323(k)(3).

89. RATES

- 89.1. The rates for collocation are listed on Table Two.
- 89.2. If CLECINTRADO COMM is the first collocater in the Embarq premises, CLECINTRADO COMM will not be responsible for the entire cost of site preparation and security. However, ancillary charges for unique collocater requests for collocation options directly attributable to the requesting collocater will not be prorated. Examples include power arrangements, remote switch module related options and POT bay-related options.
- 89.3. The rates and charges in this Agreement do not include costs for any Americans with Disability Act (ADA) construction generated or caused by the physical collocation space request. If required, ADA construction will be provided on an ICB. If Embarq is required to upgrade a Premises, or portion of the Premises to comply with the ADA which arises as a direct result of CLECINTRADO COMM's Collocation Arrangement, Embarq will prorate the total forward-looking economic cost of the upgrade, and allocate the charge to each CLECINTRADO COMM collocated within the Premises, based on the total space utilized by each collocated CLECINTRADO COMM. Should Embarq benefit in any way whatsoever from the ADA upgrades, it shall share in the proration of costs. Should Embarq be the sole beneficiary of an upgrade (e.g., an upgrade would have had to be made regardless of whether or not a CLECINTRADO COMM was collocated in the Premises), Embarq shall absorb all of the costs related to such an upgrade.
- 89.4. Facility Modifications
- 89.4.1. To the extent that a modification is made for the specific benefit of any particular party, costs of modification are to be proportionately born by those who directly benefit including the ILEC. The cost is allocated using the proportion of the new space occupied to the total new space made available.
- 89.4.2. If a non-requesting partyParty benefits from the modification, e.g., using the opportunity to bring their equipment or arrangement into compliance with certain standards, or making adjustments leading to improvement, then the partyParty will be deemed to be sharing. This partyParty will be responsible for its share of the modification costs.
- 89.4.3. None of the costs will be allocated to a third party that gains incidental benefit, but did not cause the modification or modify their facilities.
- 89.4.4. If a current user of space subsequently initiates new uses of the modified facility by other parties to avoid modification costs or if new entrants

use the facility, they will share in the modification costs. The modifying partyParty(s) may recover a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. If measurable depreciation has occurred as a result of the modification, the subsequent party may pay a lower cost.

- 89.4.5. Parties requesting or joining in a modification also will be responsible for resulting costs to maintain the facility on an ongoing basis.

90. EMBARQ SERVICES AND OBLIGATIONS

90.1. Embarq shall furnish air conditioning and/or other environmental controls for the area in which the Collocation Space is located in a manner consistent with those provided elsewhere in the building. Embarq shall furnish air conditioning and/or other environmental controls for the Collocation Space based on information provided by CLECINTRADO COMM to Embarq in its Application which CLECINTRADO COMM hereby represents to Embarq is sufficient to allow the CLECINTRADO COMM equipment to function without risk of harm or damage to the Collocation Space, the building or any equipment or facilities of Embarq or any other occupant of the building. These environmental conditions shall adhere to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed upon standards.

90.1.1. If CLECINTRADO COMM locates equipment or facilities in the Collocation Space which Embarq determines, in the exercise of its sole discretion, affect the temperature or other environmental conditions otherwise maintained by Embarq in the building, Embarq reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Collocation Space, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by CLECINTRADO COMM's equipment or facilities shall be paid by CLECINTRADO COMM to Embarq. If supplementary air conditioning units or other environmental control devices are required for more than one CLECINTRADO COMM each CLECINTRADO COMM will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation.

90.2. If Embarq, in the exercise of its reasonable business judgment, determines that the electricity provided to CLECINTRADO COMM pursuant to this Section is insufficient to support the activity being carried on by the CLECINTRADO COMM in the Collocation Space, Embarq may require the installation of additional electrical circuits to provide CLECINTRADO COMM with additional electricity and CLECINTRADO COMM shall reimburse Embarq for any expenses incurred in making such additional electrical circuits available to CLECINTRADO COMM's Collocation Space. CLECINTRADO COMM shall also pay for additional electricity provided via these circuits.

- 90.2.1. CLECINTRADO COMM covenants and agrees that Embarq shall not be liable or responsible to CLECINTRADO COMM for any loss, damage or expense which CLECINTRADO COMM may sustain or incur if either the quality or character of electrical service is changed or is no longer suitable for CLECINTRADO COMM's requirements.
- 90.2.2. CLECINTRADO COMM agrees to request in writing, via a complete and accurate Application, all electrical needs to power its equipment. The Application shall contain the total power needs, the date needed, and the exact location where termination of the electrical power shall occur. Actual power usage of the CLECINTRADO COMM's equipment shall not exceed the requested capacity.
- 90.2.3. Central office power supplied by Embarq into the CLECINTRADO COMM equipment area shall be supplied in the form of power feeders (cables) on cable racking into the designated CLECINTRADO COMM equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of CLECINTRADO COMM equipment. The termination location shall be as agreed by the ~~parties~~Parties.
- 90.2.4. Embarq shall provide power as requested by CLECINTRADO COMM to meet CLECINTRADO COMM's need for placement of equipment, interconnection, or provision of service.
- 90.2.5. Embarq power equipment supporting CLECINTRADO COMM's equipment shall:
- (a) Comply with applicable industry standards (e.g., Telcordia, NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout or at minimum, at Parity with that provided for similar Embarq equipment;
 - (b) Have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for CLECINTRADO COMM equipment, or, at minimum, at parity with that provided for similar Embarq equipment;
 - (c) Provide, upon CLECINTRADO COMM's request and at CLECINTRADO COMM's expense, the capability for real time access to power performance monitoring and alarm data that impacts (or potentially may impact) CLECINTRADO COMM traffic;
 - (d) Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of CLECINTRADO COMM equipment plus or minus two (2) feet to the left or right of CLECINTRADO COMM's final request; and

- (f) Provide feeder cable capacity and quantity to support the ultimate equipment layout for CLECINTRADO COMM's equipment in accordance with CLECINTRADO COMM's collocation request.
- 90.2.6. Embarq shall provide cabling that adheres to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;
- 90.2.7. Embarq shall provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines.
- 90.2.8. Embarq will provide CLECINTRADO COMM with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to CLECINTRADO COMM equipment located in Embarq facility. Embarq shall provide CLECINTRADO COMM immediate notification by telephone of any emergency power activity that would impact CLECINTRADO COMM's equipment.
- 90.3. Embarq shall provide fire protection systems in Embarq buildings and on Embarq premises as required by Federal and State regulatory rules and in full compliance with local ordinances. Embarq shall furnish fire or smoke detection systems designed to comply with the National Fire Protection Association (NFPA) Standards on Automatic Fire Detectors.
 - 90.3.1. Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Embarq as required by applicable fire codes.
 - 90.3.2. Embarq and Embarq's insurance carriers will perform regular inspections of fire protection systems, and CLECINTRADO COMM hereby agrees to provide Embarq and Embarq's insurance carriers access to the Collocation Space for purposes of such inspections, via pass key or otherwise. Embarq agrees to provide CLECINTRADO COMM with notice of its intent to access CLECINTRADO COMM's Collocation Space where, in Embarq's sole discretion, such notice is practicable; provided, however, that no failure of Embarq to give such notice will affect Embarq's right of access or impose any liability on Embarq. Embarq will, at its expense, maintain and repair the fire and smoke detection systems unless maintenance or repair is required due to the act or omission of CLECINTRADO COMM, its employees, agents or invitees, in which case CLECINTRADO COMM shall reimburse Embarq for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, the CLECINTRADO COMM shall, if at fault, and at Embarq's option, replace Halon or other fire extinguishing material discharged as a result of CLECINTRADO COMM's act or omission. CLECINTRADO COMM shall have no duty to inspect fire protection systems outside the Collocation Space;

provided, however, if CLECINTRADO COMM is aware of damage to the fire protection systems it shall promptly notify Embarq.

90.3.3. CLECINTRADO COMM is aware the Collocation Space will contain a fire detection system and may contain a fire suppression system. In the event of discharge, Embarq is relieved of all liability for damage to equipment or personal injury except in cases where such damage to equipment or personal injury is due to the willful misconduct of Embarq, its officers, agents or employees.

90.4. Embarq shall, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishment or decorating to the Collocation Space, building and Premises, in a manner consistent with Embarq's normal business practices.

90.4.1. Embarq shall not be obligated to inspect the Collocation Space, make any repairs or perform any maintenance unless first notified of the need in writing by CLECINTRADO COMM. If Embarq shall fail to commence the repairs or maintenance within twenty (20) Days after written notification, provided that the delay are not caused by CLEC; CLECINTRADO COMM, INTRADO COMM's sole right and remedy shall be, after further notice to Embarq, to make such repairs or perform such maintenance and to deduct that cost and expenses from the physical collocation fees payable; provided, however, that the amount of such deduction shall not exceed the reasonable value of such repairs or maintenance.

90.4.2. Embarq shall, where practical, provide CLECINTRADO COMM with twenty-four (24) hours prior notice before making repairs and/or performing maintenance on the Collocation Space; provided, however, that Embarq shall have no obligation to provide such notice if Embarq determines, in the exercise of its sole discretion, that such repair or maintenance must be done sooner in order to preserve the safety of the Building or the Collocation Space, or if required to do so by any court or governmental authority. Work shall be completed during normal working hours or at other times identified by Embarq. CLECINTRADO COMM shall pay Embarq for overtime and for any other expenses incurred if such work is done during other than normal working hours at CLECINTRADO COMM's request. CLECINTRADO COMM shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.

90.4.3. The cost of all repairs and maintenance performed by or on behalf of Embarq to the Collocation Space which are, in Embarq's reasonable judgment, beyond normal repair and maintenance, or are made necessary as a result of misuse or neglect by CLECINTRADO COMM or CLECINTRADO COMM's employees, invitees or agents, shall be paid

by CLECINTRADO COMM to Embarq within ten (10) Days after being billed for the repairs and maintenance by Embarq.

- 90.5. Embarq shall provide CLECINTRADO COMM with notice via email three (3) Business Days prior to those instances where Embarq or its subcontractors perform work which is known to be a service affecting activity. Embarq will inform CLECINTRADO COMM by e-mail of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Embarq learns that such outage has occurred.
- 90.6. Embarq reserves the right to stop any service when Embarq deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Embarq agrees to use its best efforts not to interfere with CLECINTRADO COMM's use of Collocation Space. Embarq does not warrant that any service will be free from interruptions caused by labor controversies, accidents, inability to obtain fuel, water or supplies, governmental regulations, or other causes beyond the reasonable control of Embarq.
- 90.6.1. No such interruption of service shall be deemed an eviction or disturbance of CLECINTRADO COMM's use of the Collocation Space or any part thereof, or render Embarq liable to CLECINTRADO COMM for damages, by abatement of CLECINTRADO COMM Fees or otherwise, except as set forth in the Tariff, or relieve CLECINTRADO COMM from performance of its obligations under this Agreement. CLECINTRADO COMM hereby waives and releases all other claims against Embarq for damages for interruption or stoppage of service.
- 90.7. For physical collocation, subject to reasonable building rules and any applicable Security Arrangements, CLECINTRADO COMM shall have the right of entry twenty-four (24) hours per day seven (7) days a week to the building, common areas, Collocation Space and common cable space.
- 90.7.1. Embarq reserves the right to close and keep locked all entrance and exit doors of the Premises during hours Embarq may deem advisable for the adequate protection of the Premises. Use of the Premises at any time it is unattended by appropriate Embarq personnel, or on Sundays and state and federal or other holidays recognized by Embarq, or, if CLECINTRADO COMM's Collocation Space is not fully segregated from areas of the Premises containing Embarq equipment, shall be subject to such reasonable rules and regulations as Embarq may from time to time prescribe for its own employees and third party contractors.
- 90.7.2. Embarq reserves the right to require all persons entering or leaving the Premises during such hours as Embarq may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to leave or enter, and to exclude or expel any solicitor or person at any time from the Collocation Space or the Premises. Embarq is not responsible and shall

not be liable for any damage resulting from the admission or refusal to admit any unauthorized person or from the admission of any authorized person to the Premises.

90.8. Embarq shall have access to CLECINTRADO COMM's Physical Collocation Space at all times, via pass key or otherwise, to allow Embarq to react to emergencies, to maintain the space (not including CLECINTRADO COMM's equipment), and to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Embarq, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. If a secure enclosure defining the location of the CLECINTRADO COMM's Collocation Space has been established, and if conditions permit, Embarq will provide CLECINTRADO COMM with notice (except in emergencies) of its intent to access the Collocation Space, thereby providing CLECINTRADO COMM the option to be present at the time of access. CLECINTRADO COMM shall not attach, or permit to be attached, additional locks or similar devices to any door or window, nor change existing locks or the mechanism thereof.

90.8.1. Embarq may enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Embarq deems necessary. CLECINTRADO COMM hereby waives any claim for damage, injury, interference with CLECINTRADO COMM's business, any loss of occupancy or quiet enjoyment of the Collocation Space, and any other loss occasioned by the exercise of Embarq's access rights, except in the event such damages result solely from the willful misconduct of Embarq.

90.8.2. Embarq may use any means Embarq may deem proper to open Collocation Space doors or enclosures in an emergency. Entry into the Collocation Space obtained by Embarq by any such means shall not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of CLECINTRADO COMM from the Collocation Space or any portion thereof.

91. CLECINTRADO COMM'S OBLIGATIONS

91.1. CLECINTRADO COMM shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. CLECINTRADO COMM shall promptly notify Embarq of any damage to the Collocation Space or of the need to perform any repair or maintenance of the Collocation Space, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical, and other mechanical facilities in the Collocation Space). CLECINTRADO COMM shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.

91.2. CLECINTRADO COMM agrees to abide by all of Embarq's security practices for non-Embarq employees with access to the building, including, without limitation:

- 91.2.1. CLECINTRADO COMM must obtain non-employee photo identification cards for each CLECINTRADO COMM employee or vendor. Temporary identification cards may otherwise be provided by Embarq for employees or agents, contractors and invitees of CLECINTRADO COMM who may require occasional access to the Collocation Space.
- 91.2.2. CLECINTRADO COMM will supply to Embarq the completed access form for employees or approved vendors who require access to the Premises. Embarq may reasonably deny access to any person into the building. Embarq's objections will be consistent with the grounds for denying access to personnel of its own contractors or for denying employment directly with Embarq. Embarq may issue security cards, codes, or keys to CLECINTRADO COMM's listed employees or vendors where such systems are available and their use by CLECINTRADO COMM will not otherwise compromise building security. The rate for the issuance of security cards is listed on Table Two.
- 91.2.3. CLECINTRADO COMM is responsible for returning identification and security cards, codes, or keys of its terminated employees or its employees who no longer require access to the Collocation Space. All cards, codes, or keys must be returned upon termination of the applicable Collocation Space. CLECINTRADO COMM will reimburse Embarq actual costs due to unreturned or replacement cards, codes, or keys.
- 91.2.4. In the event that a key is lost, CLECINTRADO COMM is responsible for costs associated with recoring locks and reissuing keys to Embarq and other parties authorized to access the Premise.
- 91.2.5. CLECINTRADO COMM's employees, agents, invitees and vendors must display identification cards at all times.
- 91.2.6. CLECINTRADO COMM will assist Embarq in validation and verification of identification of its employees, agents, invitees and vendors by providing a telephone contact available twenty-four (24) hours a day, seven (7) days a week to verify identification.
- 91.2.7. Removal of all furniture, equipment or similar articles will be based on local Embarq security practices. These security practices will not be more stringent for CLECINTRADO COMM than Embarq requires for its own employees or Embarq's contractors.
- 91.2.8. Before leaving the Collocation Space unattended, CLECINTRADO COMM shall close and securely lock all doors and windows and shut off unnecessary equipment in the Collocation Space. Any injury to persons or damage to the property of Embarq or any other party with equipment in the Building resulting from CLECINTRADO COMM's failure to do

so shall be the responsibility of CLEC. CLECINTRADO COMM, INTRADO COMM will defend and indemnify Embarq from and against any claim by any person or entity resulting in whole or in part from CLECINTRADO COMM's failure to comply with this Section.

- 91.2.9. CLECINTRADO COMM agrees that Embarq may provide a security escort for physical collocation, at no cost or undue delay to CLECINTRADO COMM, to CLECINTRADO COMM personnel while on Embarq Premises. While such escort shall not be a requirement to CLECINTRADO COMM's entry into the Building, CLECINTRADO COMM must allow the security escort to accompany CLECINTRADO COMM personnel at all times and in all areas of the Building, including the Collocation Space, if so requested.
- 91.2.10. CLECINTRADO COMM shall post in a prominent location visible from the common building area, the names and telephone numbers of emergency contact personnel along with names and telephone numbers of their superiors for 24 hour emergency use by Embarq. CLECINTRADO COMM shall promptly update this information as changes occur.
- 91.3. CLECINTRADO COMM will provide Embarq with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Embarq equipment located in CLECINTRADO COMM facility. CLECINTRADO COMM shall provide Embarq immediate notification by telephone of any emergency power activity that would impact Embarq equipment.
- 91.4. CLECINTRADO COMM shall not provision and/or install Uninterruptible Power Supply ("UPS") systems within the Embarq premises. The customer~~INTRADO~~COMM is permitted to install Inverted Power Systems if and only if documented compliance with National Equipment Building Standards (NEBS) III and Listing by Underwriters Laboratory (UL) has been met.
- 91.5. CLECINTRADO COMM shall not place Electro-Chemical Storage Batteries of any type inside the Collocation Space.
- 91.6. CLECINTRADO COMM shall provide Embarq with written notice three (3) Business Days prior to those instances where CLECINTRADO COMM or its subcontractors perform work, which is to be a known service affecting activity. CLECINTRADO COMM will inform Embarq by e-mail of any unplanned service outages. The parties~~Parties~~ will then agree upon a plan to manage the outage so as to minimize customer~~End-User~~ interruption. Notification of any unplanned service outage shall be made as soon as practicable after CLECINTRADO COMM learns that such outage has occurred so that Embarq can take any action required to monitor or protect its service.
- 91.7. CLECINTRADO COMM may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by

CLECINTRADO COMM and at CLECINTRADO COMM's expense, Embarq will provide basic telephone service with a connection jack in the Collocation Space.

- 91.8. CLECINTRADO COMM shall, with the prior written consent of Embarq, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that CLECINTRADO COMM may not install or use sprinklers or carbon dioxide fire suppression systems within the building or the Collocation Space.

91.8.1. If any governmental bureau, department or organization or Embarq's insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the building in which the Collocation Space of CLECsINTRADO COMMs in general are located, such changes, modifications, or additions shall be made by Embarq and CLECINTRADO COMM shall reimburse Embarq for the cost thereof in the same proportion as the size of the CLECINTRADO COMM's Collocation Space as compared to the total available collocation space in the affected portion of the building.

- 91.9. CLECINTRADO COMM shall identify and shall notify Embarq in writing of any Hazardous Materials CLECINTRADO COMM may bring onto the Premises, and will provide Embarq copies of any inventories or other data provided to State Emergency Response Commissions ("SERCs"), Local Emergency Planning Committees ("LEPCs"), or any other governmental agencies if required by the Emergency Planning and Community Right to Know Act (41 USC 11001, *et seq.*). CLECINTRADO COMM, its agents and employees shall transport, store and dispose of Hazardous Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. CLECINTRADO COMM will promptly notify Embarq of any releases of Hazardous Materials and will copy Embarq on any notification of or correspondence with any governmental agency which may be required by any environmental law as a result of such release.

91.9.1. CLECINTRADO COMM shall provide Embarq copies of all Material Safety Data Sheets ("MSDSs") for materials or chemicals regulated under the OSHA Hazard Communication Standard (29 CFR 1910.1200) that are brought onto the property. All such materials shall be labeled in accordance with 29 CFR 1910.1200 and applicable state regulations if such regulations are more stringent.

91.9.2. If Embarq discovers that CLECINTRADO COMM has brought onto Embarq's Premises Hazardous Materials without notification, or is storing or disposing of such materials in violation of any applicable environmental law, Embarq may, at Embarq's option and without penalty, terminate the applicable Collocation Space or, in the case of pervasive violation, this Agreement or suspend performance hereunder.

CLECINTRADO COMM shall be responsible for, without cost to Embarq, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. CLECINTRADO COMM shall also be responsible for removing and disposing of all Hazardous Materials on its Collocation Space at the termination of the applicable Collocation Space or this Agreement. If Embarq elects to terminate the applicable Collocation Space or this Agreement or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials contrary to the terms of this Agreement, CLECINTRADO COMM shall have no recourse against Embarq and shall be responsible for all costs and expenses associated with such termination or suspension of service in addition to being responsible for any remedies available to Embarq for defaults under this Agreement.

91.9.3. CLECINTRADO COMM shall indemnify and hold harmless Embarq, its successors and assigns against, and in respect of, any and all damages, claims, losses, liabilities and expenses, including, without limitation, all legal, accounting, consulting, engineering and other expenses, which may be imposed upon, or incurred by, Embarq or asserted against Embarq by any other party or parties (including, without limitation, Embarq's employees and/or contractors and any governmental entity) arising out of, or in connection with, CLECINTRADO COMM's use, storage or disposal of Hazardous Materials.

91.9.4. For purposes of this Section, "Hazardous Materials" shall mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation, asbestos) as defined in, or pursuant to, the OSHA Hazard Communication Standard (29 CFR Part 1910, Subpart Z), the Resource Conservation and Recovery Act of 1976 (42 USC Section 6901, et seq.), or regulations adopted pursuant to those statutes, the Toxic Substances Control Act (15 USC Section 2601, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Section 9601, et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall survive the termination, cancellation, modification or recession of this Agreement.

91.10. CLECINTRADO COMM shall not do or permit anything to be done upon the Collocation Space, or bring or keep anything thereon which is in violation of any federal, state or local laws or regulations (including environmental laws or regulations not previously described), or any rules, regulations or requirements of the local fire department, Fire Insurance Rating Organization, or any other similar authority having jurisdiction over the building. CLECINTRADO COMM shall not do or permit anything to be done upon the Collocation Space which may in any way create a nuisance, disturb, endanger, or otherwise interfere with the Telecommunications Services of Embarq, any other occupant of the building,

their patrons or customers, or the occupants of neighboring property, or injure the reputation of the Premises.

- 91.10.1. CLECINTRADO COMM shall not exceed the Uniformly Distributed Live Load Capacity. Embarq shall evaluate and determine Live Load Capacity rating on a site specific basis prior to equipment installation. CLECINTRADO COMM agrees to provide Embarq with equipment profile information prior to installation authorization.
- 91.10.2. CLECINTRADO COMM shall not paint, display, inscribe or affix any sign, trademark, picture, advertising, notice, lettering or direction on any part of the outside or inside of the building, or on the Collocation Space, without the prior written consent of Embarq.
- 91.10.3. CLECINTRADO COMM shall not use the name of the building or Embarq for any purpose other than that of the business address of CLECINTRADO COMM, or use any picture or likeness of the building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Embarq.
- 91.10.4. CLECINTRADO COMM shall not exhibit, sell or offer for sale, rent or exchange in the Collocation Space or on the Premises any article, thing or service except those ordinarily embraced within the use of the Collocation Space specified in Sections 3 and 11 of this Agreement without the prior written consent of Embarq.
- 91.10.5. CLECINTRADO COMM shall not place anything or allow anything to be placed near the glass of any door, partition or window which Embarq determines is unsightly from outside the Collocation Space; take or permit to be taken in or out of other entrances of the building, or take or permit to be taken on any passenger elevators, any item normally taken through service entrances or elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, or shipping platform. CLECINTRADO COMM shall lend its full cooperation to keep such areas free from all obstruction and in a clean and neat condition, move all supplies, furniture and equipment directly to the Collocation Space as soon as received, and move all such items and waste, other than waste customarily removed by employees of the building.
- 91.10.6. CLECINTRADO COMM shall not, without the prior written consent of Embarq install or operate any lead-acid batteries, refrigerating, heating or air conditioning apparatus or carry on any mechanical business in the Collocation Space. Embarq may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.

- 91.10.7. CLECINTRADO COMM shall not use the Collocation Space for housing, lodging or sleeping purposes.
- 91.10.8. CLECINTRADO COMM shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space.
- 91.10.9. CLECINTRADO COMM shall not permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Collocation Space or permit the presence of any animals except those used by the visually impaired.
- 91.11. CLECINTRADO COMM, its employees, agents, contractors, and business invitees shall:
- 91.11.1. comply with all rules and regulations which Embarq may from time to time adopt for the safety, environmental protection, care, cleanliness and/or preservation of the good order of the building, the Premises and the Collocation Space and its tenants and occupants, and
- 91.11.2. comply, at its own expense, with all ordinances which are applicable to the Collocation Space and with all lawful orders and requirements of any regulatory or law enforcement agency requiring the correction, prevention and abatement of nuisances in or upon the Collocation Space during the Term of this Agreement or any extension hereof.
- 91.12. CLECINTRADO COMM shall not make installations, alterations or additions in or to the Collocation Space without submitting plans and specifications to Embarq and securing the prior written consent of Embarq in each instance. Embarq's consent shall not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Collocation Space that do not adversely affect the building's appearance, value, structural strength and mechanical integrity. Such work shall be done at the sole expense of CLECINTRADO COMM.
- 91.12.1. All installations, alterations and additions shall be constructed in a good and workmanlike manner and only new and good grades of material shall be used, and shall comply with all insurance requirements, governmental requirements, and terms of this Agreement. Work shall be performed at such times and in such manner as to cause a minimum of interference with Embarq's transaction of business. CLECINTRADO COMM shall permit Embarq to inspect all construction operations within the Collocation Space.
- 91.12.2. All installations, alterations and additions which take the form of fixtures, except trade fixtures, placed in the Collocation Space by and at the expense of CLECINTRADO COMM or others shall become the property of Embarq, and shall remain upon and be surrendered with the Collocation Space. Upon termination of this Agreement, however, Embarq shall have the right to require CLECINTRADO COMM to

remove such fixtures and installations, alterations or additions at CLECINTRADO COMM's expense, and to surrender the Collocation Space in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.

91.12.3. All fixtures and other equipment to be used by CLECINTRADO COMM in, about or upon the Collocation Space shall be subject to the prior written approval of Embarq, which shall not be unreasonably withheld.

91.13. Fireproofing Policy. CLECINTRADO COMM shall not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Collocation Space or the Building, outside or inside, without the prior written consent of Embarq. If CLECINTRADO COMM desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of CLECINTRADO COMM. Embarq shall have the right of prior approval of such utility or service connections, and shall direct where and how all connections and wiring for such service shall be introduced and run. In all cases, in order to maintain the integrity of the Halon space for proper Halon concentration, and to ensure compliance with Embarq's fireproofing policy, any penetrations by CLECINTRADO COMM, whether in the Collocation Space, the building or otherwise, shall be sealed as quickly as possible by CLECINTRADO COMM with Embarq-approved fire barrier sealants, or by Embarq at CLECINTRADO COMM's cost.

91.14. Equipment Grounding. CLECINTRADO COMM equipment shall be connected to Embarq's grounding system.

91.15. Representations and Warranties. CLECINTRADO COMM hereby represents and warrants that the information provided to Embarq in any Application or other documentation relative to CLECINTRADO COMM's request for telecommunications facility interconnection and Central Office building collocation as contemplated in this Agreement is and shall be true and correct, and that CLECINTRADO COMM has all necessary corporate and regulatory authority to conduct business as a telecommunications carrier. Any violation of this Section shall be deemed a material breach of this Agreement.

92. BUILDING RIGHTS

92.1. Embarq may, without notice to CLECINTRADO COMM:

92.1.1. Change the name or street address of the Premises;

92.1.2. Install and maintain signs on the exterior and interior of the Premises or anywhere on the Premises;

92.1.3. Designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverages, foods, towels, vending machines or toilet supplies used or consumed in the Collocation Space;

- 92.1.4. Have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding CLECINTRADO COMM's safes;
- 92.1.5. Reduce heat, light, water and power as required by any mandatory or voluntary conservation programs;
- 92.1.6. Approve the weight, size and location of safes, computers and all other heavy articles in and about the Collocation Space and the Building, and to require all such items and other office furniture and equipment to be moved in and out of the Building or Collocation Space only at such times and in such a manner as Embarq shall direct and in all events at CLECINTRADO COMM's sole risk and responsibility;
- 92.1.7. At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Collocation Space, the Premises, or any part thereof (including, without limitation, the permanent or temporary relocation of any existing facilities such as parking lots or spaces), and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through the Collocation Space or any part of the Premises all material and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities. Embarq shall limit inconvenience or annoyance to CLECINTRADO COMM as reasonably possible under the circumstances;
- 92.1.8. Do or permit to be done any work in or about the Collocation Space or the Premises or any adjacent or nearby building, land, street or alley;
- 92.1.9. Grant to anyone the exclusive right to conduct any business or render any service on the Premises, provided such exclusive right shall not operate to exclude CLECINTRADO COMM from the use expressly permitted by this Agreement, unless Embarq exercises its right to terminate this Agreement with respect to all or a portion of the Collocation Space;
- 92.1.10. Close the Building at such reasonable times as Embarq may determine, under such reasonable regulations as shall be prescribed from time to time by Embarq subject to CLECINTRADO COMM's right to access.
- 92.2. If the owner of the Building or Embarq sells, transfers or assigns any interest in the Building, or there is any material change in the Lease to which the Building is subject, and such sale, transfers assignment or material change in the Lease gives rise to an obligation which is inconsistent with this Agreement, Embarq's performance under this Agreement shall be excused to the extent of the inconsistency. Embarq hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation shall in no way obligate Embarq to incur any out of pocket expenses in its efforts to avoid such inconsistencies.

- 92.3. This Agreement shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments) that may be placed on the Collocation Space and ~~CLEC~~INTRADO COMM agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

93. INDEMNIFICATION INTENTIONALLY OMITTED

- ~~93.1. CLEC shall indemnify and hold Embarq harmless from any and all claims arising from:~~
- ~~93.1.1. CLEC's use of the Collocation Space;~~
 - ~~93.1.2. the conduct of CLEC's business or from any activity, work or things done, permitted or suffered by CLEC in or about the Collocation Space or elsewhere;~~
 - ~~93.1.3. any and all claims arising from any breach or default in the performance of any obligation on CLEC's part to be performed under the terms of this Agreement; and~~
 - ~~93.1.4. any negligence of the CLEC, or any of CLEC's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.~~
- ~~93.2. If any action or proceeding is brought against Embarq by reason of any such claim, CLEC, upon notice from Embarq, shall defend same at CLEC's expense employing counsel satisfactory to Embarq.~~
- ~~93.3. CLEC shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of CLEC, or out of any work performed, material furnished, or obligations incurred by CLEC in, upon or otherwise in connection with the Collocation Space. CLEC shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLEC's liability under this Section.~~
- ~~93.3.1. If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLEC shall give Embarq written notice thereof as soon as CLEC obtains such knowledge.~~
 - ~~93.3.2. CLEC shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and for the account of CLEC, from obtaining such discharge and release if CLEC fails or refuses to do the same within the thirty-day period.~~

93.3.3. ~~If CLEC has first discharged the lien as provided by law, CLEC may, at CLEC's expense, contest any mechanic's lien in any manner permitted by law.~~

94. PARTIAL DESTRUCTION

- 94.1. If the Collocation Space or a portion thereof sufficient to make the Collocation Space substantially unusable shall be destroyed or rendered unoccupiable by fire or other casualty, Embarq may, at its option, restore the Collocation Space to its previous condition. CLECINTRADO COMM's rights to the applicable Collocation Space shall not terminate unless, within ninety (90) Days after the occurrence of such casualty, Embarq notifies CLECINTRADO COMM of its election to terminate CLECINTRADO COMM's rights to the applicable Collocation Space. If Embarq does not elect to terminate CLECINTRADO COMM's rights to the applicable Collocation Space, Embarq shall repair the damage to the Collocation Space caused by such casualty.
- 94.2. Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of CLECINTRADO COMM, its agents, employees, contractors, CLECs, customers, INTRADO COMM's, End-Users or business invitees, unless Embarq otherwise elects, the CLECINTRADO COMM's rights to the applicable Collocation Space shall not terminate, and, if Embarq elects to make such repairs, CLECINTRADO COMM shall reimburse Embarq for the cost of such repairs, or CLECINTRADO COMM shall repair such damage, including damage to the building and the area surrounding it, and the License Fee shall not abate.
- 94.3. If the building shall be damaged by fire or other casualty to the extent that portions are rendered unoccupiable, notwithstanding that the Collocation Space may be directly unaffected, Embarq may, at its election within ninety (90) Days of such casualty, terminate CLECINTRADO COMM's rights to the applicable Collocation Space by giving written notice of its intent to terminate CLECINTRADO COMM's rights to the applicable Collocation Space. The termination as provided in this paragraph shall be effective thirty (30) Days after the date of the notice.

95. EMINENT DOMAIN

- 95.1. If the Premises, or any portion thereof which includes a substantial part of the Collocation Space, shall be taken or condemned by any competent authority for any public use or purpose, CLECINTRADO COMM's rights to the applicable Collocation Space shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of the Premises, or if the grade of any street or alley adjacent to the Premises is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the Premises to conform to the changed grade, Embarq shall have the right to terminate CLECINTRADO COMM's rights to the

applicable Collocation Space upon not less than 30 Days notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Embarq to CLECINTRADO COMM for such cancellation, and the CLECINTRADO COMM shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

96. BANKRUPTCY

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

97. ASBESTOS

97.1. CLECINTRADO COMM is aware the Premises in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and CLECINTRADO COMM is hereby notified that the Premises in which the Collocation Space is located may contain asbestos or asbestos containing building material (ACBM). CLECINTRADO COMM agrees that it is responsible for contacting the appropriate Embarq manager responsible for the Premises to determine the presence, location and quantity of asbestos or ACBM that CLECINTRADO COMM's employees, agents, or contractors may reasonably expect to encounter while performing activities in the Premises. CLECINTRADO COMM shall not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with, or resulting from the disturbance of asbestos or ACBM in the Premises unless such disturbance arises out of or in connection with, or results from CLECINTRADO COMM's use of the Collocation Space or placement of equipment onto ACBM or into areas containing asbestos identified by Embarq. Embarq agrees to provide CLECINTRADO COMM reasonable notice prior to undertaking any asbestos control, abatement, or other activities which may disturb asbestos or ACBM that could potentially affect CLECINTRADO COMM's equipment or operations in the Collocation Space, including but not limited to the contamination of such equipment. Embarq will not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with the presence of asbestos in Embarq Premises.

98. MISCELLANEOUS

- 98.1. ~~CLEC warrants that it has had no dealings with any broker or agent in connection with this Agreement, and covenants to pay, hold harmless and indemnify Embarq from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Agreement or the negotiation thereof.~~ Intentionally Omitted.
- 98.2. Submission of this instrument for examination or signature by Embarq does not constitute a reservation of or option for license and it is not effective, as a license or otherwise, until execution and delivery by both Embarq and CLECINTRADO COMM.
- 98.3. Neither Embarq nor its agents have made any representation or warranties with respect to the Collocation Space of this Agreement except as expressly set forth herein; no rights, easements, or licenses shall be acquired by CLECINTRADO COMM by implication or otherwise unless expressly set forth herein.
- 98.4. In the event of work stoppages, Embarq may establish separate entrances for use by personnel of CLECINTRADO COMM. CLECINTRADO COMM shall comply with any emergency operating procedures established by Embarq to deal with work stoppages.
- 98.5. The individuals executing this Agreement on behalf of CLECINTRADO COMM represent and warrant to Embarq they are fully authorized and legally capable of executing this Agreement on behalf of CLECINTRADO COMM.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed and accepted by its duly authorized representatives.

"Customer" INTRADO COMM

"Embarq"

By: Intrado Communications Inc.

By: _____

Name : Thomas W. Hicks

Name: William E. Check

Title: Director – Carrier Relations

Title: President Wholesale Markets

Date: _____

Date: _____

TABLE ONE

TABLE TWO

EXHIBIT A

October 11, 2007

Kathryn L. Feeney
Manager - Contract Management
9300 Metcalf
Overland Park, KS 66212
Mailstop: KSOPKB0402-4674

Re: Date upon which Embarq Florida, Inc., Incorporated, United Telephone Company of Indiana, United Telephone Company of Eastern Kansas, United Telephone Company of Kansas, United Telephone Company of Southcentral Kansas, Embarq Minnesota, Inc, Embarq Missouri, Inc., United Telephone Company of the West, Nevada Division of Central Telephone Company, Telephone Company – North Carolina Division, United Telephone Company of New Jersey, Inc, Carolina Telephone and Telegraph Company, United Telephone Company of Ohio, United Telephone Company of the Northwest, United Telephone – Southeast, Inc., Central Telephone Company of Virginia, United Telephone Company of Texas, Inc., and, Central Telephone Company of Texas, and (collectively "Embarq") Received Request for Negotiations of an Interconnection Agreement from Intrado

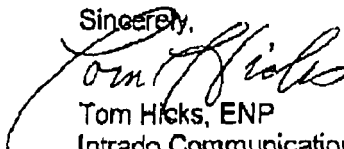
Dear Kathryn:

The purpose of this letter is to confirm our agreement as to the date on which Embarq received Intrado's request for negotiations of interconnection agreements pursuant to Section 252 of the Communications Act of 1934 (the "Act") for Florida, Indiana, Kansas, Minnesota, Missouri, Nebraska, Nevada, North Carolina, New Jersey, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wyoming.

The parties agree that for purposes of Section 252 of the Act Sprint received Intrado's request for negotiations for the states listed above on June 22, 2007. Based on that date, the 135th day (opening of the window) will fall on November 3, 2007 and the 160th day (closing of the window) will fall on November 28, 2007.

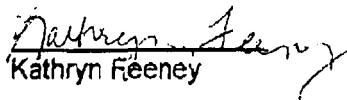
Please indicate your agreement with the foregoing by signing in the space provided below and return either the original or a copy to my attention. Thank you for your cooperation.

Sincerely,


Tom Hicks, ENP
Intrado Communications Inc.
Director- Carrier Relations

Agreed to by Embarq:

By:


Kathryn Feeney

intrado®
COMMUNICATIONS INC.

May 18, 2007

VIA CERTIFIED MAIL

Kathryn Feeney
EMBARQ Corporation
9300 Metcalf Ave., Overland Park, KS 66212-1463

RE: Request for Section 251 Interconnection

Dear Ms. Feeney:

Pursuant to Section 251, et seq. of the Telecommunications Act of 1996, as amended, Intrado Communications Inc. herein requests interconnection with Embarq.

Please forward the appropriate materials to:

Thomas W. Hicks
Director, Regulatory Affairs
c/o Colleen Lockett
Intrado Communications Inc.
1601 Dry Creek Drive
Longmont, CO 80503
e-mail: regulatory@intrado.com

We look forward to commencing interconnection negotiations with your team. Should you have any questions please feel free to contact me at (972) 772-5883.

Thank you for your consideration.

Sincerely,



Thomas W. Hicks

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kathryn Feeney
EMBARQ Corp
9300 Metcalf Ave.,
Overland Park, KS 66212-1463

2. Article Number
(Transfer from service label)

7006 0100 0001 0684 3107

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

U.S. Postal Service[™]

CERTIFIED MAIL[™] RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage

\$

Certified Fee

Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$ 5.1

5/8/07
Postmark
Here

Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

PS Form 3800, June 2002

See Reverse for Instructions



Negotiation Request Form

5/18/2007

5404

Date (m/d/yyyy)

CLEC 4-Digit Operating Company Number (OCN)

Intrado Communications Inc.

Certified name of the Carrier

Is your company affiliated with any other Telecommunications Company?

☐ Yes

☒ No

If so, please provide the name of the affiliated company.

Tom Hicks

Carrier contact name

(972) 772-5883 ext.

Carrier contact telephone number

1601 Dry Creek Drive

Headquarters address (also used for official notices)

Longmont, CO 80503

City, State, Zip

regulatory@intrado.com

Contact email address

Represented by outside consultant and/or attorney?

☐ Yes

☒ No

If the answer is "Yes" please continue.

() ext.

Consultant and/or attorney name and firm name

Consultant and/or attorney telephone number

Consultant and/or attorney address

Consultant and/or attorney email address

City, State, Zip

Services planned (check all that apply):

☒ Interconnection

☒ Resale

☒ UNE

☒ Collocation

Please check the type of agreement requested:

☒ Wireless Interconnection

☒

CLEC Interconnection, Collocation and Resale

☐ Traffic termination only

☒

MFN (please list below)

☐ Resale only

☐

Amendment

☐ Inside Wire Maintenance

☐

Other (please describe)

State	Check all applicable	Forecasted market rollout date	Name of Agreement to opt-in to (if applicable)
FL	<input checked="" type="checkbox"/>	9/15/07	
IN	<input checked="" type="checkbox"/>	11	
KS	<input checked="" type="checkbox"/>	11	
MO	<input checked="" type="checkbox"/>	11	
MN	<input checked="" type="checkbox"/>	11	
NC	<input checked="" type="checkbox"/>	11	
NE	<input checked="" type="checkbox"/>	11	
NJ	<input checked="" type="checkbox"/>	11	
NV	<input checked="" type="checkbox"/>	11	
OH	<input checked="" type="checkbox"/>	11	
OR	<input checked="" type="checkbox"/>	11	
PA	<input checked="" type="checkbox"/>	11	
SC	<input checked="" type="checkbox"/>	11	
TN	<input checked="" type="checkbox"/>	11	
TX	<input checked="" type="checkbox"/>	11	
VA	<input checked="" type="checkbox"/>	11	
WA	<input checked="" type="checkbox"/>	11	
WY	<input checked="" type="checkbox"/>	11	

Please email the completed form to: negotiation.request@embarq.com.

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@Embarq.com]
Sent: Monday, May 21, 2007 1:41 PM
To: Lockett, Colleen
Subject: RE: Embarq

Here is our template.

From: Lockett, Colleen [mailto:Clockett@Intrado.com]
Sent: Monday, May 21, 2007 2:04 PM
To: Feeney, Kathryn L [EQ]
Subject: RE: Embarq

Kathryn,

We sent the negotiation form for interconnection and are looking for the information/materials needed to act as a facilities-based provider for the provision of local exchange service.

Thank you,
Colleen

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@Embarq.com]
Sent: Friday, May 18, 2007 6:33 AM
To: Lockett, Colleen
Subject: RE: Embarq

Colleen:

From your request, it appears that you are looking for agreement to adopt? Would you like me to send you some from each state to review?

From: Request, Negotiation
Sent: Thursday, May 17, 2007 5:16 PM
To: Feeney, Kathryn L [EQ]
Subject: FW: Embarq

From: Lockett, Colleen [mailto:Clockett@Intrado.com]
Sent: Thursday, May 17, 2007 4:14 PM
To: Request, Negotiation
Subject: Embarq

Attached please find the negotiation request form from Intrado Communications Inc. We look forward to hearing from you.

Colleen Lockett
Regulatory Affairs Specialist
Intrado Inc.

1601 Dry Creek Drive
Longmont, CO 80503
direct: 720-864-5506
fax: 720-494-6600
email: clockett@intrado.com

Intrado[®]
www.intrado.com

ATTENTION:

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify Intrado Inc. immediately at 720-494-5800 and destroy all copies of this message and any attachments.



**INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT
FOR THE STATE OF [INSERT STATE NAME]**

*Insert Date of Agreement
(leave blank until ready for final signature)*

[Insert CLEC Name]

and

[Insert Embarq Company Name]

THIS DOCUMENT IS A DRAFT AND REPRESENTS THE CURRENT POSITIONS OF THE EMBARQ LOCAL OPERATING COMPANIES WITH RESPECT TO INTERCONNECTION AND RESALE. EMBARQ RESERVES THE RIGHT TO MODIFY THIS DRAFT AGREEMENT, INCLUDING ANY APPENDICES, SCHEDULES AND/OR ATTACHMENTS THERETO, AT ANY TIME PRIOR TO THE EXECUTION OF A FINAL AGREEMENT BY BOTH PARTIES. THIS DOCUMENT IS NOT AN OFFER. TO THE EXTENT THE PARTIES AGREE TO ALSO NEGOTIATE NETWORK ELEMENTS, SERVICES, OR INTERCONNECTION RATES, TERMS AND CONDITIONS NOT GOVERNED BY 47 USC 251 ("NON-251 SERVICES"), THE PARTIES AGREEMENT TO NEGOTIATE BOTH TYPES OF SERVICES DOES NOT MAKE THE NON-251 SERVICES SUBJECT TO THE PROVISIONS OF 47 USC 252 AND DOES NOT TRIGGER THE VARIOUS PROCESSES UNDER SECTION 252, INCLUDING THE RIGHT TO COMPULSORY ARBITRATION OF THE RATES, TERMS AND CONDITIONS FOR NON-251 SERVICES. FURTHER, CLEC AGREES NOT TO ARGUE THAT AGREEMENT TO DISCUSS BOTH 251 AND NON-251 SERVICES CONSTITUTES AN AGREEMENT BY EMBARQ THAT THE NON-251 SERVICES ARE SUBJECT TO 252.

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INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT

This Interconnection, Collocation and Resale Agreement (the "Agreement"), dated this _____ day of _____, 20____, is entered into by and between [*Insert CLEC Name*] ("CLEC"), a [*Insert State Name*] corporation, and [*Insert Embarq Company Name*] ("Embarq"), a [*Insert state of incorporation*] corporation, to establish the rates, terms and conditions for local interconnection, collocation, local resale, and purchase of unbundled Network Elements (individually referred to as the "service" or collectively as the "services").

WHEREAS, the Parties wish to interconnect their local exchange networks for the purposes of transmission and termination of calls, so that customers of each can receive calls that originate on the other's network and place calls that terminate on the other's network, and for CLEC's use in the provision of exchange access ("Local Interconnection"); and

WHEREAS, CLEC wishes to purchase Telecommunications Services for resale to others, and Embarq is willing to provide these services; and

WHEREAS, CLEC wishes to purchase unbundled Network Elements, ancillary services and functions and additional features ("Network Elements") for the provision of Telecommunications Services to others, and Embarq is willing to provide unbundled Network Elements and services; and

WHEREAS, the Parties intend the rates, terms and conditions of this Agreement, and their performance of obligations thereunder, to comply with the Communications Act of 1934, as amended (the "Act"), the Rules and Regulations of the Federal Communications Commission ("FCC"), and the orders, rules and regulations of the Commission; and

WHEREAS, the Parties wish to replace any and all other prior agreements, written and oral, applicable to the state of [*Insert State Name*].

Now, therefore, in consideration of the terms and conditions contained in this Agreement, CLEC and Embarq hereby mutually agree as follows:

PART A – DEFINITIONS

1. DEFINED TERMS

- 1.1. Capitalized terms defined in this Section shall have the meanings as set forth in this Agreement. Other terms used but not defined will have the meanings ascribed to them in the Act or in the Rules and Regulations of the FCC or the Commission. The Parties acknowledge that other terms appear in this Agreement, which are not defined or ascribed as stated above. The Parties agree that any such terms shall be construed in accordance with their customary usage in the telecommunications industry as of the Effective Date of this Agreement.
- 1.2. **“911 Service”** means a universal telephone number which gives the public direct access to the Public Safety Answering Point (“PSAP”). Basic 911 service collects 911 calls from one or more local exchange switches that serve a geographic area. The calls are then sent to the correct authority designated to receive such calls.
- 1.3. **“Access Services”** refers to interstate and intrastate switched access and private line transport services.
- 1.4. **“Act”** means the Communications Act of 1934, as amended.
- 1.5. **“Affiliate”** is as defined in the Act.
- 1.6. **“Augment”** refers to a modification (increase/addition or decrease/reduction) to an existing Collocation Arrangement. Examples include changes to the space, cage, power, cross-connect cabling, conduit, vault, riser, or cabling associated with the Collocation Arrangement.
- 1.7. **“Automated Message Accounting” (“AMA”)** is the structure inherent in switch technology that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Telcordia as GR-1100-CORE which defines the industry standard for message recording.
- 1.8. **“Automatic Location Identification” (“ALI”)** means a feature that provides the caller’s telephone number, address and the names of the Emergency Response agencies that are responsible for that address.
- 1.9. **“Automatic Location Identification/Data Management System (“ALI/DMS”)** means the emergency service (“E911/911”) database containing subscriber location information (including name, address, telephone number, and sometimes special information from the local service provider) used to determine to which Public Safety Answering Point (“PSAP”) to route the call.
- 1.10. **“Automatic Number Identification” (“ANI”)** is a feature that identifies and displays the number of a telephone line that originates a call.
- 1.11. **“Automatic Route Selection” (“ARS”)** is a service feature associated with a

specific grouping of lines that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.

- 1.12. **"ATU - C"** refers to an ADSL Transmission Unit - Central Office.
- 1.13. **"Busy Line Verify/Busy Line Verify Interrupt"** (**"BLV/BLVI"**) means an operator call in which the caller inquires as to the busy status of, or requests an interruption of a call on another subscriber's telephone line.
- 1.14. **"Business Day(s)"** means the days of the week excluding Saturdays, Sundays, and all Embarq holidays.
- 1.15. **"Business Line"** is an Embarq-owned switched access line used to serve a business customer, whether by Embarq or by a competitive LEC that leases the line from Embarq. The number of Business Lines in a Wire Center shall equal the sum of all Embarq business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, Business Line tallies (1) shall include only those access lines connecting end-user customers with Embarq end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to twenty-four (24) 64 kbps-equivalents, and therefore to twenty-four (24) "Business Lines."
- 1.16. **"Cable Vault"** shall mean a location in a Premises where facilities enter the Premises from the Outside Cable Duct and access the Inner Duct for distribution within the Premises.
- 1.17. **"Carrier Access Billing System"** (**"CABS"**) is the system which is defined in a document prepared under the direction of the Billing Committee of the OBF. The CABS document is published by Telcordia in Volumes 1, 1A, 2, 3, 3A, 4 and 5 as Special Reports SR-OPT-001868, SR-OPT-001869, SR-OPT-001871, SR-OPT-001872, SR-OPT-001873, SR-OPT-001874, and SR-OPT-001875, respectively, and contains the recommended guidelines for the billing of access and other connectivity services. Embarq's carrier access billing system is its Carrier Access Support System (CASS). CASS mirrors the requirements of CABS.
- 1.18. **"Central Office Building"** or **"Building"** shall mean a structure (not including a controlled environment vault ("CEV")) housing Embarq network equipment that is under the control of Embarq and for which Embarq has the right to grant access and/or occupation by third parties.
- 1.19. **"Central Office Switches"** - are switching facilities within the public switched telecommunications network, including, but not limited to:
 - 1.19.1. **"End Office Switches"** (**"EOs"**) are switches from which end user Telephone Exchange Services are directly connected and offered.

- 1.19.2. “**Tandem Switches**” are switches that are used to connect and switch trunk circuits between and among Central Office Switches.
- 1.19.3. “**Remote Switches**” are switches that are away from their host or control office. All or most of the central control equipment for the remote switch is located at the host or Control Office.
- 1.20. “**Centrex**” means a Telecommunications Service associated with a specific grouping of lines that uses central office switching equipment for call routing to handle direct dialing of calls, and to provide numerous private branch exchange-like features.
- 1.21. “**CLASS/LASS**” (Telcordia Service Mark) refers to service features that utilize the capability to forward a calling party’s number between end offices as part of call setup. Features include Automatic Callback, Automatic Recall, Caller ID, Call Trace, and Distinctive Ringing.
- 1.22. “**Collocation Arrangement**” refers to a single, specific provision of collocation in a particular Premises, not limited to a cage enclosing CLEC’s equipment within the Premises.
- 1.23. “**Collocation Space**” shall mean an area of space located in a building to be used by CLEC to house telecommunications equipment that is necessary for interconnection or access to UNEs. Additionally, roof or wall space used for wireless interconnection shall be included in the definition where applicable.
- 1.24. “**Commingle**” means the act of Commingling.
- 1.25. “**Commingling**” means the connecting, attaching, or otherwise linking of an unbundled Network Element, or a combination of unbundled Network Elements, to one or more facilities or services that CLEC has obtained at wholesale from Embarq or the combining of an unbundled Network Element, or a combination of unbundled Network Elements with one or more such facilities or services.
- 1.26. “**Commission**” means the [*Insert Commission Name*].
- 1.27. “**Common Channel Signaling**” (“CCS”) is a method of digitally transmitting call set-up and network control data over a digital signaling network fully separate from the public switched telephone network that carries the actual call.
- 1.28. “**Common Transport**” provides a local interoffice transmission path between End Office Switches, between End Office Switches and Tandem Switches and between Tandem Switches in Embarq’s network. Common Transport is shared between multiple customers and is required to be switched at the Tandem Switch.
- 1.29. “**Confidential and/or Proprietary Information**” has the meaning set forth in Section 15.
- 1.30. “**Controlled Environment Vault**” (“CEV”) shall mean a below ground room other than a Central Office Building which is controlled by Embarq and which is suitable for collocation of telecommunications equipment under controlled

temperature and humidity.

- 1.31. "**Control Office**" is an exchange carrier center or office designated as the Party's single point of contact for the provisioning and maintenance of its portion of local interconnection arrangements.
- 1.32. "**Copper Loop**" is a stand-alone local loop comprised entirely of copper wire or cable. Copper Loops include two-wire and four-wire analog voice-grade Copper Loops, digital Copper Loops (e.g., DS0s and integrated services digital network lines), as well as two-wire and four-wire Copper Loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the Copper Loops are in service or held as spares. The Copper Loop includes attached electronics using time division multiplexing technology, but does not include packet switching capabilities.
- 1.33. "**Custom Calling Features**" means a set of Telecommunications Service features available to residential and single-line business customers including call-waiting, call-forwarding and three-party calling.
- 1.34. "**Customer Proprietary Network Information**" ("CPNI") is as defined in the Act.
- 1.35. "**Database Management System**" ("DBMS") is a computer process used to store, sort, manipulate and update the data required to provide Selective Routing and ALI.
- 1.36. "**Day**" means Days unless otherwise specified.
- 1.37. "**Dedicated Transport**" includes Embarq transmission facilities between Wire Centers or Switches owned by Embarq, or between Wire Centers or Switches owned by Embarq and Switches owned by CLEC, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.
- 1.38. "**Demarcation Point**" is that point on the facility where Embarq's control of the facility ceases, and the End User Customer's control of the facility begins.
- 1.39. "**Digital Subscriber Line Access Multiplexer**" ("DSLAM") is equipment that links end-user xDSL connections to a single high-speed packet switch, typically ATM or IP.
- 1.40. "**Directory Assistance Database**" refers to any subscriber record used by Embarq in its provision of live or automated operator-assisted directory assistance including but not limited to 411, 555-1212, NPA-555-1212.
- 1.41. "**Directory Assistance Services**" provides listings to callers. Directory Assistance Services may include the option to complete the call at the caller's direction.
- 1.42. "**DS1 Loop**" is a digital Local Loop having a total digital signal speed of 1.544 megabytes per second. DS1 Loops include, but are not limited to, two-wire and

four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services.

- 1.43. “**DS3 Loop**” is a digital Local Loop having a total digital signal speed of 44.736 megabytes per second.
- 1.44. “**DSLAM**” refers to a Digital Subscriber Line Access Multiplexer.
- 1.45. “**Duct**” is a single enclosed path to house facilities to provide Telecommunications Services.
- 1.46. “**Effective Date**” is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.
- 1.47. “**Electronic Interface**” means access to operations support systems consisting of preordering, ordering, provisioning, maintenance and repair and billing functions.
- 1.48. “**Emergency Response Agency**” is a governmental entity authorized to respond to requests from the public to meet emergencies.
- 1.49. “**Emergency Service Number**” (“**ESN**”) is a number assigned to the ALI and selective routing databases for all subscriber telephone numbers. The ESN designates a unique combination of fire, police and emergency medical service response agencies that serve the address location of each in-service telephone number.
- 1.50. “**Enhanced Extended Link**” (“**EEL**”) for purposes of this Agreement refers to the combination of unbundled Network Elements, specifically NID, Loop, multiplexing (MUX) if necessary and Dedicated Transport, in the Embarq Network.
- 1.51. “**Exchange Message Interface System**” (“**EMI**”) is the Industry standard for exchanging telecommunications message information for billable, non-billable, sample settlement and study records. The EMI is published by ATIS (Alliance for Telecommunications Industry Solutions).
- 1.52. “**End Date**” is the date this Agreement terminates as referenced in 5.1.
- 1.53. “**Enhanced 911 Service**” (“**E911**”) means a telephone communication service which will automatically route a call dialed “9-1-1” to a designated public safety answering point (PSAP) attendant and will provide to the attendant the calling party’s telephone number and, when possible, the address from which the call is being placed and the Emergency Response agencies responsible for the location from which the call was dialed.
- 1.54. “**FCC**” means the Federal Communications Commission.
- 1.55. “**Fiber-based Collocator**” means any carrier, unaffiliated with Embarq, that maintains a Collocation Arrangement in Embarq’s wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a Collocation Arrangement within the

Wire Center; (2) leaves Embarq's Wire Center premises; and (3) is owned by a party other than Embarq or any affiliate of Embarq, except as set forth in this definition. Dark fiber obtained from Embarq on an indefeasible right of use basis shall be treated as non-Embarq fiber-optic cable. Two or more Affiliated Fiber-based Collocators in a single Wire Center shall collectively be counted as a single Fiber-based Collocator. For purposes of this definition, the term Affiliate is defined by 47 USC § 153(1) and any relevant interpretation in the Act.

- 1.56. **"Fiber-to-the-curb Loop" ("FTTC Loop")** means a Local Loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential multiple dwelling units ("MDUs"), not more than 500 feet from the MDU's minimum point of entry ("MPOE"). The fiber optic cable in a fiber-to-the curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises.
- 1.57. **"Fiber-to-the-home Loop" ("FTTH Loop")** means a Local Loop consisting entirely of fiber optic cable, whether dark or lit, and serving an end-user's customer premises or, in the case of predominantly residential MDUs, a fiber optic cable, whether dark or lit, that extends to the multiunit premises' MPOE.
- 1.58. **"Grandfathered Service"** means service which is no longer available for new customers and is limited to the current customer at their current locations with certain provisioning limitations, including but not limited to upgrade denials, feature adds/changes and responsible/billing party.
- 1.59. **"High Frequency Portion of the local Loop" ("HFPL")** is defined as the frequency range above the voice band on a Copper Loop facility that is being used to carry analog circuit-switched voice band transmissions provided by Embarq to the end-user customer.
- 1.60. **"Hybrid Loop"** means a Local Loop comprised of both fiber optic cable, usually in the feeder plant, and copper wire or cable usually in the distribution plant.
- 1.61. **"Incumbent Local Exchange Carrier" ("ILEC")** is as defined in the Act.
- 1.62. **"Information Services"** shall have the meaning defined in 47 CFR 51.5.
- 1.63. **"Interexchange Carrier" ("IXC")** means a provider of interexchange Telecommunications Services.
- 1.64. **"Interexchange Service"** shall mean telecommunications service between stations in different exchange areas.
- 1.65. **"ISP-Bound Traffic,"** for the purposes of this Agreement, is defined as traffic that is transmitted to an Internet Service Provider ("ISP") consistent with the ISP Remand Order (FCC 01-131), 16 F.C.C. Rcd. 9151 (2001).
- 1.66. **"Inner Duct" or "Conduit"** shall mean any passage or opening in, on, under, over

or through the Embarq Central Office Building cable or conduit systems.

- 1.67. **“Line Information Data Base” (“LIDB”)** means a Service Control Point (SCP) database that provides for such functions as calling card validation for telephone line number cards issued by Embarq and other entities and validation for collect and billed-to-third services.
- 1.68. **“Live Load Capacity”** as it relates to a CLEC's Collocation Space refers to the structural strength of the floor to support the weight of CLEC's property and equipment installed in the collocated space.
- 1.69. **“Local Loop”** refers to a transmission facility between the main distribution frame [cross-connect], or its equivalent, in an Embarq Central Office or wire center, and up to the demarcation point (e.g., Network Interface Device) at a customer's premises, to which CLEC is granted exclusive use. This includes all electronics, optronics and intermediate devices (including repeaters and load coils) used to establish the transmission path to the customer premises. Local loops include Copper Loops, Hybrid Loops, DS1 loops, DS3 loops, FTTC Loops and FTTH Loops.
- 1.70. **“Local Number Portability” (“LNP”)** means the ability of users of Telecommunications Services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one Telecommunications Carrier to another.
- 1.71. **“Local Service Request” (“LSR”)** means an industry standard form or a mutually agreed upon change thereof, used by the Parties to add, establish, change or disconnect local services.
- 1.72. **“Local Traffic”** for the purposes of this Agreement the Parties shall agree that “Local Traffic” means traffic (excluding Commercial Mobile Radio Service “CMRS” traffic) that is originated and terminated within Embarq's local calling area, or mandatory extended area service (EAS) area, as defined by the Commission or, if not defined by the Commission, then as defined in existing Embarq Tariffs. For this purpose, Local Traffic does not include any ISP-Bound Traffic.
- 1.73. **“Mobile Wireless Service”** means any mobile wireless telecommunications service, including any commercial mobile radio service (CMRS). CMRS includes paging, air-ground radiotelephone service and offshore radiotelephone service, as well as mobile telephony services, such as the voice offerings of carriers using cellular radiotelephone, broadband PCS and SMR licenses.
- 1.74. **“Multiple Exchange Carrier Access Billing” (“MECAB”)** refers to the document prepared by the Billing Committee of the ATIS Ordering and Billing Forum (“OBF”). The MECAB document contains the recommended guidelines for the billing of an access service provided to a customer by two or more providers or by one provider in two or more states within a single LATA.
- 1.75. **“Multiple Exchange Carrier Ordering And Design” (“MECOD”)** refers to the

guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices of the OBF, which functions under the auspices of the Carrier Liaison Committee ("CLC") of the Alliance for Telecommunications Industry Solutions ("ATIS"). The MECOD document, published by Telcordia as Special Report SR STS-002643, establishes recommended guidelines for processing orders for Access Service which is to be provided by two or more Telecommunications Carriers.

- 1.76. **"National Emergency Number Association"** ("**NENA**") is an association with a mission to foster the technological advancement, availability and implementation of 911 nationwide.
- 1.77. **"Network Element"** is as defined in the Act.
- 1.78. **"North American Numbering Plan"** ("**NANP**") means the plan for the allocation of unique 10-digit directory numbers consisting of a three-digit area code, a three-digit office code, and a four-digit line number. The plan also extends to format variations, prefixes, and special code applications.
- 1.79. **"Numbering Plan Area"** ("**NPA**") (sometimes referred to as an area code) is the three-digit indicator which is designated by the first three digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs." A "Geographic NPA" is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A "Non-Geographic NPA," also known as a "Service Access Code (SAC Code)" is typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas; 500, 800, 900, 700, and 888 are examples of Non-Geographic NPAs.
- 1.80. **"NXX," "NXX Code," "COC," "Central Office Code," or "CO Code"** is the three-digit switch entity indicator which is defined by the fourth, fifth and sixth digits of a 10-digit telephone number within NANP.
- 1.81. **"OBF"** means the Ordering and Billing Forum, which functions under the auspices of the CLC of the Alliance for Telecommunications Industry Solutions (ATIS).
- 1.82. **"Operator Services"** provides for:
 - 1.82.1. operator handling for call completion (*e.g.*, collect calls);
 - 1.82.2. operator or automated assistance for billing after the subscriber has dialed the called number (*e.g.*, credit card calls); and
 - 1.82.3. special services (*e.g.*, BLV/BLI, Emergency Agency Call).
- 1.83. **"Outside Cable Duct"** shall mean any space located outside the Central Office Building and owned by or under the control of Embarq through which Embarq

runs its cable, conduit or other associated facilities.

- 1.84. **"Parity"** means, subject to the availability, development and implementation of necessary industry standard Electronic Interfaces, the provision by Embarq of services, Network Elements, functionality or telephone numbering resources under this Agreement to CLEC, including provisioning and repair, at least equal in quality to those offered to Embarq, its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources. Until the implementation of necessary Electronic Interfaces, Embarq shall provide such services, Network Elements, functionality or telephone numbering resources on a non-discriminatory basis to CLEC as it provides to its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources.
- 1.85. **"P.01 Transmission Grade Of Service" ("GOS")** means a trunk facility provisioning standard with the statistical probability of no more than one call in 100 blocked on initial attempt during the average busy hour.
- 1.86. **"Parties"** means, jointly, Embarq and CLEC, and no other entity, Affiliate, subsidiary or assign.
- 1.87. **"Party"** means either Embarq or CLEC, and no other entity, Affiliate, subsidiary or assign.
- 1.88. **"Percent Local Usage" ("PLU")** is a calculation which represents the ratio of the local minutes to the sum of local and intraLATA toll minutes between exchange carriers sent over Local Interconnection Trunks. Directory assistance, BLV/BLVI, 900, and 976 transiting calls from other exchange carriers and switched access calls are not included in the calculation of PLU.
- 1.89. **"Physical Collocation"** is as defined in 47 CFR 51.5.
- 1.90. **"Point of Interconnection" ("POI")** is the physical point that establishes the technical interface, the test point, and the operational responsibility hand-off between CLEC and Embarq for the local interconnection of their networks. The POI also establishes the demarcation point to delineate each Party's financial obligations for facility costs.
- 1.91. **"Premises"** is as defined in 47 CFR 51.5.
- 1.92. **"Pre-Order Loop Qualification" ("Loop Qualification")** is an OSS function that includes supplying loop qualification information to CLECs as part of the Pre-ordering Process. Examples of the type of information provided are:
 - 1.92.1. Composition of the loop material, i.e. fiber optics, copper;
 - 1.92.2. Existence, location and type of any electronic or other equipment on the loop, including but not limited to:
 - 1.92.2.1. Digital Loop Carrier ("DLC") or other remote concentration devices;

- 1.92.2.2. Feeder/distribution interfaces;
- 1.92.2.3. Bridge taps;
- 1.92.2.4. Load coils;
- 1.92.2.5. Pair gain devices; or
- 1.92.2.6. Disturbances in the same or adjacent binders.
- 1.92.3. Loop length which is an indication of the approximate loop length, based on a 26-gauge equivalent and is calculated on the basis of Distribution Area distance from the central office;
- 1.92.4. Wire gauge or gauges; and
- 1.92.5. Electrical parameters.
- 1.93. **“Proprietary Information”** shall have the same meaning as Confidential Information.
- 1.94. **“Rate Center”** means the geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to Embarq or CLEC for its provision of basic exchange Telecommunications Services. The “rate center point” is the finite geographic point identified by a specific V&H coordinate, which is used to measure distance-sensitive end user traffic to/from the particular NPA-NXX designations associated with the specific Rate Center. The “rate center area” is the exclusive geographic area identified as the area within which Embarq or CLEC will provide Basic Exchange Telecommunications Services bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center point must be located within the Rate Center area.
- 1.95. **“Routing Point”** means a location which Embarq or CLEC has designated on its own network as the homing (routing) point for traffic inbound to basic exchange Services provided by Embarq or CLEC which bear a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Telcordia Practice BR 795-100-100, the Routing Point may be an “End Office” location, or a “LEC Consortium Point of Interconnection.” Pursuant to that same Telcordia Practice, examples of the latter shall be designated by a common language location identifier (CLLI) code with (x)MD or X(x) in positions 9, 10, 11, where (x) may be any alphanumeric A-Z or 0-9. The above referenced Telcordia document refers to the Routing Point as the Rating Point. The Rating Point/Routing Point need not be the same as the Rate Center Point, nor must it be located within the Rate Center Area, but must be in the same LATA as the NPA-NXX.
- 1.96. **“Small Exchange Carrier Access Billing” (“SECAB”)** means the document prepared by the Billing Committee of the OBF. The SECAB document,

published by ATIS as Special Report SR OPT-001856, contains the recommended guidelines for the billing of access and other connectivity services.

- 1.97. “**Selective Routing**” is a service which automatically routes an E911 call to the PSAP that has jurisdictional responsibility for the service address of the telephone that dialed 911, irrespective of telephone company exchange or Wire Center boundaries.
- 1.98. “**Signaling Transfer Point**” (“**STP**”) means a signaling point that performs message routing functions and provides information for the routing of messages between signaling points within or between CCIS networks. An STP transmits, receives and processes CCIS messages.
- 1.99. “**Splitter**” is a device that divides the data and voice signals concurrently moving across the loop, directing the voice traffic through copper tie cables to the switch and the data traffic through another pair of copper tie cables to multiplexing equipment for delivery to the packet-switched network. The Splitter may be directly integrated into the DSLAM equipment or may be externally mounted.
- 1.100. “**Street Index Guide**” (“**SIG**”) is a database defining the geographic area of an E911 Service. It includes an alphabetical list of the street names, high-low house number ranges, community names, and Emergency Service Numbers provided by the counties or their agents to Embarq.
- 1.101. “**Switch**” means a Central Office Switch as defined in this Part A.
- 1.102. “**Synchronous Optical Network**” (“**SONET**”) is an optical interface standard that allows interworking of transmission products from multiple vendors (*i.e.*, mid-span meets). The base rate is 51.84 MHps (OC-1/STS-1 and higher rates are direct multiples of the base rate up to 1.22 GHps).
- 1.103. “**Tandem Office Switches**,” “**Tandem**,” and “**Tandem Switching**” describe Class 4 switches which are used to connect and switch trunk circuits between and among End Office Switches and other tandems.
- 1.104. “**Tariff**” means a filing made at the state or federal level for the provision of a Telecommunications Service by a Telecommunications Carrier that provides for the terms, conditions and pricing of that service. Such filing may be required or voluntary and may or may not be specifically approved by the Commission or FCC.
- 1.105. “**Technically Feasible**” refers solely to technical or operational concerns, rather than economic, space, or site considerations.
- 1.106. “**Tier 1**” Wire Centers are those Embarq Wire Centers that contain at least four Fiber-based Collocators, at least 38,000 Business Lines, or both. Tier 1 Wire Centers also are those Embarq tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. Once a Wire Center is determined to be a Tier 1 Wire Center, that Wire Center is not subject to later reclassification as a Tier 2 or

Tier 3 Wire Center.

- 1.107. “**Tier 2**” Wire Centers are those Embarq Wire Centers that are not Tier 1 Wire Centers but contain at least three (3) Fiber-based Collocators, at least 24,000 Business Lines, or both. Once a Wire Center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.
- 1.108. “**Tier 3**” Wire Centers are those Embarq Wire Centers that are not Tier 1 or Tier 2 Wire Centers.
- 1.109. “**Telecommunications**” is as defined in the Act.
- 1.110. “**Telecommunications Carrier**” is as defined in the Act.
- 1.111. “**Telecommunications Service**” is as defined in the Act.
- 1.112. “**Transit Service**” means the delivery of Transit Traffic.
- 1.113. “**Transit Traffic**” means Local Traffic or ISP-Bound Traffic that originated on CLEC’s network, transited through Embarq’s network, and terminated to a third party Telecommunications Carrier’s network or that is originated on a third party Telecommunications Carrier’s network, transited through Embarq, and terminated to CLEC’s network.
- 1.114. “**Virtual Collocation**” is as defined in 47 CFR 51.5.
- 1.115. **Virtual NXX Traffic (“VNXX Traffic”)** – As used in this Agreement, Virtual NXX traffic or VNXX Traffic is defined as calls in which a Party’s customer is assigned a telephone number with an NXX Code (as set forth in the LERG) assigned to a Rate Center that is different from the Rate Center associated with the customer’s actual physical premise location.
- 1.116. “**Wholesale Service**” means Telecommunication Services that Embarq provides at retail to subscribers who are not Telecommunications Carriers as set forth in 47 USC § 251(c)(4) which Embarq provides to resellers at a wholesale rate.
- 1.117. “**Wire center**” is the location of an incumbent LEC local switching facility containing one or more central offices, as defined in part 36 of the Code of Federal Regulations. The Wire Center boundaries define the area in which all customers served by a given Wire Center are located.
- 1.118. “**xDSL**” refers to a generic term for a series of high speed transmission protocols, equipment, and services designed to operate over copper wire. This series includes but is not limited to ADSL, VDSL, SDSL, and others.

PART B – GENERAL TERMS AND CONDITIONS

2. SCOPE OF THIS AGREEMENT

- 2.1. This Agreement, including Parts A through L, Tables One and Two and exhibits, specifies the rights and obligations of each Party with respect to the establishment, purchase, and sale of Local Interconnection, Collocation, resale of Telecommunications Services and Unbundled Network Elements. Certain terms used in this Agreement shall have the meanings defined in PART A – DEFINITIONS, or as otherwise elsewhere defined throughout this Agreement. Other terms used but not defined in this Agreement will have the meanings ascribed to them in the Act and in the FCC's and the Commission's rules, regulations and orders. PART B sets forth the general terms and conditions governing this Agreement. The remaining Parts set forth, among other things, descriptions of the services, pricing, technical and business requirements, and physical and network security requirements.

3. NETWORK CHANGES

- 3.1. Embarq shall provide notice of network changes and upgrades in accordance with §§ 51.325 through 51.335 of Title 47 of the Code of Federal Regulations. Embarq may discontinue any interconnection arrangement, Telecommunications Service, or Network Element provided or required hereunder due to network changes or upgrades after providing CLEC notice as required by this Section. Embarq agrees to cooperate with CLEC and/or the appropriate regulatory body in any transition resulting from such discontinuation of service and to minimize the impact to customers, which may result from such discontinuance of service.

4. REGULATORY APPROVALS

- 4.1. This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with § 252 of the Act within thirty (30) Days after obtaining the last required Agreement signature. Embarq and CLEC shall use their best efforts to obtain approval of this Agreement by any regulatory body having jurisdiction over this Agreement. In the event any governmental authority or agency rejects any provision hereof, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval.
- 4.2. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the texts of the Act and the orders, rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment of the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Act to the Parties or in which the court, FCC or the Commission makes a generic

determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, "Amended Rules"), either Party may, by providing written notice to the other Party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly within sixty (60) Days of the date of the notice to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

- 4.3. Notwithstanding any other provision of this Agreement to the contrary Section 4.2 hereof shall control. Any rates, terms or conditions thus developed or modified shall be substituted in place of those previously in effect and shall be effective under this Agreement as of the effective date established by the Amended Rules, whether such action was commenced before or after the Effective Date of this Agreement. Should the Parties be unable to reach agreement with respect to the applicability of such order or the resulting appropriate modifications to this Agreement, either party may invoke the Dispute Resolution provisions of this Agreement, it being the intent of the parties that this Agreement shall be brought into conformity with the then current obligations under the Act as determined by the Amended Rules. Embarq may charge rates to CLEC under this Agreement that are approved by the Commission in a generic cost proceeding, whether such action was commenced before or after the Effective Date of this Agreement, as of the effective date of the Commission decision.
- 4.4. In the event that as a result of any effective decision, order, or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, Embarq determines that it is not required to furnish any service, facility, arrangement, or benefit required to be furnished or provided to CLEC under this Agreement, then Embarq may discontinue any service, facility, arrangement, or benefit ("Discontinued Arrangement") to the extent permitted by any such decision, order, or determination by providing sixty (60) Days written notice to CLEC. Immediately upon provision of such written notice to CLEC, CLEC will be prohibited from ordering and Embarq will not provide new Discontinued Arrangements.

5. TERM AND TERMINATION

- 5.1. This Agreement shall be deemed effective upon the Effective Date first stated above, and continue for a period of two years until [*Enter End Date*] ("End Date"), unless earlier terminated in accordance with this Section 5, provided however that if CLEC has any outstanding past due obligations to Embarq or any of Embarq's affiliates, this Agreement will not be effective until such time as any past due obligations with Embarq are paid in full. This agreement shall become binding upon execution by the Parties. No order or request for services under this Agreement shall be processed before the Effective Date, except as otherwise agreed to in writing by the Parties. No order or request for services under this Agreement shall be processed before CLEC has established a customer account

with Embarq and has completed the Implementation Plan described in this Agreement.

- 5.2. In the event of either Party's material breach of any of the terms or conditions hereof, including the failure to make any undisputed payment when due, the non-defaulting Party may immediately terminate this Agreement in whole or in part if the non-defaulting Party so advises the defaulting Party in writing of the event of the alleged default and the defaulting Party does not remedy the alleged default within sixty (60) Days after written notice thereof. The non-defaulting Party may pursue all available legal and equitable remedies for such breach.
- 5.3. Embarq may terminate this Agreement upon ten (10) Days notice if CLEC is not exchanging traffic with Embarq or has not submitted orders pursuant to this Agreement within one-hundred-eighty (180) Days of the Effective Date. In addition, Embarq reserves the right to terminate this Agreement immediately upon notice from the CLEC that it has ceased doing business in this state. In addition to notice from CLEC, Embarq may utilize any publicly available information in concluding that CLEC is no longer doing business in this state, and immediately terminate this Agreement.
- 5.4. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect to any act or omission prior to termination or from any obligation which is expressly stated in this Agreement to survive termination.
- 5.5. Notwithstanding the above, should Embarq sell or trade substantially all the assets in an exchange or group of exchanges that Embarq uses to provide Telecommunications Services, then Embarq may terminate this Agreement in whole or in part as to that particular exchange or group of exchanges upon sixty (60) Days prior written notice.

6. POST EXPIRATION INTERIM SERVICE ARRANGEMENTS

- 6.1. No later than one-hundred sixty (160) Days prior to the End Date, CLEC will provide Embarq notice to commence negotiations pursuant to Sections 251 and 252 of the Act for terms, conditions and rates for a successor agreement to be effective on or before the End Date.
- 6.2. In the event that this Agreement expires under Section 5.1, CLEC has submitted a notice to commence negotiations under Section 6.1, and the Parties have not executed a successor agreement at the time of expiration, provided the Parties are actually in arbitration or mediation before the Commission or FCC under § 252 of the Act or the Parties have a written agreement to continue negotiations under § 252, it is the intent of the Parties to provide in this Section for post-expiration interim service arrangements between the Parties so that service to their respective end users will not be interrupted should a new agreement not be consummated prior to the End Date. Therefore, except in the case of termination

as a result of the events under Sections 5.2, 5.4, and 5.5, services that had been available under this Agreement, were ordered prior to the End Date and are actually in service as of the End Date may continue uninterrupted after the End Date at the written request of either Party only until the earlier to occur of (i) the Parties execute a successor agreement, (ii) the issuance of an order, whether a final non-appealable order or not, by the Commission or FCC, approving an agreement resulting from the resolution of the issues set forth in such arbitration or mediation request, or (iii) the first anniversary of the End Date.

6.3. In the event that on the End Date the Parties have not executed a successor agreement and Section 6.2 does not apply or no longer applies, Embarq will continue to provide services pursuant to one of the following:

6.3.1. Such standard terms and conditions or tariffs approved by and made generally available by the Commission, if they exist; or

6.3.2. An existing agreement between Embarq and another carrier adopted by CLEC for the remaining term of that agreement. If CLEC fails to designate an agreement under this subsection, then Embarq may designate such agreement.

7. CHARGES, BILLING AND PAYMENT

7.1. In consideration of the services provided by Embarq under this Agreement, CLEC shall pay the charges set forth in Part C subject to the provisions of Section 4 hereof and subject to the dispute provisions provided herein. Additional billing procedures for charges incurred by CLEC hereunder are set forth in ~~Part C~~.

7.2. Subject to the terms of this Agreement, the Parties shall pay invoices within thirty (30) Days from the bill date shown on the invoice.

7.2.1. For invoices not paid when due, late payment charges will be assessed under Section 7.4.

7.2.2. If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the next business day.

7.2.3. If an invoice is not paid within forty-five (45) Days after the bill date, Embarq may suspend processing new orders and cancel any pending orders.

7.2.4. If the account remains delinquent sixty (60) Days after the bill date, Embarq will terminate all services under this Agreement.

7.3. If the CLEC disputes any charges shown on an invoice, the following billing dispute procedures are the exclusive means for challenging such charges, and the failure by CLEC to follow such procedures will result in the suspension or termination of service for non-payment of invoiced amounts:

- 7.3.1. Any billing dispute must be submitted in writing, itemizing the particular charges that CLEC is challenging, and explaining in reasonable detail the specific grounds for disputing the validity or applicability of such charges.
 - 7.3.2. Billing disputes must be submitted to the National Dispute Center on the billing dispute form designated by Embarq, along with any payment for undisputed charges that are shown on such invoice. The billing dispute form may be accompanied by any additional, relevant materials submitted by CLEC.
 - 7.3.3. The payment due date of an invoice shall be suspended with respect to disputed amounts on such invoice, but only if a written, itemized dispute has been filed in compliance with Section 7.3 within thirty (30) Days of the bill date. Such payment due date for the disputed amounts shall remain suspended during negotiations between the Parties or pending a determination by the Commission under the dispute resolution provisions of Section 25.
 - 7.3.4. Billing disputes that are submitted in a timely manner in compliance with Section 7.3 shall not have the effect of suspending the payment due date with respect to *billed amounts that are not in dispute*, notwithstanding the existence of a dispute with respect to other amounts billed on the same invoice.
 - 7.3.5. The failure to submit a written dispute in compliance with Section 7.3 within thirty (30) Days of a bill date shall not preclude a Party from thereafter submitting a dispute or seeking a billing adjustment for any charges which have been paid, but any billing dispute which is not submitted within thirty (30) Days of a bill date or which is not submitted in writing in compliance with Section 7.3 shall not be effective to suspend the payment due date for the disputed amount or to prevent late charges and possible suspension or termination of service for non-payment of billed amounts in accordance with Section 7.2. Payment of billed amounts that are subsequently disputed or which become the subject of a request for adjustment shall not constitute or be deemed to represent a waiver of a Party's right to submit a dispute or seek an adjustment of such Party's account with respect to such paid amounts, and the paying Party shall not be required to designate any such payment as "conditional" or "under protest" in order to submit a dispute or seek a subsequent adjustment with respect to amounts which have previously been paid. A dispute which is filed more than 30 Days after a bill date or a request for an account adjustment must be submitted in writing in the same manner as provided for in Section 7.3 with respect to disputes, and such requests shall be subject to the Dispute Resolution provisions of this Agreement.
- 7.4. Late payment charges on invoices not paid when due (or any portion thereof which is not subject to a timely filed dispute) will be assessed until the amount

due is paid in full, and shall be calculated using a rate equal to the lesser of the following:

- 7.4.1. the total amount due times the highest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the payment due date to and including the date the customer actually makes the payment to Embarq, or
- 7.4.2. the total amount due multiplied by a factor of 0.000329 times the number of days which occurred between the payment due date and (including) the date CLEC actually makes the payment to Embarq.
- 7.5. Embarq shall credit CLEC for incorrect Connectivity Billing charges including without limitation: overcharges, services ordered or requested but not delivered, interrupted services, services of poor quality and installation problems if caused by Embarq. Such reimbursements shall be set forth in the appropriate section of the Connectivity Bill pursuant to CABS, or SECAB standards.
- 7.6. Embarq will bill CLEC for message provisioning and, if applicable, data tape charges related to exchange access records. Embarq will bill CLEC for the records at the rates on Table One. If CLEC requests additional copies of the monthly invoice, Embarq may also bill CLEC for the additional copies.
- 7.7. Embarq shall comply with various industry, OBF, and other standards referred to throughout this Agreement. Embarq will review any changes to industry standards, and implement the changes within the industry-defined window. Embarq will notify CLEC of any deviations to the standards.
- 7.8. Where Parties have established interconnection, Embarq and the CLEC agree to conform to MECAB and MECOD guidelines. They will exchange Billing Account Reference and Bill Account Cross Reference information and will coordinate Initial Billing Company/Subsequent Billing Company billing cycles. Embarq will provide CLEC the appropriate records to bill exchange access charges to the IXC. Embarq will capture EMI records for inward terminating calls and send them to CLEC, as appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom). Upon Embarq's request, CLEC will provide Embarq the appropriate records to bill exchange access charges to the IXC. CLEC will capture EMI records for inward terminating calls and send them to Embarq, as appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom).
- 7.9. Embarq shall provide a single point of contact for handling of any data exchange questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.
- 7.10. Revenue Protection. Embarq shall make available to CLEC, at Parity with what Embarq provides to itself, its Affiliates and other local telecommunications CLECs, all present and future fraud prevention or revenue protection features,

including prevention, detection, or control functionality embedded within any of the Network Elements. These features include, but are not limited to screening codes, information digits assigned such as information digits '29' and '70' which indicate prison and COCOT pay phone originating line types respectively, call blocking of domestic, international, 800, 888, 900, NPA-976, 700, 500 and specific line numbers, and the capability to require end-user entry of an authorization code for dial tone. Embarq shall, when technically capable and consistent with the implementation schedule for Operations Support Systems (OSS), additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent OSS.

- 7.11. Embarq reserves the right to secure the account with a suitable form of security deposit in accordance with Section 37.

8. AUDITS AND EXAMINATIONS

- 8.1. Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the other Party involved. Subject to each Party's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, either Party, at its own expense, may audit the other Party's books, records and other documents directly related to billing and invoicing once in any twelve (12) month period for the purpose of evaluating the accuracy of the other Party's billing and invoicing. "Audit" shall mean a comprehensive review of bills for services performed under this Agreement; "Examination" shall mean an inquiry into a specific element of or process related to bills for services performed under this Agreement. Either Party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date, with the assistance of the other Party, which will not be unreasonably withheld. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations, as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.
- 8.2. Upon thirty (30) Days written notice by the Requesting Party to Audited Party, Requesting Party shall have the right through its authorized representative to make an Audit, during normal business hours, of any records, accounts and processes which contain information bearing upon the billing and invoicing of the services provided under this Agreement. Within the above-described thirty (30) Day period, the Parties shall reasonably agree upon the scope of the Audit or Examination, the documents and processes to be reviewed, and the time, place and manner in which the Audit or Examination shall be performed. Audited Party agrees to provide Audit or Examination support, including appropriate access to and use of Audited Party's facilities (e.g.: conference rooms, telephones, copying machines).
- 8.3. Each party shall bear its own expenses in connection with the conduct of the Audit or Examination. The reasonable cost of special data extraction required by the Requesting Party to conduct the Audit or Examination will be paid for by the

Requesting Party. For purposes of this Section 8.3, a "Special Data Extraction" shall mean the creation of an output record or informational report (from existing data files) that is not created in the normal course of business. If any program is developed to Requesting Party's specifications and at Requesting Party's expense, Requesting Party shall specify at the time of request whether the program is to be retained by Audited Party for reuse for any subsequent Audit or Examination.

- 8.4. Adjustments based on the audit findings may be applied to the twelve (12) month period included in the audit. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) Days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such Audit or Examination and are agreed to by the Parties. Interest shall be calculated in accordance with Section 7.4 above.
- 8.5. Neither such right to examine and audit nor the right to receive an adjustment shall be affected by any statement to the contrary appearing on checks or otherwise, unless such statement expressly waiving such right appears in writing, is signed by the authorized representative of the Party having such right and is delivered to the other Party in a manner sanctioned by this Agreement.
- 8.6. This Section shall survive expiration or termination of this Agreement for a period of one (1) year after expiration or termination of this Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Intellectual property includes, without limitation, patent, copyright, trade mark, trade secrets, and other proprietary rights. Each Party grants to the other party a limited license to its intellectual property solely to the extent necessary for the use of any facility or equipment (including software) or for the receipt of services as provided under this Agreement. Except for such limited license to use its intellectual property, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel.
- 9.2. CLEC acknowledges that its right under this Agreement for Local Interconnection with Embarq's network and to unbundled and/or combine Embarq's Network Elements may be subject to or limited by intellectual property rights and contract rights of third parties. Embarq agrees to use its best efforts to obtain for CLEC, third party intellectual property rights, under commercially reasonable terms, to each unbundled Network Element necessary for CLEC to use such unbundled Network Element in the same manner as Embarq.
- 9.3. Embarq shall have no obligations to attempt to obtain for CLEC any third party intellectual property right(s) that would permit CLEC to use any unbundled Network Element in a different manner than used by Embarq.

- 9.4. To the extent not prohibited by a contract with the vendor of the Network Element sought by CLEC that contains intellectual property licenses, Embarq shall reveal to CLEC the name of the vendor, the intellectual property rights licensed to Embarq under the vendor contract and the terms of the contract (excluding cost terms). Embarq shall, at CLEC's request, contact the vendor to attempt to obtain permission to reveal additional contract details to CLEC.
- 9.5. All costs associated with the extension of third party intellectual property rights to CLEC pursuant to Section 9.2, including the cost of the license extension itself and the costs associated with the effort to obtain the license, shall be part of the cost of providing the unbundled Network Element to which the intellectual property rights relate and apportioned to all requesting CLEC using that unbundled Network Element including Embarq.
- 9.6. Embarq hereby conveys no licenses to use such third party intellectual property rights and makes no warranties, express or implied, concerning CLEC's rights with respect to such third party intellectual property rights and contract rights, including whether such rights will be violated by such Local Interconnection or unbundling and/or combining of Network Elements (including combining with CLEC's use of other functions, facilities, products or services furnished under this Agreement). Any licenses or warranties for intellectual property rights associated with unbundled network elements are vendor licenses and warranties and are a part of the third party intellectual property rights Embarq agrees in Section 9.2 to use its best efforts to obtain.

10. LIMITATION OF LIABILITY

- 10.1. Neither Party, its parents, subsidiaries, affiliates, agents, servants or employees shall be liable for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of willful misconduct.
- 10.2. Notwithstanding the foregoing, in no event shall Embarq's liability to CLEC for a service outage exceed an amount equal to the proportionate charge for the service(s) or unbundled element(s) provided for the period during which the service was affected.
- 10.3. Neither Party shall be responsible to the other for any indirect, special, consequential or punitive damages, including (without limitation) damages for loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted, or done hereunder (collectively "Consequential Damages"), whether arising in contract or tort except that the foregoing shall not limit a Party's obligation under Section 11 to indemnify, defend, and hold the other Party harmless against amounts payable to third parties.

- 10.4. EMBARQ SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF CLEC'S EQUIPMENT AND OTHER PREMISES ONLY IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY EMBARQ'S SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.

11. INDEMNIFICATION

- 11.1. Each Party agrees to indemnify and hold harmless the other Party from and against claims by third parties for damage to tangible personal or real property and/or personal injuries to the extent caused by the negligence or willful misconduct or omission of the indemnifying Party.
- 11.2. CLEC shall indemnify and hold harmless Embarq from all claims by CLEC's subscribers.
- 11.3. Embarq shall indemnify and hold harmless CLEC from all claims by Embarq's subscribers.
- 11.4. The indemnifying Party under this Section agrees to defend any suit brought against the other Party either individually or jointly with the indemnified Party for any such loss, injury, liability, claim or demand.
- 11.5. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which it is claimed that the indemnifying Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims.
- 11.6. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party of any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to promptly assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.
- 11.7. When the lines or services of other companies and CLECs are used in establishing connections to and/or from points not reached by a Party's lines, neither Party shall be liable for any act or omission of the other companies or carriers.
- 11.8. In addition to its indemnity obligations hereunder, each Party shall, to the extent allowed by law or Commission Order, provide, in its tariffs and contracts with its subscribers that relate to any Telecommunications Services provided or contemplated under this Agreement, that in no case shall such Party or any of its agents, contractors or others retained by such Party be liable to any subscriber or third party for
- 11.8.1. any loss relating to or arising out of this Agreement, whether in contract or tort, that exceeds the amount such Party would have ~

charged the applicable subscriber for the service(s) or function(s) that gave rise to such loss, and

- 11.8.2. Consequential Damages (as defined in Section 10 above).
- 11.9 If CLEC has physical collocations under this Agreement, CLEC shall also indemnify and hold Embarq harmless from any and all claims arising from:
 - 11.9.1 CLEC's use of the Collocation Space;
 - 11.9.2 the conduct of CLEC's business or from any activity, work or things done, permitted or suffered by CLEC in or about the Collocation Space or elsewhere;
 - 11.9.3 any and all claims arising from any breach or default in the performance of any obligation on CLEC's part to be performed under the terms of this Agreement; and
 - 11.9.4 any negligence of the CLEC, or any of CLEC's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
 - 11.9.5 If any action or proceeding is brought against Embarq by reason of any such claim, CLEC, upon notice from Embarq, shall defend same at CLEC's expense employing counsel satisfactory to Embarq.
- 11.10 ILEC shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of CLEC, or out of any work performed, material furnished, or obligations incurred by CLEC in, upon or otherwise in connection with the Collocation Space. CLEC shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLEC's liability under this Section.
- 11.11 If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLEC shall give Embarq written notice thereof as soon as CLEC obtains such knowledge.
- 11.12 CLEC shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and for the account of CLEC, from obtaining such discharge and release if CLEC fails or refuses to do the same within the thirty-day period.
- 11.13 If CLEC has first discharged the lien as provided by law, CLEC may, at CLEC's expense, contest any mechanic's lien in any manner permitted by law.

12. INSURANCE

- 12.1. During the term of this Agreement, CLEC shall carry, and shall cause any subcontractors to carry, with financially reputable insurers which are licensed to do business in all jurisdictions where any property is located, not less than the following insurance:
- 12.2. Commercial General Liability with limits of not less than \$1,000,000 combined single limit per occurrence and aggregate for bodily injury, property damage and personal and advertising injury liability insurance to include coverage for contractual and products/completed operations liability, naming Embarq as additional insured;
- 12.3. Business Auto liability, including all owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage liability, naming Embarq as additional insured;
- 12.4. Workers Compensation as provided for in the jurisdiction where the Property is located, with an Employer's Liability limit of not less than \$500,000 per accident or disease; and
- 12.5. Umbrella or excess liability in an amount not less than \$5,000,000 per occurrence and aggregate in excess of the above-referenced Commercial General, Business Auto and Employer's Liability, naming Embarq as additional insured; and
- 12.6. "All Risk" property insurance on a full replacement cost basis insuring CLEC's property situated on or within the Property, naming Embarq as loss payee. CLEC may elect to insure business interruption and contingent business interruption, as it is agreed that Embarq has no liability for loss of profit or revenues should an interruption of service occur.
- 12.7. Nothing contained in this Section shall limit CLEC's liability to Embarq to the limits of insurance certified or carried.
- 12.8. All policies required of the CLEC shall contain evidence of the insurer's waiver of the right of subrogation against Embarq for any insured loss covered thereunder. All policies of insurance shall be written as primary policies and not contributing with or in excess of the coverage, if any, that Embarq may carry.
- 12.9. CLEC shall furnish to Embarq a certificate or certificates of insurance, satisfactory in form and content to Embarq, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled without first giving at least thirty (30) Days prior written notice to Embarq.

13. BRANDING

- 13.1. CLEC shall provide the exclusive interface to CLEC subscribers, except as CLEC shall otherwise specify for the reporting of trouble or other matters identified by CLEC for which Embarq may directly communicate with CLEC subscribers. In

those instances where CLEC requests that Embarq personnel interface with CLEC subscribers, such Embarq personnel shall inform the CLEC subscribers that they are representing CLEC, or such brand as CLEC may specify.

- 13.2. Other business materials furnished by Embarq to CLEC subscribers shall bear no corporate name, logo, trademark or tradename.
- 13.3. Except as specifically permitted by a Party, in no event shall either Party provide information to the other Party's subscribers about the other Party or the other Party's products or services.
- 13.4. Embarq shall share pertinent details of Embarq's training approaches related to branding with CLEC to be used by Embarq to assure that Embarq meets the branding requirements agreed to by the Parties.
- 13.5. This Section shall not confer on either Party any rights to the service marks, trademarks and/or trade names owned by or used in connection with services by the other Party, except as expressly permitted in writing by the other Party.

14. REMEDIES

- 14.1. Except as otherwise provided herein, all rights of termination, cancellation or other remedies prescribed in this Agreement, or otherwise available, are cumulative and are not intended to be exclusive of other remedies to which the injured Party may be entitled in case of any breach or threatened breach by the other Party of any provision of this Agreement, and use of one or more remedies shall not bar use of any other remedy for the purpose of enforcing the provisions of this Agreement.

15. CONFIDENTIALITY AND PUBLICITY

- 15.1. All information which is disclosed by one Party ("Disclosing Party") to the other ("Recipient") in connection with this Agreement, or acquired in the course of performance of this Agreement, shall be deemed confidential and proprietary to the Disclosing Party and subject to this Agreement, such information includes but is not limited to, orders for services, usage information in any form, and CPNI as that term is defined by the Act and the rules and regulations of the FCC ("Confidential Information").
- 15.2. During the term of this Agreement, and for a period of five (5) year thereafter, Recipient shall
 - 15.2.1. use Confidential Information only for the purpose of performing under this Agreement,
 - 15.2.2. hold Confidential Information in confidence and disclose it only to employees or agents who have a need to know it in order to perform under this Agreement, and

- 15.2.3. safeguard Confidential Information from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.
- 15.3. Recipient shall have no obligation to safeguard Confidential Information
 - 15.3.1. which was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party,
 - 15.3.2. which becomes publicly known or available through no breach of this Agreement by Recipient,
 - 15.3.3. which is rightfully acquired by Recipient free of restrictions on its Disclosure, or
 - 15.3.4. which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.
- 15.4. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, if the Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and the Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient will comply with any protective order that covers the Confidential Information to be disclosed.
- 15.5. Each Party agrees that in the event of a breach of this Section 15 by Recipient or its representatives, Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 15.6. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, symbols or words from which the other Party's name may reasonably be inferred or implied in any product, service, advertisement, promotion, or any other publicity matter, except that nothing in this paragraph shall prohibit a Party from engaging in valid comparative advertising. This Section 15.6 shall confer no rights on a Party to the service marks, trademarks and trade names owned or used in connection with services by the other Party or its Affiliates, except as expressly permitted by the other Party.
- 15.7. Neither Party shall produce, publish, or distribute any press release nor other publicity referring to the other Party or its Affiliates, or referring to this Agreement, without the prior written approval of the other Party. Each party shall obtain the other Party's prior approval before discussing this Agreement in any press or media interviews. In no event shall either Party mischaracterize the contents of this Agreement in any public statement or in any representation to a governmental entity or member thereof.

- 15.8. Except as otherwise expressly provided in this Section 15, nothing herein shall be construed as limiting the rights of either Party with respect to its customer information under any applicable law, including without limitation § 222 of the Act.

16. DISCLAIMER OF WARRANTIES

- 16.1. EXCEPT AS SPECIFICALLY PROVIDED ELSEWHERE IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO QUALITY, FUNCTIONALITY OR CHARACTERISTICS OF THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR STATEMENT MADE BY EITHER PARTY OR ANY OF ITS AGENTS OR EMPLOYEES, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, ANY SPECIFICATIONS, DESCRIPTIONS OR STATEMENTS PROVIDED OR MADE SHALL BE BINDING UPON EITHER PARTY AS A WARRANTY.

17. ASSIGNMENT AND SUBCONTRACT

- 17.1. If any Affiliate of either Party succeeds to that portion of the business of such Party that is responsible for, or entitled to, any rights, obligations, duties, or other interests under this Agreement, such Affiliate may succeed to those rights, obligations, duties, and interest of such Party under this Agreement. In the event of any such succession hereunder, the successor shall expressly undertake in writing to the other Party the performance and liability for those obligations and duties as to which it is succeeding a Party to this Agreement. Thereafter, the successor Party shall be deemed CLEC or Embarq and the original Party shall be relieved of such obligations and duties, except for matters arising out of events occurring prior to the date of such undertaking.
- 17.2. Except as provided in Section 17.1, any assignment of this Agreement or of the work to be performed, in whole or in part, or of any other interest of a Party hereunder, without the other Party's written consent, which consent shall not be unreasonably withheld or delayed, shall be void.

18. GOVERNING LAW

- 18.1. This Agreement shall be governed by and construed in accordance with the Act, the FCC's Rules and Regulations and orders of the Commission, except insofar as state law may control any aspect of this Agreement, in which case the domestic laws of the Commission's state, without regard to its conflicts of laws principles, shall govern.

19. RELATIONSHIP OF PARTIES

- 19.1. It is the intention of the Parties that each Party shall be an independent contractor and nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other.

20. NO THIRD PARTY BENEFICIARIES

- 20.1. The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person, and this Agreement shall not provide any person not a party hereto with any remedy, claim, liability, reimbursement, right of action, or other right in excess of those existing without reference hereto. This shall not be construed to prevent CLEC from providing its Telecommunications Services to other carriers.

21. NOTICES

- 21.1. Except as otherwise provided herein, all notices or other communication hereunder shall be deemed to have been duly given when made in writing and delivered in person or deposited in the United States mail, certified mail, postage prepaid, return receipt requested and addressed as follows:

If to "Customer":

If to Embarq:

Director - Wholesale Markets
Embarq
KSOPKB0401-413
9300 Metcalf Avenue
Overland Park, KS 66212

With a copy to:

With a copy to:

- 21.2. If delivery, other than certified mail, return receipt requested, is used to give notice, a receipt of such delivery shall be obtained and the notice shall be effective when received. If delivery via certified mail, return receipt requested, is used, notice shall be effective when sent. The address to which notices or communications may be given to either Party may be changed by written notice given by such Party to the other pursuant to this Section.

22. WAIVERS

- 22.1. No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed.

- 22.2. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.
- 22.3. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

23. SURVIVAL

- 23.1. 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 including but not limited to Sections 7, 8, 9, 10, 11, 15, 20, 22, and 25.

24. FORCE MAJEURE

- 24.1. Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, strikes, work stoppage affecting a supplier or unusually severe weather. No delay or other failure to perform shall be excused pursuant to this Section 24 unless delay or failure and consequences thereof are beyond the control and without the fault or negligence of the Party claiming excusable delay or other failure to perform. Subject to Sections 4.4, 5.2, 5.2, and 5.5 hereof, in the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delayed Party shall perform its obligations at a performance level no less than that which it uses for its own operations. In the event of such performance delay or failure by Embarq, Embarq agrees to resume performance in a nondiscriminatory manner and not favor its own provision of Telecommunications Services above that of CLEC.

25. DISPUTE RESOLUTION

- 25.1. The Parties recognize and agree that the Commission has continuing jurisdiction to implement and enforce all terms and conditions of this Agreement, except those services in Part I (non-251 services). Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties cannot resolve, other than Part I (non-251 services), may be submitted to the Commission for resolution, in the manner provided for herein. The dispute resolution provisions of this Section shall not preclude the Parties from seeking relief available in any other forum.

- 25.2. A Party may not submit a dispute to the Commission for resolution unless at least sixty (60) Days have elapsed after the Party asserting the dispute has given written notice of such dispute to the other Party. Such notice must explain in reasonable detail the specific circumstances and grounds for each disputed item, which shall include the specific information required in Section 7.3 for billing disputes. If a Party gives notice of a billing dispute more than thirty (30) Days after the billing date and has not paid the disputed amounts by the payment due date, then the notice of such dispute shall be deemed to have been given thirty (30) Days after the billing date for purposes of calculating the time period before such dispute may be submitted to the Commission.
- 25.3. The Parties shall meet or confer as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the Parties, provided, however, that all reasonable requests for relevant, non-privileged, information made by one Party to the other Party shall be honored, and provided that the following terms and conditions shall apply:
- 25.3.1. If Embarq provides written notice to the CLEC that a billing dispute has been denied, stating the grounds for such determination, then the CLEC shall have ten (10) Days in which to either pay the disputed amounts or to send written notice to the National Dispute Center advising that the CLEC disagrees with the determination by Embarq, and such notice may be accompanied by any additional, relevant materials submitted by CLEC. Failure by the CLEC to make a timely response to a notice of denial by Embarq shall result in lifting the suspension of the payment due date for such disputed invoice, and the possible assessment of late charges and suspension or termination of service for non-payment of billed amount in accordance with Section 7.2.
- 25.3.2. Failure by the CLEC to make a timely response to a notice of denial by Embarq shall also preclude the CLEC from thereafter requesting an escalation of the same dispute under Section 25.4, although the CLEC may file a petition in compliance with Section 25.5.
- 25.4. If the Parties are unable to resolve the dispute in the normal course of business within thirty (30) Days after delivery of notice of the Dispute, then upon the request of either Party, the dispute shall be escalated to other representatives of each Party that have authority to settle the dispute, and such escalation may be repeated every thirty (30) Days during which negotiations continue. Referral of a dispute by a Party to its legal counsel shall be considered an escalation for purposes of this paragraph.
- 25.5. If the Parties are unable to resolve the dispute within sixty (60) Days after delivery of the initial notice of the dispute, then either Party may file a petition or complaint with the Commission seeking resolution of the dispute. The petition or complaint shall include a statement that both Parties have agreed to request an

expedited resolution by the Commission within sixty (60) Days from the date on which the petition or complaint was filed with the Commission.

- 25.6. If the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each Party shall pay half of the fees and expenses so incurred.
- 25.7. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement provided, however, that neither Party shall be required to act in any unlawful fashion.
- 25.8. A dispute which has been resolved by a written settlement agreement between the Parties or pursuant to a determination by the Commission may not be resubmitted under the dispute resolution process.

26. COOPERATION ON FRAUD

- 26.1. The Parties agree that they 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 unduly burden or harm one party as compared to the other.

27. TAXES

- 27.1. For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including Tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.
- 27.2. Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.
 - 27.2.1. Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.
 - 27.2.2. Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.
- 27.3. Taxes and Fees Imposed on Purchasing Party but Collected And Remitted By Providing Party.
 - 27.3.1. Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.

- 27.3.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 27.3.3. If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefore, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.
- 27.3.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 27.3.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 27.3.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 27.3.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.

27.4. Taxes and Fees Imposed on Providing Party But Passed On To Purchasing Party.

- 27.4.1. Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
- 27.4.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 27.4.3. If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.
- 27.4.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 27.4.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 27.4.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorneys' fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 27.4.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.

- 27.5. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.
- 27.6. To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. If Applicable Law excludes or exempts a purchase of services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party furnishes the providing Party with a letter or other evidence of exemption, reasonably satisfactory to the providing Party, claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate. If the exemption is later found to be invalid by the applicable jurisdiction, then the purchasing Party shall pay any tax, interest and/or penalty that is determined to be due, and shall be responsible for any costs incurred by the providing Party, including but not limited to reasonable attorneys' fees.

28. AMENDMENTS AND MODIFICATIONS

- 28.1. No provision of this Agreement shall be deemed waived, amended or modified by either Party unless such a waiver, amendment or modification is in writing, dated, and signed by both Parties.

29. SEVERABILITY

- 29.1. Subject to Section 4.2, if any part of this Agreement is held to be invalid, void or unenforceable for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

30. HEADINGS NOT CONTROLLING

- 30.1. The headings and numbering of Sections and Parts in this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

31. ENTIRE AGREEMENT

- 31.1. This Agreement, including all Parts and subordinate documents attached hereto or referenced herein, all of which are hereby incorporated by reference herein, subject only to the terms of any applicable Tariff on file with the state Commission or the FCC, constitute the entire matter thereof, and supersede all

prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter thereof.

32. SUCCESSORS AND ASSIGNS

- 32.1. Subject to the terms of this Agreement, Embarq and CLEC agree this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

33. IMPLEMENTATION PLAN

- 33.1. This Agreement sets forth the overall standards of performance for the services, processes, and systems capabilities that the Parties will provide to each other, and the intervals at which those services, processes and capabilities will be provided. The Parties understand that the arrangements and provision of services described in this Agreement shall require technical and operational coordination between the Parties. Accordingly, the Parties agree to form a team (the "Implementation Team") which shall develop and identify those processes, guidelines, specifications, standards and additional terms and conditions necessary to support and satisfy the standards set forth in this Agreement and implement each Party's obligations hereunder.
- 33.2. Dispute Resolution. If the Implementation Team is unable to agree upon any of the matters to be included in the Implementation Plan, then either Party may invoke the procedures set forth in Part B Section 25.

34. FEDERAL JURISDICTIONAL AREAS

- 34.1. Article 1, § 8, Clause 17 of the United States Constitution provides the authority to Congress to exercise exclusive jurisdiction over areas and structures used for military purposes (Federal Enclaves). Thus, Telecommunications Services to such Federal Enclaves are not subject to the jurisdiction of the Commission. The Parties agree that Services provided within Federal Enclaves are not within the scope of this Agreement. To the extent Embarq has contracts with federal entities that limit or prohibit the ability of CLEC to provide resale or UNEs such contract will govern Telecommunications Services on such Federal Enclave. If the contract with the federal entity provides for the resale or provision of UNEs to provide service on the Federal Enclave, Embarq will provide CLEC with information regarding the provision of service on the Federal Enclave.

PART C – GENERAL PRINCIPLES

35. USE OF FACILITIES

35.1. In situations where a competitive LEC has the use of the facilities (*i.e.*, Local Loop) to a specific customer premise, either through resale of local service or the lease of the Local Loop as an Unbundled Network Element, and Embarq receives a good faith request for service from a customer at the same premise or from another carrier with the appropriate customer authorization, the procedures below will apply.

35.1.1. Embarq will process such orders and provision services consistent with the terms contained in Section 72, of this Agreement.

35.1.2. Where CLEC is using a single facility to provide service to multiple end user customers, Embarq will not disconnect that facility as a result of the following procedures.

35.1.3. Embarq will follow methods prescribed by the FCC and any applicable state regulation for carrier change verification.

35.1.4. Customer with Existing Service Changing Local Service Provider:

In situations where a competitive LEC submits an order for an end user customer that is changing local service providers for existing service, and is not adding service (*i.e.*, an additional line), Embarq will process the service request without delay, and provide the losing competitive LEC a customer loss notification consistent with industry standards.

35.1.5. Customer with Existing Service Adding New Service

In situations where an order is submitted for an end user customer adding service to existing service (*i.e.*, an additional line), the order should be marked as an additional line and existing facilities will not be affected.

35.1.6. Customer Requesting New Service where Previous Customer has Abandoned Service

(a) The following applies in the case where an end user customer vacates premises without notifying the local service provider and a new end user customer moves into the vacated premises and orders new service from a local service provider and neither Embarq nor the previous local service provider are aware that the original end user customer has abandoned the service in place.

(b) When a carrier requests service at a location and marks the order as abandoned and CLEC is the previous local service

provider, Embarq shall notify CLEC via fax that it has had a request for service at the premise location that is currently being served by CLEC;

- (c) If available to Embarq, Embarq shall include the name and address of the party receiving service at such locations, but at a minimum shall provide local service address location information;
- (d) If CLEC does not respond within twenty-four (24) hours (excluding weekends and holidays) after receiving Embarq's notification or if CLEC responds relinquishing the facilities, Embarq shall be free to use the facilities in question and Embarq shall issue a disconnect order with respect to the CLEC service at that location. If CLEC responds stating that the service is working and should not be disconnected, Embarq will notify the carrier ordering service and request verification of the address and location or the submission of an order for an additional line.

36. PRICE SCHEDULE

36.1. All prices under this Agreement are set forth in the attachments designated Table One and Table Two of this Agreement are hereby incorporated into, and made a part of, this Agreement. If this Agreement provides for a service that does not have a corresponding rate in Table One or Table Two, or is not subject to Section **Error! Reference source not found.**, Embarq will develop a rate consistent with Section **Error! Reference source not found.**.

36.2. Subject to the provisions of Part B, Section 4 of this Agreement, all rates provided under this Agreement shall remain in effect for the term of this Agreement.

36.3. Local Service Resale

The rates that CLEC shall pay to Embarq for Local Resale are as set forth in Table One of this Agreement and shall be applied consistent with the provisions of Part D of this Agreement.

36.4. Unbundled Network Elements

The charges that CLEC shall pay to Embarq for Unbundled Network Elements are set forth in Table One of this Agreement.

36.5. Collocation

The charges that CLEC shall pay to Embarq for Collocation are set forth in Table Two of this Agreement.

36.6. Call Related Databases

The charges that CLEC shall pay to Embarq for Call Related Databases purchased pursuant to Part J are set forth in Table One of this Agreement.

37. SECURITY DEPOSIT

- 37.1. Embarq reserves the right to secure the account with a suitable security deposit in the form and amounts set forth herein.
- 37.2. Security deposits shall take the form of cash or cash equivalent, an irrevocable letter of credit or other form of security acceptable to Embarq.
- 37.3. If a security deposit is required on a new account, CLEC will remit such security deposit prior to inauguration of service. If a security deposit is requested for an existing account, payment of the security deposit will be made prior to acceptance by Embarq of additional orders for service.
- 37.4. Security deposits shall be in an amount equal to two (2) months' estimated billings as calculated by Embarq, or twice the most recent month's invoices from Embarq for existing accounts. All security deposits will be subject to a minimum deposit level of \$10,000.
- 37.5. The fact that a security deposit has been made in no way relieves CLEC from complying with Embarq's regulations as to advance payments and the prompt payment of bills on presentation, nor is it a waiver or modification of the regular practices of Embarq for the discontinuance of service for non-payment of any sums due Embarq.
- 37.6. Embarq may increase the security deposit requirements when gross monthly billing has increased beyond the level initially used to determine the security deposit. If payment of the additional security deposit amount is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLEC will be considered in breach of the Agreement.
- 37.7. Any security deposit shall be held by Embarq as a guarantee of payment of any charges for services billed to CLEC pursuant to this Agreement or in connection with any other services provided to CLEC by Embarq. Embarq may exercise its right to credit any cash deposit to CLEC's account, or to demand payment from the issuing bank or bonding company of any irrevocable bank letter of credit, upon the occurrence of any one of the following events:
 - 37.7.1. when CLEC's undisputed balances due to Embarq are more than thirty (30) Days past due; or
 - 37.7.2. when CLEC files for protection under the bankruptcy laws; or
 - 37.7.3. when an involuntary petition in bankruptcy is filed against CLEC and is not dismissed within sixty (60) Days;
 - 37.7.4. when this Agreement expires or terminates;

- 37.7.5. any letter of credit issued hereunder or any bank issuing a letter of credit hereunder (each, a “Letter of Credit Bank”) fails to meet the terms, conditions, and requirements set forth below in this Section; ; or
- 37.7.6. CLEC fails to provide Embarq with a replacement letter of credit on the terms set forth herein at least ten (10) Business Days prior to the expiration of any letter of credit issued to Embarq hereunder.
- 37.8. If any security deposit held by Embarq is applied as a credit toward payment of CLEC’s balances due to Embarq, then Embarq may require the CLEC to provide a new deposit. If payment of the new deposit is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLEC will be considered in breach of the Agreement.
- 37.9. Any security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service. No interest will accrue or be paid on deposits.
- 37.10. Any letter of credit issued to Embarq hereunder must meet the following requirements:
 - 37.10.1. The bank issuing any letter of credit hereunder (the “Letter of Credit Bank”) must maintain a minimum credit rating of A (by Standard & Poor’s) or A2 (by Moody’s). If CLEC proposes that the letter of credit be issued by a bank that is not so rated by Standard & Poor’s or Moody’s, then CLEC must obtain the prior written approval by Embarq to use such bank as the Letter of Credit Bank.
 - 37.10.2. The original letter of credit shall be in such form and on terms that are acceptable to Embarq and must include an automatic one-year renewal extension.
 - 37.10.3. If CLEC receives notice from the Letter of Credit Bank of any non-renewal of a letter of credit issued hereunder, then CLEC shall promptly notify Embarq of such notice of non-renewal. Not later than ten (10) Business Days prior to the expiration of the letter of credit, CLEC shall provide Embarq a replacement letter of credit on substantially identical terms to the existing letter of credit (or such other terms as are acceptable to Embarq). If CLEC provides a replacement letter of credit not later than 10 Business Days prior to the expiration of the expiring letter of credit, then Embarq shall not make a drawing under the expiring letter of credit. Upon receipt of a replacement letter of credit meeting the requirements set forth in this Agreement, Embarq will provide the original, expiring letter of credit to CLEC.
 - 37.10.4. If CLEC desires to replace any letter of credit issued to Embarq hereunder, whether due to non-renewal or otherwise, each such replacement letter of credit and the Letter of Credit Bank issuing such

replacement letter of credit must meet the terms, conditions and requirements set forth in this Section.



PART D – LOCAL RESALE**38. TELECOMMUNICATIONS SERVICES PROVIDED FOR RESALE**

38.1. At the request of CLEC, and pursuant to the requirements of the Act, and FCC and Commission Rules and Regulations, Embarq shall make available to CLEC for resale Telecommunications Services that Embarq currently provides or may provide hereafter at retail to subscribers who are not Telecommunications Carriers. Such resale may be as allowed by the FCC and Commission. The Telecommunications Services provided by Embarq to CLEC pursuant to this Part D are collectively referred to as "Local Resale." To the extent that this Part describes services which Embarq shall make available to CLEC for resale pursuant to this Agreement, this list of services is neither all inclusive nor exclusive.

39. GENERAL TERMS AND CONDITIONS

39.1. The prices charged to CLEC for Local Resale are the Embarq Tariff retail prices, discounted as set forth in Part C of this Agreement.

39.1.1. Voluntary Federal and State Subscriber Financial Assistance Programs. Subsidized local Telecommunications Services are provided to low-income subscribers pursuant to requirements established by the appropriate state regulatory body, and include programs such as Voluntary Federal Subscriber Financial Assistance Program and Link-Up America. Voluntary Federal and State Subscriber Financial Assistance Programs are not Telecommunications Services that are available for resale under this Agreement.

39.1.2. Embarq shall offer for resale to CLEC all Grandfathered Services solely for the existing grandfathered base on a customer specific basis. Embarq shall make reasonable efforts to provide CLEC with advance copy of any request for the termination of service and/or grandfathering to be filed by Embarq with the Commission.

39.1.3. Embarq shall offer for resale all of its Telecommunications Services available at retail to subscribers who are not Telecommunications Carriers, including but not limited to Contract Service Arrangements (or ICB), Special Arrangements (or ICB), and Promotions in excess of ninety (90) Days, all in accordance with FCC and Commission Rules and Regulations. For Contract Service Arrangements, Special Arrangements, or ICBs, the end-user customer's agreement with Embarq will terminate and any applicable termination liabilities will be charged to the end-user customer. The terms of the Contract Service Arrangement, Special Arrangement or ICB will apply commencing on the date CLEC commences to provide service to the end-user customer and ending on the end date of the Contract Service Arrangement, Special

Arrangement or ICB. Embarq will apply the rate in the Contract Service Arrangement, Special Arrangement or ICB in accordance with Section 39.1.

- 39.1.4. Customer Owned Coin Operated Telephone (COCOT) or Pay Telephone Access lines will not be resold to payphone service providers at wholesale prices under this Agreement.
- 39.1.5. For Telecommunications Services that are offered by Embarq to its end users and that are available for resale, the rules and regulations associated with Embarq's retail Tariff(s) shall apply when the services are resold by CLEC. Use limitations shall be in Parity with services offered by Embarq to its end users.
- 39.1.6. Except as set forth above and as may be allowed by the FCC or Commission, Embarq shall not place conditions or restrictions on CLEC's resale of wholesale regulated Telecommunications Services, except for restrictions on the resale of residential service to other classifications (*e.g.*, residential service to business customers) and for promotions of ninety (90) Days or less in length. In addition, CLEC shall be prohibited from marketing its products using the Embarq product name (*e.g.*, CLEC may purchase the features package called "Embarq Essential" but shall be prohibited from reselling this product using the Embarq brand name or the Embarq product name). Every regulated retail service rate, including promotions over ninety (90) Days in length, discounts, and option plans will have a corresponding wholesale rate. Embarq will make wholesale Telecommunications Service offerings available for all new regulated services at the same time the retail service becomes available.
- 39.1.7. Voice Mail Service is not a Telecommunications Service available for resale under this Agreement. However, where available, Embarq shall make available for Local Resale the SMDI-E (Station Message Desk Interface-Enhanced), or SMDI (Station Message Desk Interface) where SMDI-E is not available, feature capability allowing for Voice Mail Services. Embarq shall make available the MWI (Message Waiting Indicator) interrupted dial tone and message waiting light feature capabilities where technically available. Embarq shall make available CF-B/DA (Call Forward on Busy/Don't Answer), CF/B (Call Forward on Busy), and CF/DA (Call Forward Don't Answer) feature capabilities allowing for Voice Mail services. Where available, CLEC may purchase Voice Mail Service and related services for its end users at Embarq's retail rates.
- 39.1.8. Hospitality Service. Embarq shall provide all blocking, screening, and all other applicable functions available for hospitality lines under tariff.
- 39.1.9. LIDB Administration

- (a) Embarq shall maintain customer information for CLEC customers who subscribe to resold Embarq local service dial tone lines, in Embarq's LIDB in the same manner that it maintains information in LIDB for its own similarly situated end-user subscribers. Embarq shall update and maintain the CLEC information in LIDB on the same schedule that it uses for its own similarly situated end-user subscribers.
 - (b) Until such time as Embarq's LIDB has the software capability to recognize a resold number as CLEC's, Embarq shall store the resold number in its LIDB at no charge and shall retain revenue for LIDB look-ups to the resold number.
- 39.1.10. Embarq will continue to provide Primary Interexchange Carrier ("PIC") processing for end-users obtaining resold service from CLEC. Embarq will bill and CLEC will pay any PIC change charges. Embarq will only accept said requests for PIC changes from CLEC and not from CLEC's end users.

PART E – UNBUNDLED NETWORK ELEMENTS

40. GENERAL

- 40.1. Pursuant to the following terms, Embarq will unbundle and separately price and offer Unbundled Network Elements (“UNEs”). CLEC shall pay Embarq each month for the UNEs provisioned, and shall pay the non-recurring charges listed in Table One or agreed to by the Parties. It is CLEC’s obligation to combine Embarq-provided UNEs with any facilities and services that CLEC may itself provide.

41. USE OF UNBUNDLED NETWORK ELEMENTS

- 41.1. Embarq shall offer UNEs to CLEC for the purpose of offering Telecommunications Service to CLEC subscribers. Embarq shall offer UNEs to CLEC on an unbundled basis on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of this Agreement.
- 41.2. CLEC may use one or more UNEs to provide any feature, function, capability, or service option that such UNE(s) is (are) technically capable of providing, except as otherwise limited herein. Except as provided elsewhere in this Agreement, it is CLEC’s obligation to combine Embarq provided UNEs with any and all facilities and services whether provided by Embarq, CLEC, or any other party. CLEC may Commingle UNEs with Wholesale Services or Tariffed access services obtained from Embarq as provided for in this Agreement.
- 41.3. Each UNE provided by Embarq to CLEC shall be at Parity with the quality of design, performance, features, functions, capabilities and other characteristics, that Embarq provides to itself, Embarq’s own subscribers, to an Embarq Affiliate or to any other Telecommunications Carrier requesting access to that UNE.
- 41.4. CLEC may use Network Elements provided under this Agreement for any Telecommunications Service subject to the conditions listed below. By placing on order for UNEs, CLEC certifies that these requirements are met.
- 41.4.1. Any combination of the following, where both are provided by Embarq, are subject to the EEL use restrictions in Section 53. Such restrictions apply irrespective of the manner in which the loops and transport are combined
- (a) high capacity loops (DS1, DS3), to the extent available, and special access transport (a commingled facility); or
 - (b) special access channel terminations (DS1, DS3) and Dedicated Transport (DS1, DS3), to the extent available (a commingled facility), or

- (c) high capacity loops (DS1, DS3) and Dedicated Transport (DS1, DS3).
- 41.4.2. CLEC may not order or use a UNE for the exclusive provision of Mobile Wireless Service. Facilities connecting Embarq's network and CMRS carriers' networks do not qualify as UNEs and will not be available to CLEC as UNEs.
- 41.4.3. CLEC may not order or use a UNE for the exclusive provision of Interexchange Services (*i.e.*, interLATA or intraLATA long distance). Facilities connecting Embarq's network and interexchange carriers' networks used by the interexchange carrier to exclusively provide such services to end users do not qualify as UNEs and will not be available to CLEC as UNE.
- 41.4.4. CLEC must use any UNE purchased from Embarq for the purpose of providing eligible telecommunications services (not exclusively Mobile Wireless Service or Interexchange Services). CLEC may use a UNE for the provision of Interexchange Services, Mobile Wireless Service, or Information Services, if CLEC is also providing an eligible telecommunications service over the same UNE. CLEC may not order or use a UNE for the sole purpose of selling it to another carrier for the exclusive provision of Mobile Wireless Service or Interexchange Services.
- 41.4.5. An Information Service is not an eligible telecommunications service except that CLEC can use unbundled loops to provide xDSL services in accordance with this Agreement.

42. BONA FIDE REQUEST PROCESS

- 42.1. Embarq shall promptly consider and analyze CLEC requests for unbundled Network Elements included in this Agreement that are not currently developed by Embarq, network information that is reasonably required to determine what unbundled Network Elements it needs to serve a particular customer or development of and changes to Embarq work processes related to ordering, provisioning or installation of unbundled Network Elements with the submission of a Bona Fide Request ("BFR") hereunder.
- 42.2. A BFR shall be submitted in writing on the Embarq Standard BFR Form and shall include a clear technical description of each request.
- 42.3. CLEC may cancel a BFR at any time, but shall pay all reasonable and demonstrable costs of processing and/or implementing the BFR up to the date of cancellation.
- 42.4. Within ten (10) Days of its receipt, the Embarq shall acknowledge receipt of the BFR.

- 42.5. Except under extraordinary circumstances, within thirty (30) Days of its receipt of a BFR, the Embarq shall provide to CLEC a preliminary analysis of such BFR.
- 42.6. Upon receipt of the preliminary analysis, CLEC shall, within thirty (30) Days, notify Embarq, in writing, of its intent to proceed or not to proceed.
- 42.7. Embarq shall promptly proceed with the BFR upon receipt of written authorization from CLEC. When it receives such authorization, Embarq shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals.
- 42.8. As soon as feasible, but not more than ninety (90) Days after its receipt of authorization to proceed with developing the BFR, Embarq shall provide to CLEC a BFR Quote which will include, at a minimum, a description of each service, the availability, the applicable rates and the installation intervals.
- 42.9. Within thirty (30) Days of its receipt of the BFR Quote, CLEC must either confirm, in writing, its order for the BFR pursuant to the BFR Quote or if a disagreement arises, seek resolution of the dispute under the Dispute Resolution procedures in Part B of this Agreement.
- 42.10. If a Party to a BFR believes that the other Party is not requesting, negotiating or processing the BFR in good faith, or disputes a determination, or price or cost quote, such Party may seek resolution of the dispute pursuant to the Dispute Resolution provisions in Part B of this Agreement.

43. INDIVIDUAL CASE BASIS PRICING

- 43.1. Individual Case Basis (ICB) pricing will be provided by Embarq upon request from the CLEC for customer specific rates or terms for network services and features for UNEs that are not otherwise provided for in this Agreement.
- 43.2. Embarq will process ICB Pricing requests upon receipt from the CLEC. Embarq will provide CLEC a price quote within thirty (30) Business Days from the receipt of the request. Price quote intervals may vary depending upon the complexity of the request but shall not exceed thirty (30) Business Days from the receipt of the request.

44. NETWORK INTERFACE DEVICE

- 44.1. Embarq will offer unbundled access to the network interface device element (NID). The NID is defined as any means of interconnection of end-user customer premises wiring to an incumbent LEC's distribution plant, such as a cross connect device used for that purpose. This includes all features, functions, and capabilities of the facilities used to connect the loop to end-user customer premises wiring, regardless of the specific mechanical design.
- 44.2. The function of the NID is to establish the network demarcation point between a LEC (ILEC/CLEC) and its subscriber. The NID provides a protective ground

connection, protection against lightning and other high voltage surges and is capable of terminating cables such as twisted pair cable.

- 44.3. CLEC may connect its NID to Embarq's NID; may connect an unbundled loop to CLEC's NID; or may connect CLEC's own Loop to Embarq's NID, except that CLEC may not disconnect Embarq's loop and leave it disconnected from Embarq's NID. Embarq will provide one NID termination with each loop. If additional NID terminations are required, CLEC may request them pursuant to the process detailed in the Bona Fide Request Section herein.
- 44.4. Embarq will provide CLEC with information that will enable their technician to locate end user inside wiring at NIDs terminating multiple subscribers. Embarq will dispatch a technician and tag the wiring at the CLEC's request. In such cases the charges specified in Table One will apply.
- 44.5. Embarq will not provide specialized (Embarq non-standard) NIDS.
- 44.6. The Embarq NID shall provide a clean, accessible point of connection for the inside wiring and for the distribution media and/or cross connect to CLEC's NID and shall maintain a connection to ground that meets applicable industry standards. Each Party shall ground its NID independently of the other party's NID.
- 44.7. When requested, Embarq will provide NIDs separately from loops for a separate price as shown in Table One. A NID will be provided with each unbundled loop and is included in the loop pricing shown in Table One.

45. LOOP

- 45.1. Embarq will provide CLEC access to Local Loops, including Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops. The following section includes the terms and conditions for Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops. Terms and conditions for making any network modifications resulting from CLEC's request for Local Loops are contained in Section **Error! Reference source not found.**
- 45.2. At CLEC's request, and if Technically Feasible, Embarq will test and report trouble on conditioned loops for all of the line's features, functions, and capabilities, and will not restrict its testing to voice-transmission only. Testing shall include Basic Testing and Cooperative Testing. Optional Cooperative Testing and Joint Testing are performed only at CLEC's request. To the extent CLEC requests testing that would require Embarq to purchase new equipment, establish new procedures, or make systems modifications, CLEC will compensate Embarq for costs incurred to provide such testing. Request for additional testing must be submitted pursuant to the BFR Process in Section **Error! Reference source not found.**
 - 45.2.1. Basic Testing shall include simple metallic measurements only. Basic Testing does not include cooperative or joint testing efforts that require

Embarq's technician to work jointly with CLEC's staff ("Cooperative Testing" or "Joint Testing").

- 45.2.2. Cooperative testing is provided on service order activity only and will be provided by Embarq at CLEC's expense. Embarq technicians will try to contact CLEC's representative at the conclusion of installation. If the CLEC does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLEC's representative, and bill the CLEC in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLEC will be charged for the test and any additional technician time involved.
- 45.2.3. Joint Testing is provided on maintenance activity only and will be provided by Embarq at CLEC's expense, when requested. Embarq technicians will try to contact CLEC's representative to initiate Joint Testing after completing the requested activity. If the CLEC does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLEC's representative, and bill the CLEC in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLEC will be charged for the test and any additional technician time involved. Loops involving multiplexing prohibit the reading of a short.
- 45.2.4. Embarq will charge CLEC at the rates set out on Table One, when the location of the trouble on a CLEC-reported ticket is determined to be in CLEC's network or on the CLEC end user's side of the Demarcation Point.

45.3. Analog Loop Capabilities

- 45.3.1. Analog loops facilitate the transmission of voice grade signals in the 300-3000 Hz range and terminate in a 2-wire or 4-wire electrical interface at the CLEC's end user's premises. CLEC shall not install equipment on analog Loops that exceeds the specified bandwidth.
- 45.3.2. Embarq will provide analog Loops as Copper Loops, Hybrid Loops, and where required, FTTH Loops and FTTC Loops, based on available facilities.

45.4. Digital Loops

- 45.4.1. Embarq will provide digital Loops on the basis of the service that will be provisioned over the Loop. Digital Loops are Copper Loops over which CLEC may deploy advanced services. Deployment of advanced services over digital loops by CLEC will be consistent with the terms and conditions contained in Section 45.8. On digital Loops, Embarq will only provide electrical continuity and line balance.

- 45.4.2. Embarq shall employ industry accepted standards and practices to maximize binder group efficiency through analyzing the interference potential of each loop in a binder group, assigning an aggregate interference limit to the binder group, and then adding loops to the binder group until that limit is met. Disputes regarding the standards and practices employed in this regard shall be resolved through the Dispute Resolution Process set forth in Part B of this Agreement.
- 45.4.3. Reverse ADSL Loops. If a CLEC's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the subscriber, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to ADSL transmission only and not part of Embarq's regular feeder or distribution plant.
- 45.5. Non-Standard Digital Loops
 - 45.5.1. If CLEC requests a digital Loop, for which the effective loop length exceeds the xDSL standard of 18 kft (subject to gauge design used in an area), Embarq will only provide a Non-Standard Digital Loop. Additional non-recurring charges for conditioning will apply. Non-Standard Digital Loops will not be subject to performance measurements or technical specifications, however, all of the SMC requirements set forth in Section 45.4 are applicable.
- 45.6. DS1 Loops
 - 45.6.1. Subject to the cap in Section 45.6.2, Embarq will provide CLEC nondiscriminatory access to a DS1 Loop on an unbundled basis to any building not served by a Wire Center with at least 60,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS1 loop unbundling will be required in that wire center. DS1 loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.
 - 45.6.2. CLEC may obtain a maximum of ten unbundled DS1 loops to any single building in which DS1 loops are available as unbundled loops.

- 45.6.3. Where Embarq is not required to provide unbundled DS1 loops pursuant to Sections 45.6.1 and 45.6.2, CLEC may not obtain new DS1 loops as UNEs.
- 45.6.4. Any DS1 loops that CLEC previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.6.1 and 45.6.2, are subject to the following:
- (a) Such DS1 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLEC fails to submit the necessary orders to convert the DS1 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Loops to comparable access services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.
 - (b) Any service provided to CLEC by Embarq after 03/10/06 over DS1 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such facilities
 - (c) Any service provided to CLEC by Embarq between 03/11/05 and 03/10/06 over such DS1 Loops that CLEC placed in service prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.
- 45.6.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the DS1 Loop threshold, Embarq will provide CLEC notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLEC shall not be able to order new DS1 loops for the identified wire centers after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a wire center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS1 loops leased from Embarq within an identified Wire Center on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLEC paid on the date of the notice.
- (a) CLEC must submit the necessary orders to convert such DS1 Loops to an alternative service arrangement within six (6) months of the above notice date. By the end of the six month period, CLEC must have transitioned the UNEs to alternative facilities or arrangements. If CLEC fails to submit the necessary orders before

the end of the six (6) month period, Embarq will convert the DS1 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.

45.7. DS3 Loops

- 45.7.1. Subject to the cap described in Section 45.7.2, Embarq shall provide CLEC with nondiscriminatory access to a DS3 loop on an unbundled basis to any building not served by a Wire Center with at least 38,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS3 loop unbundling will be required in that Wire Center. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.
- 45.7.2. CLEC may obtain a maximum of a single unbundled DS3 loop to any single building in which DS3 loops are available as unbundled loops.
- 45.7.3. Where Embarq is not required to provide unbundled DS3 loops pursuant to Sections 45.7.1 and 45.7.2, CLEC may not obtain new DS3 loops as UNEs.
- 45.7.4. Any DS3 loop UNEs that CLEC previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.7.1 and 45.7.2, are subject to the following:
 - (a) Such DS3 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLEC fails to submit the necessary orders to convert the DS3 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.
 - (b) Any service provided to CLEC by Embarq after 03/10/06 over DS3 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such facilities.
 - (c) Any service provided to CLEC by Embarq between 03/11/05 and 03/10/06 over such DS3 Loops that CLEC placed in service prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.
- 45.7.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLEC notice

in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLEC shall not be able to order new DS3 loops for the identified wire centers after 90 Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a wire center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS3 loops leased from Embarq on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLEC paid on the date of the notice.

- (a) CLEC must submit the necessary orders to convert such DS3 Loops to an alternative service arrangement within six months of the above notice date. By the end of the six month period, CLEC must have transitioned the UNEs to alternative facilities or arrangements. If CLEC fails to submit the necessary orders by the end of the six (6) month period, Embarq will convert the DS3 Loops to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.

45.8. Adherence to National Industry Standards

- 45.8.1. In providing advanced service loop technology, Embarq shall allow CLEC to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.
- 45.8.2. Until long term industry standards and practices can be established, a particular technology shall be presumed acceptable for deployment under certain circumstances. Deployment that is consistent with at least one of the following circumstances presumes that such loop technology will not significantly degrade the performance of other advanced services or impair traditional analog circuit-switched voice band services:
 - (a) Complies with existing industry standards, including an industry-standard PSD mask, as well as modulation schemes and electrical characteristics;
 - (b) Is approved by an industry standards body, the FCC, or any state commission or;
 - (c) Has been successfully deployed by any CLEC without significantly degrading the performance of other services.
- 45.8.3. Where CLEC seeks to establish that deployment of a technology falls within the presumption of acceptability under Section 45.8.2, the burden is on CLEC to demonstrate to the Commission that its proposed

deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services.

- 45.8.4. If a deployed technology significantly degrades other advanced services, the affected Party will notify the interfering party and give them a reasonable opportunity to correct the problem. The interfering Party will immediately stop any new deployment until the problem is resolved to mitigate disruption of other carrier services. If the affected parties are unable to resolve the problem, they will present factual evidence to the Commission for review and determination. If the Commission determines that the deployed technology is the cause of the interference, the deploying party will remedy the problem by reducing the number of existing customers utilizing the technology or by migrating them to another technology that does not disturb.
- 45.8.5. When the only degraded service itself is a known disturber and the newly deployed technology is presumed acceptable pursuant to Section 45.8.2, the degraded service shall not prevail against the newly deployed technology.
- 45.8.6. If Embarq denies a request by CLEC to deploy a technology, it will provide detailed, specific information providing the reasons for the rejection.
- 45.8.7. Parties agree to abide by national standards as developed by ANSI, i.e., Committee T1E1.4 group defining standards for loop technology. At the time the deployed technology is standardized by ANSI or the recognized standards body, the CLEC will upgrade its equipment to the adopted standard within sixty (60) Days of the standard being adopted.
- 45.8.8. CLEC shall meet the power spectral density requirement given in the respective technical references listed below:
 - (a) For Basic Rate ISDN: Telcordia TR-NWT-000393 Generic Requirements for ISDN Basic Access Digital Subscriber Lines.
 - (b) For HDSL installations: Telcordia TA-NWT-001210 Generic Requirements for High-Bit-Rate Digital Subscriber Lines. Some fractional T1 derived products operating at 768 kbps may use the same standard.
 - (c) For ADSL: ANSI T1.413-1998 (Issue 2 and subsequent revisions) Asymmetrical Digital Subscriber Line (ADSL) Metallic Interface.
 - (d) As an alternative to Section 45.8.8, CLEC may meet the requirements given in ANSI document T1E1.4/2000-002R2 dated May 1, 2000. "Working Draft of Spectrum Management Standard" and subsequent revisions of this document.

45.9. Information to be Provided for Deployment of Advanced Services

45.9.1. Upon request, Embarq shall provide to CLEC:

- (a) information with respect to the spectrum management procedures and policies that Embarq uses in determining which services can be deployed;
- (b) information with respect to the rejection of CLEC's provision of advanced services, together with the specific reason for the rejection; and
- (c) information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops.

45.9.2. In connection with the provision of advanced services, CLEC shall provide to Embarq the following information on the type of technology that CLEC seeks to deploy where CLEC asserts that the technology it seeks to deploy fits within a generic Power Spectral Density (PSD) mask:

- (a) information in writing (via the service order) regarding the Spectrum Management Class (SMC), as defined in the T1E1.4/2000-002R2 Draft, of the desired loop so that the loop and/or binder group may be engineered to meet the appropriate spectrum compatibility requirements;
- (b) the SMC (*i.e.*, PSD mask) of the service it seeks to deploy, at the time of ordering and if CLEC requires a change in the SMC of a particular loop, CLEC shall notify Embarq in writing of the requested change in SMC (via a service order);
- (c) to the extent not previously provided CLEC must disclose to Embarq every SMC that the CLEC has implemented on Embarq's facilities to permit effective Spectrum Management.

45.10. Hybrid Loops. Embarq will provide CLEC access to Hybrid Loops for the provision of narrowband services as provided below. Embarq is not required to provide unbundled access to the packet switched features, functions, and capabilities of its Hybrid Loops.

45.10.1. When CLEC requests access to a Hybrid Loop for the provision of narrowband services, Embarq will

- (a) Provide non-discriminatory unbundled access to the entire Hybrid Loop capable of providing voice-grade service (*i.e.*, equivalent to DS0 capacity) using time division multiplexing, or
- (b) Provide non-discriminatory unbundled access to a spare Copper Loop serving that end-user.

45.11. Fiber Loops

45.11.1. Dark Fiber Loops

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq that has not been activated through connections to optronics that light it, and thereby render it capable of carrying communications.
- (b) Embarq is not required to provide CLEC with access to Dark Fiber Loop on an unbundled basis.
- (c) Any Dark Fiber Loop that CLEC previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.11 shall be subject to the following:
 - (i) Such Dark Fiber Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLEC fails to submit the necessary orders to convert such Dark Fiber Loops to an alternative service arrangement within such thirty (30) Day period, Embarq will have the right to disconnect such Dark Fiber Loops.
 - (ii) Any service provided by Embarq to CLEC over Dark Fiber Loops between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber Loops immediately prior to that period, and any service provided by Embarq to CLEC over Dark Fiber Loops after 09/05/06 and prior to such conversion or disconnection shall be billed at applicable rates for comparable access services based on the capacity of the electronics deployed by the CLEC in connection with such Dark Fiber Loops.

45.12. FTTH and FTTC Fiber Loops

- 45.12.1. New builds. Embarq will not provide non-discriminatory access to FTTH Loop or a FTTC Loop on an unbundled basis when Embarq has deployed a FTTH or FTTC Loop to an end-user customer premise that previously has not been served by any loop facility.
- 45.12.2. Overbuilds. Embarq will not provide non-discriminatory access to FTTH Loop or FTTC Loop on an unbundled basis when Embarq has deployed a FTTH Loop or FTTC Loop parallel to, or in replacement of, an existing loop facility, except that:
 - (a) Embarq will maintain the existing Copper Loop connected to a particular customer premises after deploying FTTH Loop or FTTC Loop and provide non-discriminatory access to the Copper Loop

on an unbundled basis unless Embarq has retired the Copper Loop as set forth below.

- (b) If Embarq deploys FTTH Loop or FTTC Loop and maintains the existing Copper Loop, Embarq will restore the Copper Loop to serviceable condition upon request and at CLEC's expense.
- (c) If Embarq deploys FTTH Loop or FTTC Loop and retires the existing Copper Loop, Embarq will provide non-discriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the FTTH Loop or FTTC Loop.
- (d) Prior to retiring Copper Loop or copper subloop that has been replaced with FTTH Loop or FTTC Loop Embarq will comply with the notice requirements set forth in 251(c)(5) of the Act, §§ 51.325 through 51.335 of the Code of Federal Regulations and applicable Commission requirements, if any.

45.13. Tag and Label. At CLEC's request, Embarq will tag and label unbundled loops at the Network Interface Device (NID). Tag and label may be ordered simultaneously with the ordering of the Loop or as a separate service subsequent to the ordering of the Loop.

45.13.1. Embarq will include the following information on the label: order number, due date, CLEC name, and the circuit number.

45.13.2. CLEC must specify on the order form whether each Loop should be tagged and labeled.

45.13.3. The rates for Loop tag and label and related services are set forth on Table One. A trip charge may be billed in addition to the Tag and Label charges.

46. SUBLOOPS

46.1. Embarq will offer unbundled access to copper subloops and subloops for access to multiunit premises wiring. Embarq will consider all requests for access to subloops through the ICB process due to the wide variety of interconnections available and the lack of standards. A written response will be provided to CLEC covering the interconnection time intervals, prices and other information based on the ICB process as set forth in this Agreement.

46.2. Embarq is not required to provide CLEC access to dark fiber subloops.

46.3. Copper Subloops. Embarq will make available access to copper subloops on an unbundled basis. A copper subloop is a portion of a Copper Loop, or Hybrid Loop, and is comprised entirely of copper wire or copper cable that acts as a transmission facility between any accessible terminal in Embarq's outside plant, including inside wire owned or controlled by Embarq, and the end-user customer premises. A copper subloop can also include intermediate devices, such as

repeaters, used to establish the transmission path. Copper subloops can be used by CLEC to provide voice-grade services as well as digital subscriber line services. Access to copper subloops is subject to the collocation provisions of this Agreement. Copper subloop consists of the distribution portion of the Copper Loop. Embarq is not obligated to offer feeder loop plant as a stand-alone UNE.

- 46.3.1. An accessible terminal is any point on the loop where technicians can access a copper wire within the cable without removing a splice case. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, and the feeder/distribution interface.
- 46.4. Multiunit premises wiring. Embarq will make available to CLEC access to subloops for access to multiunit premises wiring on an unbundled basis. The subloop for access to multiunit premises wiring is defined as any portion of the loop that it is technically feasible to access at a terminal in the incumbent LEC's outside plant at or near a multiunit premises, including inside wire. Inside wire is wire owned or controlled by Embarq at a multiunit customer premises between the minimum point of entry and the point of demarcation.
 - 46.4.1. An accessible terminal is any point in Embarq's network where a technician can access the wire within the cable (*e.g.*, via screw posts, terminals, patch panels) without removing a splice case to reach the wire within to access the wiring in the multiunit premises. Such points include, but are not limited to, a pole or pedestal, the NID, the minimum point of entry, the single point of interconnection, and the feeder/distribution interface.
 - 46.4.2. Upon request for interconnection at a multiunit premises where Embarq owns, controls, or leases wiring, Embarq will provide a single point of interconnection that is suitable for use by multiple carriers. If the Parties do not agree on appropriate terms, conditions and rates for the single point of interconnection to multiunit premises wiring either Party may invoke the Dispute Resolution provisions of this Agreement.
- 46.5. Embarq will not provide or maintain inside wire in situations where it determines there are health or safety concerns in doing so.
- 46.6. Deployment of advanced services by CLEC over subloops will be in accordance with the terms included in Section 45.8 and Section 45.9.
- 46.7. Reverse ADSL Loops. If a CLEC's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the subscriber, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to ADSL transmission only and not part of Embarq's regular feeder or distribution plant.

47. OPERATIONS SUPPORT SYSTEMS (OSS)

- 47.1. Embarq will offer unbundled access to Embarq's operations support systems to the extent technically feasible in a non-discriminatory manner at Parity. OSS consists of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by Embarq's databases and information. The OSS element includes access to all loop qualification information contained in Embarq's databases or other records, including information on whether a particular loop is capable of providing advanced services.

48. LOOP MAKE-UP INFORMATION

- 48.1. Embarq shall make available Loop Make-Up Information in a non-discriminatory manner at Parity with the data and access it gives itself and other CLECs, including affiliates. The charges for Loop Make-Up Information are set forth in Table One to this Agreement.
- 48.2. Information provided to the CLEC will not be filtered or digested in a manner that would affect the CLEC's ability to qualify the loop for advanced services.
- 48.3. Embarq shall provide Loop Make-Up Information based on the individual telephone number or address of an end-user in a particular wire center or NXX code. Loop Make-Up Information requests will be rejected if the service address is not found within existing serving address information, if the telephone number provided is not a working number or if the POI identified is not a POI where the requesting CLEC connects to the Embarq LTD network.
- 48.4. Errors identified in validation of the Loop Make-Up Information inquiry order will be returned to the CLEC.
- 48.5. Embarq may provide the requested Loop Make-Up Information to the CLECs in whatever manner Embarq would provide to their own internal personnel, without jeopardizing the integrity of proprietary information (*i.e.*, fax, intranet inquiry, document delivery, etc.). If the data is provided via fax, CLEC must provide a unique fax number used solely for the receipt of Loop Make-Up Information.
- 48.6. If CLEC does not order Loop Make-Up Information prior to placing an order for a loop for the purpose of provisioning of an advanced service and the advanced service cannot be successfully implemented on that loop, CLEC agrees that:
- 48.6.1. CLEC will be charged a Trouble Isolation Charge to determine the cause of the failure;
- 48.6.2. If Embarq undertakes Loop Make-Up Information activity to determine the reason for such failure, CLEC will be charged a Loop Make-Up Information Charge; and
- 48.6.3. If Embarq undertakes Conditioning activity for a particular loop to provide for the successful installation of advanced services, CLEC will

pay applicable conditioning charges as set forth in Table One pursuant to Section 54.3 of this Agreement.

49. LOCAL CIRCUIT SWITCHING

- 49.1. Embarq is not required to provide access to local circuit switching on an unbundled basis.
- 49.2. Any local circuit switching element that CLEC previously obtained from Embarq on an unbundled basis, including local circuit switching previously provided as part of UNE-P, shall be subject to the following:
 - 49.2.1. Such local circuit switching must be converted to an alternative arrangement within thirty (30) Days after the Effective Date of this Agreement. If CLEC fails to submit the necessary orders to convert and complete the transition of such local circuit switching element to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert such local circuit switching to comparable Wholesale Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.
 - 49.2.2. Any local circuit switching, including local circuit switching provided by Embarq to CLEC as part of UNE-P between 03/11/05 and 03/10/06 shall be subject to billing by Embarq at the transition rates established by the FCC, and any local circuit switching, including local circuit switching provided by Embarq to CLEC as part of UNE-P after 03/10/06 shall be subject to billing at the rates charged by Embarq to CLECs for such service under separate commercial agreements.

50. DEDICATED TRANSPORT

- 50.1. Embarq shall provide CLEC with nondiscriminatory access to dedicated transport on an unbundled basis, as set forth in this Agreement. A "route" is a transmission path between one of Embarq's Wire Centers or switches and another of Embarq's Wire Centers or switches. A route between two points (*e.g.*, Wire Center or switch "A" and Wire Center or switch "Z") may pass through one or more intermediate wire centers or switches (*e.g.*, Wire Center or switch "X"). Transmission paths between identical end points (*e.g.*, Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Wire Centers or switches, if any.
 - 50.1.1. Embarq is not obligated to provide a requesting carrier with unbundled access to dedicated transport that does not connect a pair of Embarq Wire Centers (*i.e.*, entrance facilities). Further, Embarq is not obligated to provide DSO or OC-N and above Dedicated Transport facilities as a UNE.

- 50.2. Dedicated DS1 transport shall be made available to CLEC on an unbundled basis as set forth below. Dedicated DS1 transport consists of Embarq interoffice transmission facilities that have a total digital signal speed of 1.544 megabytes per second and are dedicated to a particular customer or carrier.
- 50.2.1. Embarq shall unbundle DS1 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in Part A, both wire centers defining the route are Tier 1 Wire Centers. As such, Embarq will unbundle DS1 transport if a Wire Center at either end of a requested route is *not* a Tier 1 Wire Center, or if *neither* is a Tier 1 Wire Center.
- 50.2.2. CLEC may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.
- 50.2.3. Where Embarq is not required to provide unbundled DS1 transport pursuant Sections 50.2.1 and 50.2.2, CLEC may not obtain new DS1 transport as unbundled Network Elements.
- 50.2.4. Any DS1 dedicated transport that CLEC previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 50.2.1 and 50.2.2, shall be subject to the following:
- (a) Such DS1 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLEC fails to submit the necessary orders to convert and complete the transition of such DS1 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.
 - (b) Any DS1 dedicated transport service provided to CLEC by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such transport.
 - (c) Any DS1 dedicated transport service provided to CLEC by Embarq between 03/11/05 and 03/10/06 that CLEC ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.

50.2.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS1 Dedicated Transport circuit threshold for a route, Embarq will provide CLEC notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLEC shall not be able to order new DS1 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS1 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLEC paid on the date of the notice.

- (a) CLEC must submit the necessary orders to convert such DS1 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six month period, CLEC must have transitioned the transport to alternative facilities or arrangements. If CLEC fails to submit the necessary orders within the six month period, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.

50.3. Dedicated DS3 transport shall be made available to CLEC on an unbundled basis as set forth below. Dedicated DS3 transport consists of Embarq interoffice transmission facilities that have a total digital signal speed of 44.736 megabytes per second and are dedicated to a particular customer or carrier.

50.3.1. Embarq shall unbundle DS3 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in this Agreement, both Wire Centers defining the route are either Tier 1 or Tier 2 wire centers. As such, Embarq will unbundle DS3 transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.

50.3.2. CLEC may obtain a maximum of twelve unbundled DS3 dedicated transport circuits on each route where DS3 dedicated transport is available on an unbundled basis.

50.3.3. Where Embarq is not required to provide unbundled DS3 transport pursuant to Sections 50.3.1 and 50.3.2, CLEC may not obtain new DS3 transport as unbundled Network Elements.

50.3.4. Any DS3 dedicated transport UNE that CLEC previously leased from Embarq as of 03/11/05 but which Embarq is not obligated to unbundle

pursuant to Sections 50.3.1 and 50.3.2, shall be subject to the following:

- (a) Such DS3 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLEC fails to convert and complete the transition of such DS3 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Dedicated Transport to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.
- (b) Any DS3 dedicated transport service provided to CLEC by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such transport.
- (c) Any DS3 dedicated transport service provided to CLEC by Embarq between 03/11/05 and 03/10/06 that CLEC ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.

50.3.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS3 Dedicated Transport circuit threshold for a route, Embarq will provide CLEC notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLEC shall not be able to order new DS3 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS3 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLEC paid on the date of the notice.

- (a) CLEC must submit the necessary orders to convert such DS3 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, CLEC must have transitioned the transport to alternative facilities or arrangements. If CLEC fails to submit the necessary orders before the end of six (6) month period, Embarq will convert the DS3 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the

conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.

50.4. Technical Requirements for DS1 and DS3 Dedicated Transport

50.4.1. Where technologically feasible and available, Embarq shall offer Dedicated Transport consistent with the underlying technology as follows:

- (a) When Embarq provides Dedicated Transport, the entire designated transmission circuit (*e.g.*, DS1, DS3) shall be dedicated to CLEC designated traffic.
- (b) Where Embarq has technology available, Embarq shall provide Dedicated Transport using currently available technologies including, but not limited to, DS1 and DS3 transport systems, SONET (or SDS) Bi-directional Line Switched Rings, SONET (or SDH) Unidirectional Path Switched Rings, and SONEfT (or SDS) point-to-point transport systems (including linear add-drop systems), at all available transmission bit rates.

50.5. Dedicated Dark Fiber Transport

50.5.1. General Rules and Definition

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq, that has not been activated through connections to optronics that light it, and thereby render it capable of carrying communications.
- (b) Embarq will unbundle Dark Fiber for Dedicated Transport as set forth in this Agreement and as follows:
 - (i) Embarq shall unbundle dark fiber transport between any pair of Embarq Wire Centers except where both wire centers defining the route are either Tier 1 or Tier 2 Wire Centers. Embarq will unbundle dark fiber transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.
 - (ii) Where Embarq is not required to provide unbundled dark fiber transport, CLEC may not obtain new dark fiber transport as a UNE.
 - (iii) Any Dark Fiber transport that CLEC previously leased from Embarq, but which Embarq is no longer obligated to unbundle pursuant to Section 50.5 shall be subject to the following:

- (A) Such Dark Fiber transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLEC fails to submit the necessary orders to convert such Dark Fiber transport to an alternative arrangement within such thirty (30) Day period , Embarq will have the right to terminate and disconnect the Dark Fiber transport.
 - (B) Any Dark Fiber transport service provided by Embarq to CLEC between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber transport immediately prior to that period, and any Dark Fiber transport service provided by Embarq to CLEC after 09/05/06 and prior to such conversion or termination shall be billed at applicable rates for comparable access services, based on the capacity of the electronics deployed in connection with such Dark Fiber transit.
- (c) If Embarq identifies routes in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLEC notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLEC shall not be able to order new Dark Fiber Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any Dark Fiber Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLEC paid on the date of the notice.
 - (i) CLEC must submit the necessary orders to convert such dark fiber dedicated transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, CLEC must have transitioned the transport to alternative facilities or arrangements. If CLEC fails to submit the necessary orders, Embarq will convert the Dark Fiber Dedicated Transport to comparable Access Services, if available, or disconnect the Dark Fiber facilities. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLEC.

50.5.2. Fiber Availability

- (a) Spare fibers in a sheath are not considered available if Embarq has plans to put the fiber in use within the current year or the following year.
- (b) Embarq will also maintain fibers to facilitate maintenance, rearrangements and changes. Embarq will generally reserve eight percent (8%) of fibers in a sheath for maintenance, subject to a minimum of four (4) fibers and a maximum of twelve (12) fibers.
- (c) Dark fiber requests will be handled on a first come, first served basis, based on the date the Dark Fiber Application (DFA) is received.

50.5.3. Interconnection Arrangements

- (a) Rules for gaining access to unbundled network elements apply to Dark Fiber. Virtual and physical collocation arrangements may be used by CLEC to locate the optical electronic equipment necessary to "light" leased Dark Fiber.
- (b) The CLEC that requests Dark Fiber must be able to connect to the Embarq fiber by means of fiber patch panel.
- (c) If fiber patch panels (FPPs) are not located within close enough proximity for a fiber patch cord, CLEC must submit an ICB request for the purchase and installation of intraoffice cabling.
- (d) Establishment of applicable fiber optic transmission equipment or intermediate repeaters needed to power the unbundled Dark Fiber in order to carry Telecommunications Services is the responsibility of the CLEC.

50.5.4. Dark Fiber Application and Ordering Procedure

- (a) CLEC will submit a Dark Fiber Application (DFA) and application fee to request that Embarq determine the availability of Dark Fiber between the CLEC-specified locations. See Table One for application fee amount.
- (b) Within twenty (20) Business Days of receipt of DFA, Embarq will provide CLEC with a response regarding fiber availability and price.
 - (i) If Dark Fiber is not available, Embarq will notify CLEC of the DFA rejection.
 - (ii) CLEC will follow the Dispute Resolution Process provided in this Agreement if CLEC wishes to contest the rejection.

- (c) If Dark Fiber is available, CLEC will notify Embarq of acceptance/rejection of Dark Fiber quote, via a firm order, within ten (10) Business Days of receipt of quote. Embarq will reserve the requested Dark Fiber for the CLEC during these ten (10) Business Days. If, however, CLEC does not submit a firm order by the tenth (10th) business day, the fiber will no longer be reserved.
- (d) After ten (10) Business Days of receipt of the price quote, if CLEC has not accepted, CLEC must submit another DFA and application fee.
- (e) The CLEC will submit a firm order for Dark Fiber via an access service request (ASR).
- (f) By submitting the Dark Fiber firm order, the CLEC agrees to pay quoted monthly recurring and non-recurring charges. See Table One for monthly recurring and non-recurring charges.
- (g) Due Date. Embarq will provision Dark Fiber twenty (20) Business Days after it receives firm order from CLEC. Billing of the monthly recurring and non-recurring charges will begin upon completion of Dark Fiber order. Embarq will allow CLEC to extend due date for firm order completion up to sixty (60) Business Days from the date Embarq receives firm order from CLEC. This extended due date must be specified on the firm order.
- (i) Billing of the monthly recurring and non-recurring charges will begin on the due date of the Dark Fiber order completion unless:
 - (A) CLEC cancels firm order before the established due date. If this occurs, CLEC agrees to reimburse Embarq for all costs incurred to date; or
 - (B) a third party submits firm order for same Dark Fiber. If this occurs, CLEC must begin compensating Embarq for monthly recurring and non-recurring charges in order to reserve fiber, once Embarq is able to provide Dark Fiber to CLEC.

50.5.5. Maintenance and Testing

- (a) Embarq is only responsible for maintaining the facilities that it owns.
- (b) Embarq will conduct an end-to-end test of Dark Fiber after receipt of the firm order.

- (c) For meet point arrangements, Embarq will conduct cooperative testing with another carrier at CLEC's request. Additional rates and charges will apply.
- (d) Embarq does not guarantee that the transmission characteristics of the Dark Fiber will remain unchanged over time.
- (e) Embarq is not responsible for determining whether the transmission characteristics of the Dark Fiber will accommodate the CLEC requirements.

50.5.6. Rules for Take Back

- (a) Embarq reserves the right to take back Dark Fiber to meet its carrier of last resort obligations.
- (b) Embarq will provide CLEC twelve (12) months written notice prior to taking back fiber.
- (c) If multiple CLECs have leased fiber within a single sheath, Embarq will take back the fiber that was the last to be leased.
- (d) Embarq will provide the CLEC with alternative transport arrangements when Embarq takes back working fiber.
- (e) The Dispute Resolution Procedures found in this Agreement will be followed if CLEC wishes to contest Embarq's decision to take back its leased fiber.

51. COMMINGLING

- 51.1. For the purpose of this Section, wholesale services includes both services CLEC procures for resale pursuant to 251(c)(4) and exchange access service purchased from Embarq's access Tariffs.
- 51.2. CLEC may Commingle an unbundled network element or combination of UNEs with wholesale services purchased from Embarq, subject to Section 53.5.3. Upon request, Embarq will perform the work necessary to Commingle such UNE or UNE combinations with wholesale services purchased from Embarq subject to Section **Error! Reference source not found.** CLEC will compensate Embarq the costs of work performed to Commingle UNEs or UNE combinations with wholesale services. Each component of the commingled facility, either UNE or wholesale service, will be billed at the UNE or wholesale service rate for that component, plus applicable non-recurring charges. Embarq will not ratchet price individual components; that is, Embarq will not reflect a combination of UNE and wholesale rates for the same component. Wholesale service rates will be per the appropriate Tariff, including any applicable resale discounts pursuant to this Agreement.

52. LINE SPLITTING

52.1. Line Splitting

- 52.1.1. Line Splitting is an arrangement between two carriers where one carrier provides the voice services and another carrier provides advanced services over an unbundled loop.
- 52.1.2. Whenever CLEC purchases the unbundled loop, CLEC shall control the entire loop spectrum.
- 52.1.3. Embarq shall institute procedures to allow CLEC or another carrier to order HFS data capabilities on a UNE loop.
- 52.2. When either CLEC or the other carrier orders Line Splitting using CLEC's OCN, CLEC will be billed the charges for the Line Splitting service. When the other carrier orders Line Splitting using its own OCN, Embarq will bill the other carrier for the Line Splitting charges.

53. UNE COMBINATIONS

- 53.1. CLEC may order UNEs either individually or in the combinations, including EEL as specifically set forth in this Section of the Agreement.
- 53.2. General Terms and Conditions
 - 53.2.1. Embarq will allow CLEC to order each UNE individually in order to permit CLEC to combine UNEs with other UNEs obtained from Embarq as provided for in this Agreement, or with network components provided by itself or by third parties to provide Telecommunications Services to its end users, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled network elements or to interconnect with Embarq's network or in combination with any other Network Elements that are currently combined in Embarq's Network. Upon request, Embarq will perform the functions necessary to combine UNEs, even if those elements are not ordinarily combined in Embarq's network, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled Network Elements or to interconnect with Embarq's network. CLEC will compensate Embarq the costs of work performed to combine the requested UNEs. Any request by CLEC for Embarq to provide combined UNEs that are not otherwise specifically provided for under this Agreement will be made in accordance with the BFR process described in Section **Error! Reference source not found.** and made available to CLEC upon implementation by Embarq of the necessary operational modifications.
- 53.3. The provisioning of combinations, including EEL, is limited to existing facilities and Embarq is not obligated to construct additional facilities to accommodate any request by CLEC.

53.4. Specific Combinations and Pricing

53.4.1. In order to facilitate the provisioning of EELs, Embarq shall support the ordering and provisioning of this specific combination as set forth below.

53.5. Embarq Offers the Following Combinations of Network Elements

53.5.1. EEL is the combination of the NID, Loop, and Dedicated Transport network elements.

(a) Embarq will offer the combination of unbundled loops with wholesale services and unbundled Dedicated Transport, where Embarq is required to provide unbundled Dedicated Transport and Local Loops, to provide EELs at the applicable recurring and non-recurring charges as specified in Table One for Loops, Dedicated Transport, and where applicable, Multiplexing. Recurring and nonrecurring charges, including but not limited to cross connect charges and Service Order Charges will apply. Embarq will cross-connect unbundled 2- or 4-wire analog or 2-wire digital Loops to unbundled voice grade DS1 or DS3 Dedicated Transport facilities for CLEC's provision of circuit switched telephone exchange service to CLEC's end users.

(b) Multiplexing shall be provided as necessary as part of Dedicated Transport.

53.5.2. In order to obtain the EEL combinations below, a requesting CLEC must provide certification that it satisfies the service eligibility criteria for each circuit as set forth below. For existing EELs, CLEC must recertify compliance with the EELs criteria within thirty (30) Days of the Effective Date of this Agreement. CLEC must continue to be in compliance with the service eligibility criteria for as long as CLEC continues to receive the services in this Section. Embarq will offer the following EEL Combinations:

(a) Unbundled DS1 Loop in combination with UNE DS1 Dedicated Transport.

(b) Unbundled DS1 Loop commingled with dedicated DS1 transport wholesale service.

(c) Unbundled DS1 Loop in combination with UNE DS3 Dedicated Transport.

(d) Unbundled DS1 Loop commingled with dedicated DS3 transport wholesale service.

(e) Unbundled DS3 Loop in combination with UNE DS3 Dedicated Transport.

- (f) Unbundled DS3 Loop commingled with dedicated DS3 transport wholesale service.
- (g) Unbundled DS1 Dedicated Transport commingled with DS1 channel termination.
- (h) Unbundled DS3 Dedicated Transport commingled with DS1 channel termination service.
- (i) Unbundled DS3 Dedicated Transport commingled with DS3 channel termination service.

53.5.3. EEL Eligibility Criteria

- (a) CLEC must have state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, CLEC must have complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in the area served;
- (b) The following criteria must be satisfied for each combined circuit, including each DS1 circuit, each DS1 EEL, and each DS1-equivalent circuit on a DS3 EEL:
 - (i) Each circuit to be provided to each CLEC customer must be assigned one local number prior to the provision of service over the circuit;
 - (ii) Each DS1-equivalent circuit on a DS3 EEL must have its own local number assignment, so that each DS3 has up to twenty-eight (28) local voice numbers assigned to it;
 - (iii) Each circuit to be provided to each customer must provide 911 or E911 capability prior to the provision of service over the circuit;
 - (iv) Each circuit to be provided to each customer must terminate into a collocation that meets one of the following requirements:
 - (A) a collocation established pursuant to §251(c)(6) of the Act and located at Embarq's premises within the same LATA as the CLEC's customer's premises, when Embarq is not the collocater; or
 - (B) a collocation located at a third party's premises within the same LATA as the CLEC's customer's premises, when Embarq is the collocater.

- (v) For each twenty-four (24) DS1 EELs or other facilities having equivalent capacity, CLEC must maintain at least one active DS1 local service interconnection trunk and CLEC is required to transmit the calling party's number in connection with calls exchanged over each trunk. Where CLEC does not establish an interconnection arrangement with Embarq for the meaningful exchange of Local Traffic that flows in both directions, such interconnection arrangement shall not satisfy this criteria, and
- (vi) Each circuit to be provided to each customer will be served by a switch capable of switching local voice traffic.
- (c) Embarq has the right, upon thirty (30) Days notice, to audit CLEC's compliance with the service eligibility criteria defined by the FCC and as set forth above. Embarq will hire and pay for an independent auditor to perform the audit. CLEC will reimburse Embarq if the audit report concludes that CLEC failed to materially comply with the service eligibility criteria. Embarq may request one audit in a calendar year. In the instance of non-compliance, CLEC shall true-up any difference in payments, convert the non-compliant circuit to the appropriate service and make accurate payments going forward. These audit rights are in addition to Embarq's audit rights in Part B of this Agreement.

54. MODIFICATIONS TO EMBARQ'S EXISTING NETWORK

54.1. Modifications to Unbundled Loop

- 54.1.1. Embarq will make routine network modifications to unbundled loop facilities used by CLEC where the requested loop facility has already been constructed. Embarq will perform routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLEC will compensate Embarq for the costs of such routine network modifications to unbundled loop facilities to the extent the costs are not recovered in the unbundled loop rates in accordance with Table One or Embarq will provide a price quote via the ICB process.
- (a) In the case of unbundled loop facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer and attaching electronic and other equipment that Embarq ordinarily attaches to a

DS1 Loop to activate such loop for its own customer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of new loop facilities or the installation of new aerial or buried cable for CLEC.

54.2. Modifications to Dedicated Transport

54.2.1. Embarq will make routine network modifications to unbundled dedicated transport facilities used by CLEC where the requested Dedicated Transport facilities have already been constructed. Embarq will perform the routine network modifications to unbundled Dedicated Transport facilities in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLEC will compensate Embarq for the costs of such routine network modifications to unbundled Dedicated Transport facilities to the extent the costs are not recovered in the unbundled Dedicated Transport rates. Embarq will provide routine network modifications at the rates on Table One or Embarq will provide a price quote vis the ICB process.

- (a) In the case of unbundled Dedicated Transport facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications also include activities needed to enable CLEC to light a Dark Fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for CLEC.

54.3. Loop Conditioning

54.3.1. Conditioned loops are loops from which excessive bridge taps, load coils, low-pass filters, range extenders, and similar devices have been removed to enable the delivery of high-speed switched wireline telecommunications capability, including DSL. Embarq will condition loops at CLEC's request and will assess charges for loop conditioning in accordance with the prices listed in Table One. Embarq recommends that CLEC utilize the Loop Make-Up process in Section **Error! Reference source not found.** prior to submitting orders for loops intended for advanced services.

- 54.4. Embarq is not obligated to build TDM capability into new packet-based networks or into existing packet-based networks that never had TDM capability. This includes packet-based networks that incorporate a packet to TDM format translation to connect to end user customer provided equipment.

PART F – INTERCONNECTION

55. LOCAL INTERCONNECTION TRUNK ARRANGEMENT

55.1. The Parties shall reciprocally terminate Local Traffic and IntraLATA/InterLATA toll calls originating on the other Party's network as follows:

55.1.1. The Parties shall make available to each other two-way trunks for the reciprocal exchange of combined Local Traffic, and non-equal access IntraLATA toll traffic. Neither Party is obligated under this Agreement to order reciprocal trunks or build facilities in the establishment of interconnection arrangements for the delivery of Internet traffic. The Party serving the Internet service provider shall order trunks or facilities from the appropriate tariff of the other Party for such purposes and will be obligated to pay the full cost of such facility.

(a) The Parties agree to use two-way trunks (one-way trunks directionalized in each direction). Upon mutual agreement, the Parties will transition specified trunks from directionalized two-way trunks to bi-directional trunks, subject to any engineering, billing or other constraints, and subject to compensation for the cost of undertaking the conversion of such trunks.

55.1.2. Separate two-way trunks will be made available for the exchange of equal-access InterLATA or IntraLATA interexchange traffic.

55.1.3. Separate trunks will be utilized for connecting CLEC's switch to each 911/E911 tandem.

55.2. Direct Interconnection Requirements

55.2.1. Point of Interconnection. CLEC must establish a minimum of one POI within each LATA, at any technically feasible point, on Embarq's network. In addition, CLEC shall establish additional POIs under the following circumstances:

(a) To the extent Embarq's network contains multiple tandems in the LATA, CLEC must establish a POI at each tandem where it wishes to exchange (*i.e.*, receive or terminate) traffic with Embarq.

(b) CLEC must establish a POI at an Embarq end office when total traffic volumes exchanged between that particular Embarq end office and CLEC exceeds a DS1 equivalent.

(c) CLEC must establish a POI at any Embarq end office that subtends a non-Embarq tandem.

55.2.2. CLEC will be responsible for engineering and maintaining its network on its side of the POI. Embarq will be responsible for engineering and

maintaining its network on its side of the POI. Each Party is financially responsible for transport on its side of the POI.

- 55.2.3. Each Party is financially responsible for transporting its originated traffic to the POI.
- 55.2.4. When the Parties choose to interconnect at a mid-span meet, CLEC and Embarq will jointly provision the facilities that connect the two networks. Embarq will be the “controlling carrier” for purposes of MECOD guidelines, as described in the joint implementation plan. Embarq will provide fifty percent (50%) of the facilities or to its exchange boundary, whichever is less. The construction of new facilities for a mid-span meet is only applicable when traffic is roughly balanced. Notwithstanding any provision in this Agreement to the contrary, when the Parties interconnect using a mid-span meet, each Party will be financially responsible for the facilities on its side of the mid-span meet and will not bill the other Party for any portion of those facilities.
- 55.2.5. If third party (*i.e.*, Competitive Access Provider or “CAP”) leased facilities are used for interconnection, the POI will be defined as the Embarq office in which the third party’s leased circuit terminates.
- 55.2.6. If CLEC elects to lease any portion of the transport facility from Embarq or if CLEC chooses to interconnect with Embarq using a meet-point arrangement (*i.e.*, facilities jointly provisioned by Embarq and another LEC), CLEC will order those facilities that are wholly within Embarq’s serving territory from Embarq’s access tariff.

55.3. Technical Requirements for Interconnection

55.3.1. Interconnection at the Embarq Tandem

- (a) Interconnection to Embarq Tandem Switch(es) will provide CLEC local interconnection for local service purposes to the Embarq end offices and NXXs which subtend that tandem(s), where local trunking is provided, and access to the toll network.
- (b) Interconnection to an Embarq Tandem for transit purposes will provide access to telecommunications carriers which are connected to that Tandem Switch.
- (c) Where an Embarq Tandem Switch also provides End-Office Switch functions, interconnection to an Embarq tandem serving that exchange will also provide CLEC access to Embarq’s end offices.
- (d) the CLEC is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

55.3.2. Interconnection at the Embarq End Office

- (a) Interconnection to Embarq End Office Switch will provide CLEC local interconnection for local service purposes to the Embarq NXX codes served by that end office and any Embarq NXXs served by remotes that subtend those End Offices.
- (b) the CLEC is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

56. INTERCARRIER COMPENSATION

[Note: If it is an Opt-in state and CLEC accepts offer, the only applicable Section is Section Error! Reference source not found.. All other provisions may be deleted, including Section 56.1 through and including Section Error! Reference source not found..]

56.1. Compensation for Local Traffic Transport and Termination **[DELETE THIS SECTION 56.1 WHERE FCC RATES APPLY TO ALL TRAFFIC (i.e. CLEC has accepted offer). This Section 56.1 remains if either (1) It's a non-opt-in state; or (2) CLEC reject our offer)]**

56.1.1. The transport and termination charges for Local Traffic flowing through a POI shall be as follows:

- (a) In a mid-span meet arrangement, when calls from CLEC are terminating on Embarq's network through the Embarq Tandem Switch, CLEC will pay Embarq a charge for Tandem Switching, common transport to the end office, and end-office termination.
- (b) When the POI is at the Embarq Tandem Switch, CLEC shall pay a charge for Tandem Switching, common transport to the end office and end-office termination.
- (c) Charges billed to Embarq by CLEC for the transport and termination of Local Traffic will be equal to those that Embarq assesses the CLEC for the same services. Where CLEC is interconnected at an Embarq tandem and Embarq delivers its traffic to CLEC directly from an end office, Embarq shall pay CLEC end office termination. Where CLEC is interconnected at an Embarq tandem and Embarq delivers its traffic to CLEC from the tandem and the CLEC switch serves a geographical area greater than or equal to the area served by the Embarq tandem, Embarq shall pay CLEC for Tandem Switching, common transport, and end-office termination. If the CLEC switch serves a geographical area less than the area served by the Embarq tandem, Embarq shall pay CLEC end-office termination.

- (d) To validate the geographic area CLEC must provide documentation supporting the following:
 - (i) that CLEC's switch serves a geographic area that is roughly the same size as the area served by the Embarq Tandem Switch;
 - (ii) that CLEC has obtained NPA/NXX codes to serve the exchanges within the geographic area; and,
 - (iii) that CLEC is serving the area using its own switch with its own facilities or a combination of its own facilities and leased facilities connected to its collocation arrangements.
 - (e) Where direct end office trunks are established, for CLEC-originated calls, CLEC shall pay Embarq end-office termination. For Embarq originated traffic terminating to CLEC at that end office, compensation payable by Embarq shall be the same as that detailed in Section 56.1.1 above.
- 56.2. The rates to be charged for the exchange of Local Traffic are set forth in Table One and shall be applied consistent with the provisions of Part F of this Agreement. ISP-Bound Traffic will be exchanged on a Bill and Keep basis. The Parties agree to "Bill and Keep" for mutual reciprocal compensation for the termination of ISP-Bound Traffic on the network of one Party which originates on the network of the other Party.
- 56.2.1. The Parties agree that by executing this Agreement and carrying out the intercarrier compensation rates, terms and conditions herein, neither Party waives any of its rights, and expressly reserves all of its rights, under the *Order on Remand and Report and Order*, FCC 01-131, CC Dockets No. 96-98 and 99-68, adopted April 18, 2001 (the "ISP Compensation Order"), including but not limited to Embarq's option to invoke on a date specified by Embarq the FCC's ISP interim compensation regime, after which date ISP-bound traffic will be subject to the FCC's prescribed interim compensation regime including the terminating compensation rates, and other terms and conditions. CLEC agrees that on the date designated by ILEC, the Parties will begin billing Reciprocal Compensation to each other at the rates, terms and conditions specified in the FCC's ISP Compensation Order, unless the Parties are exchanging traffic (Local Traffic and/or ISP-Bound traffic) at Bill and Keep, such Bill and Keep arrangement shall continue.
- 56.3. Compensation for the termination of toll traffic and the origination of 800 traffic between the interconnecting parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations and

consistent with the provisions of Part F of this Agreement. If CLEC is acting as an IXC and a competitive local exchange carrier, CLEC must have a unique CIC for each type of service order. Specifically, CLEC must have two CICs, one that is used for ordering IXC facilities for interexchange toll traffic and one that is used to order facilities for local exchange traffic.

- 56.4. VNXX calls not Local for purposes of intercarrier compensation and CLEC will pay Embarq's originating access rates. Both Parties represent and warrant that they are not exchanging Virtual NXX traffic as of the effective date of this Agreement; however, Embarq may perform traffic studies at any time. CLEC agrees that it will provide data necessary to determine geographic location of CLEC's customers when requested to assist with VNXX traffic study. Should the traffic study indicate that there is VNXX traffic; the Parties agree to implement a percentage of traffic that shall be deemed to occur via a VNXX arrangement that will apply on a retrospective basis to the effective date of the Agreement. Should the traffic studies thereafter indicate that the percentage should be changed by Embarq, the Parties agree to implement the correct percentage on a prospective basis without amending the agreement..
- 56.5. Voice calls that are transmitted, in whole or in part, via the public Internet or a private IP network (VoIP) shall be compensated in the same manner as voice traffic (*e.g.*, reciprocal compensation, interstate access and intrastate access).
- 56.6. A call placed on a non-local basis (*e.g.*, a toll call or 8yy call) to an ISP shall not be treated as ISP-Bound Traffic for compensation purposes. The Parties agree that, to the extent such "non-Local" ISP calls are placed, that the rates, terms and conditions for IntraLATA and/or InterLATA calling shall apply, including but not limited to rating and routing according to the terminating parties' Exchange Access intrastate and/or interstate tariffs.
- 56.7. CLEC will identify the Percent Local Usage (PLU) factor on each interconnection order to identify its "Local Traffic," as defined herein, for reciprocal compensation purposes. Embarq may request CLEC's traffic study documentation of the PLU at any time to verify the factor, and may compare the documentation to studies developed by Embarq. Should the documentation indicate that the factor should be changed by Embarq; the Parties agree that any changes will be retroactive to traffic for the previous two years. Should the documentation indicate it is warranted such change in the factor may be back to the effective date of the Agreement. For non-local traffic, the Parties agree to exchange traffic and compensate one another based on the rates and elements included in each party's access tariffs. CLEC will transmit calling party number (CPN) as required by FCC rules (47 CFR 64.1601).
 - 56.7.1. To the extent technically feasible, each Party will transmit calling party number (CPN) for each call being terminated on the other's network. If the percentage of calls transmitted with CPN is greater than ninety percent (90%), all calls exchanged without CPN will be billed as local or intrastate in proportion to the MOUs of calls exchanged with CPN. If

the percentage of calls transmitted with CPN is less than ninety percent (90%), all calls transmitted without CPN will be billed at intrastate access rates.

- 56.8. To the extent Embarq identifies, either through its own recording capabilities or through call detail records provided by another carrier, Local Traffic that is originated by CLEC and terminated indirectly to Embarq through an intermediary carrier (transit carrier), Embarq shall bill CLEC terminating compensation according to Section **Error! Reference source not found.**. In addition, CLEC will reimburse Embarq for any transit charges billed by the intermediary carrier for Local Traffic or ISP-bound Traffic originated by Embarq.
- 56.9. Each Party shall take steps to ensure that all traffic that it delivers to the receiving Party include a call record, and that such call records are transmitted intact to the receiving Party. Neither Party shall: (1) remove call records, (ii) alter or replace call records, (ii) alter or replace jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Using reasonable efforts and to the extent technically feasible, each Party also shall undertake steps to ensure that any service provider who hands off traffic for delivery to the other Party does not: (i) remove call records, (ii) alter or replace call records, (ii) alter or replace jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Neither Party shall knowingly and intentionally (a) strip or alter call records to disguise the jurisdiction of the a call or (b) permit third parties to do so for traffic the Party delivers to the other Party.
- 56.10. Either Party may request an audit of the traffic types exchanged between the Parties. Each Party will provide upon request traffic study documentation of traffic being delivered to the other Party. Audit periods may include the period beginning with the month after the last audit or the Effective Date of the Agreement through, and including, the month prior to the audit request. Traffic study documentation can include records produced either from Embarq or CLEC internal recording and monitoring systems or from third party vendors that record intercarrier traffic SS7 call records. These audit rights are in addition to the audit rights in Part A of this Agreement

57. SIGNALING NETWORK INTERCONNECTION

- 57.1. Embarq will offer interconnection to its signaling transfer points (STPs) for CLEC switches which connect to Embarq's STPs via "A" links or for CLEC's "B" or "D" links which are dedicated to the transport of signaling for local interconnection. Embarq's signaling service will be charged at tariff rates to CLECs that order such service.
- 57.2. Signaling protocol. The parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in FR 905 Telcordia Standards including ISDN User Part (ISUP) for trunk signaling and TCAP for

CCS-based features in the interconnection of their networks. All Network Operations Forum (NOF) adopted standards shall be adhered to.

57.3. Standard interconnection facilities shall be Extended Superframe (ESF) with B8ZS line code. Where ESF/B8ZS is not available, CLEC will use other interconnection protocols on an interim basis until the standard ESF/B8ZS is available. Embarq will provide anticipated dates of availability for those areas not currently ESF/B8ZS compatible.

57.4. Where CLEC is unwilling to utilize an alternate interconnection protocol, CLEC will provide Embarq an initial forecast of 64 Kbps clear channel capability ("64K CCC") trunk quantities within thirty (30) Days of the Effective Date consistent with the forecasting agreements between the parties. Upon receipt of this forecast, the parties will begin joint planning for the engineering, procurement, and installation of the segregated 64K CCC Local Interconnection Trunk Groups, and the associated ESF facilities, for the sole purpose of transmitting 64K CCC data calls between CLEC and Embarq. Where additional equipment is required, such equipment would be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job for IXC, CLEC, or Embarq internal customer demand for 64K CCC trunks.

57.5. Signaling Systems

57.5.1. Signaling Link Transport

- (a) Signaling Link Transport is a set of two or four dedicated 56 Kbps transmission paths between CLEC-designated Signaling Points of Interconnection (SPOI) that provides appropriate physical diversity and a cross connect at an Embarq STP site.
- (b) Technical Requirements. Signaling Link transport shall consist of full duplex mode 56 Kbps transmission paths.

57.5.2. Signaling Transfer Points (STPs)

STPs provide functionality that enables the exchange of SS7 messages among and between switching elements, databases and third party signaling transfer points.

57.6. Technical Requirements. STPs provide interconnection to the functions of signaling networks or to third party SS7 networks connected to the Embarq SS7 network. These functions include:

57.6.1. Embarq local switching or Tandem Switching;

57.6.2. Embarq Service Control Points (SCPs)/Databases if arranged for under separate agreements;

57.6.3. Third-party local or Tandem Switching systems subject to any additional conditions or terms of the Third Party and

- 57.6.4. Third party provider STPs subject to any additional conditions or terms of the Third Party.
- 57.7. Interface Requirements. Embarq shall provide the following STP options to connect CLEC or CLEC-designated local switching systems or STPs to the Embarq SS7 network:
 - 57.7.1. An A-link interface from CLEC local switching systems; and
 - 57.7.2. B- or D-link interface from CLEC STPs.
 - 57.7.3. Each type of interface shall be provided by one or more sets (layers) of signaling links, as follows:
 - (a) An A-link layer shall consist of two (2) links,
 - (b) A B- or D-link layer shall consist of four (4) links,
- 57.8. Signaling Point of Interconnection (SPOI) for each link shall be located at a cross-connect element, such as a DSX-1, in the Central Office (CO) where the Embarq STP is located. Interface to Embarq's STP shall be the 56kb rate. The 56kb rate can be part of a larger facility, and CLEC shall pay multiplexing/demultiplexing and channel termination, plus mileage of any leased facility.

58. TRUNK FORECASTING

- 58.1. CLEC shall provide forecasts for traffic utilization over trunk groups. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as facilities and/or equipment are available. Embarq shall make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate orders when facilities are not available. Company forecast information must be provided by CLEC to Embarq twice a year. The initial trunk forecast meeting should take place soon after the first implementation meeting. A forecast should be provided at or prior to the first implementation meeting. The semi-annual forecasts shall project trunk gain/loss on a monthly basis for the forecast period, and shall include:
 - 58.1.1. Semi-annual forecasted trunk quantities (which include baseline data that reflect actual Tandem and end office Local Interconnection and meet point trunks and Tandem-subtending Local Interconnection end office equivalent trunk requirements) for no more than two years (current plus one year);
 - 58.1.2. The use of Common Language Location Identifier (CLLI-MSG), which are described in Telcordia documents BR 795-100-100 and BR 795-400-100;
 - 58.1.3. Description of major network projects that affect the other Party will be provided in the semi-annual forecasts. Major network projects include but are not limited to trunking or network rearrangements, shifts in

anticipated traffic patterns, or other activities by CLEC that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.

- 58.1.4. Parties shall meet to review and reconcile the forecasts if forecasts vary significantly.
- 58.2. CLEC shall provide an updated trunk forecast when ordering or requesting additional trunks from Embarq anytime after the initial trunk implementation.
- 58.3. Each Party shall provide a specified point of contact for planning forecasting and trunk servicing purposes.
- 58.4. Trunking can be established to Tandems or end offices or a combination of both via either one-way or two-way trunks. Trunking will be at the DS0, DS1, DS3/OC3 level, or higher, as agreed upon by CLEC and Embarq.
- 58.5. The parties agree to abide by the following if a forecast cannot be agreed to: local interconnection trunk groups will be provisioned to the higher forecast. A blocking standard of one percent (1%) during the average busy hour shall be maintained. Should the Parties not agree upon the forecast, and the Parties engineer facilities at the higher forecast, the Parties agree to abide by the following:
 - 58.5.1. In the event that CLEC over-forecasts its trunking requirements by twenty percent (20%) or more, and Embarq acts upon this forecast to its detriment, Embarq may recoup any actual and reasonable expense it incurs.
 - 58.5.2. The calculation of the twenty percent (20%) over-forecast will be based on the number of DS1 equivalents for the total traffic volume to Embarq.
 - 58.5.3. Expenses will only be recouped for non-recoverable facilities that cannot otherwise be used at any time within twelve (12) months after the initial installation for another purpose including but not limited to: other traffic growth between the Parties, internal use, or use with another party.
- 58.6. Grade of Service. An overall blocking standard of one percent (1%) during the average busy hour, as defined by each Party's standards, for final trunk groups between a CLEC end office and an Embarq access Tandem carrying meet point traffic shall be maintained. All other Tandem trunk groups are to be engineered with a blocking standard of one percent (1%). Direct end office trunk groups are to be engineered with a blocking standard of one percent (1%).
- 58.7. Trunk Servicing. Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an ASR, RASR or other industry standard format as specified by Embarq for trunk ordering.

59. NETWORK MANAGEMENT

- 59.1. Protective Protocols. Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic toward each other's network, when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload. CLEC and Embarq will immediately notify each other of any protective control action planned or executed.
- 59.2. Expansive Protocols. Where the capability exists, originating or terminating traffic reroutes may be implemented by either party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes will not be used to circumvent normal trunk servicing. Expansive controls will only be used when mutually agreed to by the parties.
- 59.3. Mass Calling. CLEC and Embarq shall cooperate and share pre-planning information, where available, regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, to prevent or mitigate the impact of these events on the public switched network.

60. INDIRECT TRAFFIC**60.1. Interconnection**

- 60.1.1. The Parties may send each other Indirect Traffic.
- 60.1.2. For purposes of exchanging Indirect Traffic there is no physical or direct point of interconnection between the Parties, therefore neither Party is required to construct new facilities or make mid-span meet arrangements available to the other Party for Indirect Traffic.
- 60.1.3. Indirect interconnection with Sprint shall only be allowed to the extent CLEC is interconnected at the tandem switch which Sprint's end office subtends.
- 60.1.4. Interconnection to CLEC will provide Sprint with access to CLEC's end-users and to other companies which are likewise connected to CLEC for local and toll service purposes.
- 60.1.5. Notwithstanding any other provision to the contrary, once the Indirect Traffic volume between CLEC and a Sprint end office exceeds a DS1 equivalent of traffic, Sprint will no longer allow indirect interconnection and CLEC must establish a direct interconnection with Sprint's end office for the mutual exchange of traffic. Within sixty (60) days of when the indirect traffic exceeds a DS1, CLEC shall establish a direct interconnection with Sprint's end office.

60.2. Exchange Of Traffic

- 60.2.1. Each Party acknowledges that it is the originating Party's responsibility to

enter into transiting arrangements with the third party providing the transit services.

60.2.2. Each terminating Party is responsible for billing the originating company for traffic terminated on its respective network. For this Indirect Traffic, the originating Party will provide the originating billing information to the terminating Party, if technically feasible. If the originating Party cannot provide the originating billing information to the terminating Party, then the terminating Party must obtain the originating billing information from the third-party transit company. Any direct costs incurred by the terminating Party to obtain the records from a third party will be billed back to the originating Party.

60.2.3. It is each Party's responsibility to enter into appropriate contractual arrangements with the third-party transit company in order to obtain the originating billing information from the transit company.

60.2.4. Until Indirect traffic exceeds a DS1, each Party is responsible for the payment of transit charges for its originating traffic assessed by the transiting party. After Indirect traffic exceeds a DS1, if CLEC has not established a direct end office trunking 60 days after Embarq notifies CLEC in accordance with section 20, CLEC will reimburse Embarq for any transit charges billed by an intermediary carrier for Local Traffic or ISP-Bound Traffic originated by Embarq.

60.3. Compensation for Indirect Traffic

60.3.1. Non-Local and Non-ISP-Bound Indirect Traffic

60.3.1.1. Compensation for the termination of non-Local traffic, non-ISP-Bound Traffic and the origination of 800 traffic between the interconnecting Parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations.

60.3.1.2. Toll traffic, switched access, and special access traffic, if separately chargeable, shall be charged the appropriate rate out of the terminating LEC's tariff or via other appropriate meet point access arrangements. Where exact transport mileage is not available, an average, arrived at by mutual agreement of the Parties, will be used.

60.3.2. Local Traffic and ISP-Bound Traffic. The rates set forth on Table One shall apply, in accordance with Part F of this Agreement.

61. USAGE MEASUREMENT

61.1. Each Party shall calculate terminating interconnection minutes of use based on standard AMA recordings made within each Party's network, these recordings

being necessary for each Party to generate bills to the other Party. In the event either Party cannot measure minutes terminating on its network where technically feasible, the other Party shall provide the measuring mechanism or the Parties shall otherwise agree on an alternate arrangement.

- 61.2. Measurement of minutes of use over Local Interconnection trunk groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection trunk group will be totaled for the entire monthly bill period and then rounded to the next whole minute.
- 61.3. Prior to the commencement of billing for interconnection, each Party shall provide to the other, the PLU of the traffic terminated to each other over the Local Interconnection trunk groups.
 - 61.3.1. The Parties agree to review the accuracy of the PLU on a regular basis. If the initial PLU is determined to be inaccurate by more than twenty percent (20%), the Parties agree to implement the new PLU retroactively to the Effective Date of the contract.

62. RESPONSIBILITIES OF THE PARTIES

- 62.1. Embarq and CLEC will review engineering requirements consistent with the Implementation Plan described in Part B, Part C, Part F and as otherwise set forth in this Agreement.
- 62.2. CLEC and Embarq shall share responsibility for all Control Office functions for Local Interconnection Trunks and Trunk Groups, and both parties shall share the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.
- 62.3. CLEC and Embarq shall:
 - 62.3.1. Provide trained personnel with adequate and compatible test equipment to work with each other's technicians.
 - 62.3.2. Notify each other when there is any change affecting the service requested, including the due date.
 - 62.3.3. Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure its interconnection trunks/trunk groups are installed per the interconnection order, meet agreed-upon acceptance test requirements, and are placed in service by the due date.
 - 62.3.4. Perform sectionalization to determine if a trouble is located in its facility or its portion of the interconnection trunks prior to referring the trouble to each other.
 - 62.3.5. Advise each other's Control Office if there is an equipment failure which may affect the interconnection trunks.

- 62.3.6. Provide each other with a trouble reporting/repair contact number that is readily accessible and available twenty-four (24) hours/seven (7) days a week. Any changes to this contact arrangement must be immediately provided to the other party.
- 62.3.7. Provide to each other test-line numbers and access to test lines.
- 62.3.8. Cooperatively plan and implement coordinated repair procedures for the meet point and Local Interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.

PART G – LOCAL NUMBER PORTABILITY

63. INTRODUCTION

- 63.1. Upon implementation of LNP, both Parties agree to conform and provide such LNP pursuant to FCC regulations and compliance with the Industry Forum Guidelines. To the extent consistent with the FCC and Industry Guidelines as amended from time to time, the requirements for LNP shall include the following:
- 63.2. End users must be able to change local service providers and retain the same telephone number(s) within the serving rate center utilizing the portability method as defined by the FCC.
- 63.3. The LNP network architecture shall not subject Parties to any degradation of service in any relevant measure, including transmission quality, switching and transport costs, increased call set-up time and post-dial delay.
 - 63.3.1. Parties agree that when an NXX is defined as portable, it shall also be defined as portable in all LNP capable switches serving the rate center.
 - 63.3.2. When an end user ports to another service provider and has previously secured a reservation of line numbers from the donor provider under contract or tariff for possible activation at some future point, these reserved but inactive numbers shall port along with the active numbers being ported by the end user.
 - 63.3.3. NXX Availability. Not all NXXs in each CO may be available for porting.
 - 63.3.4. LERG Reassignment. Portability for an entire NXX shall be provided by utilizing reassignment of the NXX to CLEC through the LERG.
 - 63.3.5. Coordination of service order work outside normal business hours (8:00 a.m. to 5:00 p.m.) shall be at requesting Party's expense. Premium rates will apply for service order work performed outside normal business hours, weekends, and holidays.
 - 63.3.6. Mass Calling Events. Parties will notify each other at least seven (7) Days in advance where ported numbers are utilized. Parties will only port mass calling numbers using switch translations and a choke network for call routing. Porting on mass calling numbers will be handled outside the normal porting process and comply with any applicable federal regulatory requirements or industry guidelines developed for mass calling numbers.

64. TESTING

- 64.1. An Interconnection Agreement (or Memorandum of Understanding, or Porting Agreement) detailing conditions for LNP must be in effect between the Parties prior to testing.
- 64.2. Testing and operational issues will be addressed in the implementation plans as described in Part B, Section 33 of the agreement.
- 64.3. CLEC must be NPAC certified and have met Embarq testing parameters prior to activating LNP. After initial LNP implementation by a CLEC/CMRS provider testing and porting will be done at CLEC's expense.
- 64.4. Parties will cooperate to ensure effective maintenance testing through activities such as routine testing practices, network trouble isolation processes and review of operational elements for translations, routing and network fault isolation.
- 64.5. Parties shall cooperate in testing performed to ensure interconnectivity between systems. All LNP providers shall notify each connected provider of any system updates that may affect the CLEC or Embarq network. Each LNP provider shall, at each other's request, jointly perform tests to validate the operation of the network. Additional testing requirements may apply as specified by this Agreement or in the Implementation Plan.

65. ENGINEERING AND MAINTENANCE

- 65.1. Each LNP provider will monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.
- 65.2. It will be the responsibility of the Parties to ensure that the network is stable and maintenance and performance levels are maintained in accordance with state commission requirements. It will be the responsibility of the Parties to perform fault isolation in their network before involving other providers.
- 65.3. Additional engineering and maintenance requirements shall apply as specified in this Agreement or the Implementation Plan.

66. E911/911

- 66.1. When a subscriber ports to another service provider, the donor provider shall unlock the information in the 911/ALI database. The porting provider is responsible for updating the 911 tandem switch routing tables and 911/ALI database to correctly route, and provide accurate information to the PSAP call centers.
- 66.2. Prior to implementation of LNP, the Parties agree to develop, implement, and maintain efficient methods to maintain 911 database integrity when a subscriber

ports to another service provider. The Parties agree that the customer shall not be dropped from the 911 database during the transition.

67. BILLING FOR PORTED NUMBERS

- 67.1. When an IXC terminates an InterLATA or IntraLATA toll call to either party's local exchange customer whose telephone number has been ported from one party to the other, the parties agree that the party to whom the number has been ported shall be entitled to revenue from the IXC for those access elements it actually provides including, but not limited to end office switching, local transport, RIC, and CCL. The party from whom the number has been ported shall be entitled to receive revenue from the IXC for those access elements it actually provides including, but not limited to any entrance facility fees, access tandem fees and appropriate local transport charges.
- 67.2. Non-Payment. Customers lose the right to the ported telephone number upon suspension of service. Embarq will not port telephone numbers of customers whose service has been suspended.

PART H – LINE SHARING

68. LINE SHARING

68.1. General Terms

- 68.1.1. Under this Agreement, Embarq will not provide access to the HFPL for line sharing by CLEC except pursuant to the following terms and conditions.
- 68.1.2. For HFPLs in service prior to 10/02/03, Embarq will continue to bill HFPL at the rate that was effective for that arrangement on 10/02/03 as long as that HFPL remains in service to the particular CLEC end-user premises.
- 68.1.3. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLEC end-user premises during the period 10/01/04 and 10/01/05, the rate billed for HFPL will be fifty percent (50%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.4. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLEC end-user premises during the period 10/02/05 and 10/01/06, the rate billed for HFPL will be seventy-five (75%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.5. After 10/01/06, CLEC must order a stand-alone loop or negotiate a line splitting arrangement with another Telecommunications Carrier.
- 68.2. Embarq Line Sharing provided HFPL to CLEC only those instances when Embarq is the provider of analog circuit-switched voice band service on that same Copper Loop to the same End User.
- 68.3. In the event that the end user being served by CLEC via HFPL terminates its Embarq-provided retail voice service, or when Embarq provided retail voice service is disconnected due to “denial for non-pay,” Embarq shall provide reasonable notice to CLEC prior to disconnect. CLEC shall have the option of purchasing an entire stand-alone UNE digital loop if it wishes to continue to provide advanced services to that end user. If CLEC notifies Embarq that it chooses this option, CLEC and Embarq shall cooperate to transition DSL service from the HFPL to the stand-alone loop without any interruption of service pursuant to the provisions set forth below. If CLEC declines to purchase the entire stand alone UNE digital loop, Embarq may terminate the HFPL.
- 68.4. Embarq will use reasonable efforts to accommodate the continued use by CLEC as a stand-alone UNE digital loop of the Copper Loop facilities over which CLEC is provisioning advanced services at the time that the Embarq-provided retail voice service terminates; if:

- 68.4.1. adequate facilities are available to allow the provisioning of voice service over such other facilities, and
- 68.4.2. CLEC agrees to pay any additional ordering charges associated with the conversion from the provisioning of HFPL to a stand alone unbundled digital loop as specified in Table One (excluding conditioning charges).
- 68.5. Any additional maintenance of service conducted at CLEC's request by Embarq on behalf of the CLEC solely for the benefit of the CLEC's services will be paid for by CLEC at prices negotiated by Embarq and CLEC.
- 68.6. Deployment and Interference
 - 68.6.1. In providing services utilizing the HFPL, Embarq shall allow CLEC to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.
 - 68.6.2. For any technology, CLEC represents that its use of any Embarq network element, or of its own equipment or facilities in conjunction with any Embarq network element, will not materially interfere with or impair service over any facilities of Embarq, its affiliated companies or connecting and concurring carriers, cause damage to Embarq's plant, impair the privacy of any communications carried over Embarq's facilities or create hazards to employees or the public. Upon reasonable written notice and after a reasonable opportunity to cure, Embarq may discontinue service if CLEC violates this provision. The termination of service will be limited to CLEC's use of the element(s) causing the violation. Embarq will not disconnect the elements causing the violation if, after receipt of written notice and opportunity to cure, CLEC demonstrates that their use of the network element is not the cause of the network harm.

PART I – NON-251 SERVICES

69. CALL-RELATED DATABASES

69.1. Embarq will offer access to call-related databases (non-251 services), including, but not limited to, Toll Free Calling database, Number Portability database, and Calling Name (CNAM) database. Embarq reserves the right to decline to offer access to certain AIN software that qualifies for proprietary treatment. The rates for access to these call-related databases are set forth on Table One.

69.1.1. The CNAM database is a transaction-oriented database accessible via the CCS network. CNAM provides the calling parties' name to be delivered and displayed to the terminating caller with 'Caller ID with Name'. Use of Embarq's CNAM Database by CLEC and CLEC's customers is limited to obtaining CNAM responses and using the information contained in those responses only on a call by call basis and only to support service related to a call in progress. CLEC will not capture, cache, or store any information contained in a CNAM response.

69.1.2. The Toll Free Number Database provides functionality necessary for toll free (*e.g.*, 800 and 888) number services by providing routing information and additional vertical features (*i.e.*, time of day routing by location, by carrier and routing to multiple geographic locations) during call setup in response to queries from CLEC's switch. Use of Embarq's Toll Free Database by CLEC and its customers is limited to obtaining information, on a call-by-call basis, for proper routing of calls in the provision of toll free exchange access service or local toll free service.

69.1.3. Local Number Portability Local Routing Query Service. TCAP messages originated by CLEC's SSPs and received by Embarq's database will be provided a response upon completion of a database lookup to determine the LRN. This information will be populated in industry standard format and returned to CLEC so that it can then terminate the call in progress to the telephone number now residing in the switch designated by the LRN.

(a) CLEC agrees to obtain, prior to the initiation of any LNP query, a NPAC/SMS User Agreement with Neustar. CLEC will maintain the NPAC/SMS User Agreement with Neustar, or its successor, as long as it continues to make LNP queries to the Embarq database. Failure to obtain and maintain the NPAC/SMS User Agreement is considered a breach of this Agreement and is cause for immediate termination of service. Embarq shall not be liable for any direct or consequential damages due to termination because of lack of a NPAC/SMS User Agreement.

(b) Embarq's LNP Database service offering does not include the cost of any charges or assessments by Number Portability

Administrative Centers, whether under the NPAC/SMS User Agreement with Lockheed, or otherwise, or any charges assessed directly against CLEC as the result of the FCC LNP Orders or otherwise by any third-party. These costs include the costs assessed against telecommunications carriers to pay for NPAC functions as permitted by the FCC and applicable legal or regulatory bodies. Embarq shall have no liability to CLEC or the NPAC for any of these fees or charges applicable to CLEC, even though it may pay such charges for other Embarq companies.

70. TRANSIT TRAFFIC

- 70.1. Transit Service (non-251 service) means the delivery of Transit Traffic, i.e. Local Traffic or ISP-Bound Traffic originated by CLEC terminated to a third party LEC, ILEC, or CMRS provider or originated by a third party and terminated to CLEC using Embarq's tandem switch over the local/intraLATA interconnection trunks.
- 70.2. To the extent network and contractual arrangements exist with all necessary parties throughout the term of this Agreement, and where indirectly interconnected parties have an interconnection to the same Embarq tandem, Embarq will provide Transit Services for CLEC's connection of its end user to a local end user of: (1) CLECs, (2) an ILEC other than Embarq, and (3) other CMRS carriers.
- 70.3. Embarq may require separate trunking for the delivery of such Transit Traffic in order to accurately measure and bill it.
- 70.4. Terms and Conditions
 - 70.4.1. Each Party acknowledges that a third-party LEC may block transit traffic. To the extent the originated Party's traffic is blocked by a third party, Embarq shall have no obligation to resolve the dispute. CLEC acknowledges that Embarq does not have any responsibility to pay any third-party Telecommunications Carrier charges for termination of any identifiable Transit Traffic from the originating Party. Each Party acknowledges that it is the originating Party's responsibility to enter into arrangements with each third party LEC, CLEC, or CMRS provider for the exchange of transit traffic to that third party.
 - 70.4.2. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between CLEC and a third party exceeds a DS1 equivalent of traffic, Embarq will no longer provide transit service and CLEC must establish a direct interconnection with the third party for the exchange of such traffic. Within sixty (60) Days of when traffic exceeds this threshold, CLEC shall establish a direct interconnection with such third party. After sixty (60) Days, if CLEC has not established a direct interconnection and if CLEC is exercising its best efforts to implement a direct connection with such third party, Embarq shall continue to transit

the traffic. If Embarq disagrees that CLEC is using its best efforts to implement a direct connection, Embarq may seek relief pursuant to the Dispute Resolution provisions.

70.5. Payment Terms and Conditions

70.5.1. The originating Party shall pay to Embarq a transit service charge as set forth in Table One.

70.5.2. CLEC shall pay a transit rate as set forth in Table One of this Part when CLEC uses an Embarq access tandem to terminate a local or ISP-bound call to a third party LEC, CLEC or CMRS provider. CLEC may be required to compensate Embarq for transit charges for traffic originated by an ILEC, transited by Embarq and terminated to CLEC.

70.6. Billing Records and Exchange of Data

70.6.1. Parties will use their best efforts to convert all networks transporting transit traffic to deliver each call to the other Party's network with SS7 Common Channel Interoffice Signaling (CCIS) and other appropriate TCAP messages in order to facilitate full interoperability and billing functions. The Parties agree to send all message indicators, including originating telephone number, local routing number and CIC.

70.6.2. Upon request by the terminating Party and to the extent possible, Embarq agrees to provide the terminating Party information on traffic originated by a third party CLECs or CMRS provider. To the extent Embarq incurs additional cost in providing this billing information, CLEC agrees to reimburse Embarq for its direct costs of providing this information.

70.6.3. To the extent that the industry adopts a standard record format for recording originating and/or terminating transit calls, both Parties agree to comply with the industry-adopted format to exchange records.

70.7. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between CLEC and a third party exceeds the equivalent of three (3) DS1s of traffic, Embarq may, but shall not be obligated to require CLEC to establish a direct connection with the parties to whom they are sending traffic. Embarq also reserves the right to require CLEC to establish a direct connection to the third party if, in Embarq's sole discretion, the tandem is at or approaching capacity limitations. These limitations may include but are not limited to a lack of trunk port capacity or processor capacity based on the then existing tandem and network configuration. Within sixty (60) Days after Embarq notifies CLEC of the requirement to direct connect, CLEC shall establish a direct interconnection with such third party. After sixty (60) Days, if CLEC has not established a direct interconnection, Embarq may thereafter charge CLEC for such transit service at Intrastate Access rates, or discontinue providing transit service to CLEC, at the sole discretion of Embarq, provided however, that Embarq shall exercise such discretion in a non-discriminatory manner.

PART J – GENERAL BUSINESS REQUIREMENTS

71. PROCEDURES

71.1. Contact with End Users

- 71.1.1. Each Party at all times shall be the primary contact and account control for all interactions with its end users, except as specified by that Party. Subscribers include active end users as well as those for whom service orders are pending.
- 71.1.2. Each Party shall ensure that any of its personnel who may receive end user inquiries, or otherwise have opportunity for end user contact from the other Party's end user regarding the other Party's services: (i) provide appropriate referrals to subscribers who inquire about the other Party's services or products; (ii) do not in any way disparage or discriminate against the other Party, or its products or services; and (iii) do not provide information about its products or services during that same inquiry or end user contact.
- 71.1.3. Embarq shall not use CLEC's request for end user information, order submission, or any other aspect of CLEC's processes or services to aid Embarq's marketing or sales efforts.

71.2. Expedite and Escalation Procedures

- 71.2.1. Embarq and CLEC shall develop mutually acceptable escalation and expedite procedures which may be invoked at any point in the Service Ordering, Provisioning, Maintenance, and Subscriber Usage Data transfer processes to facilitate rapid and timely resolution of disputes. In addition, Embarq and CLEC will establish intercompany contacts lists for purposes of handling end user and other matters which require attention/resolution outside of normal business procedures within thirty (30) Days after CLEC's request. Each party shall notify the other party of any changes to its escalation contact list as soon as practicable before such changes are effective.
 - 71.2.2. No later than thirty (30) Days after CLEC's request Embarq shall provide CLEC with contingency plans for those cases in which normal Service Ordering, Provisioning, Maintenance, Billing, and other procedures for Embarq's unbundled Network Elements, features, functions, and resale services are inoperable.
- 71.3. Subscriber of Record. Embarq shall recognize CLEC as the Subscriber of Record for all Network Elements or services for resale ordered by CLEC and shall send all notices, invoices, and information which pertain to such ordered services directly to CLEC. CLEC will provide Embarq with addresses to which Embarq shall send all such notices, invoices, and information.

71.4. Service Offerings

- 71.4.1. Embarq shall provide CLEC with access to new services, features and functions concurrent with Embarq's notice to CLEC of such changes, if such service, feature or function is installed and available in the network or as soon thereafter as it is installed and available in the network, so that CLEC may conduct market testing.
- 71.4.2. Essential Services. For purposes of service restoral, Embarq shall designate a CLEC access line as an Essential Service Line (ESL) at Parity with Embarq's treatment of its own end users and applicable state law or regulation, if any.
- 71.4.3. Blocking Services. Upon request from CLEC, employing Embarq-approved LSR documentation, Embarq shall provide blocking of 700, 900, and 976 services, or other services of similar type as may now exist or be developed in the future, and shall provide Billed Number Screening (BNS), including required LIDB updates, or equivalent service for blocking completion of bill-to-third party and collect calls, on a line, PBX, or individual service basis. Blocking shall be provided to the extent (a) it is an available option for the Telecommunications Service resold by CLEC, or (b) it is technically feasible when requested by CLEC as a function of unbundled Network Elements.
- 71.4.4. Training Support. Embarq shall provide training, on a non-discriminatory basis, for all Embarq employees who may communicate, either by telephone or face-to-face, with CLEC end users. Such training shall include compliance with the branding requirements of this Agreement including without limitation provisions of forms, and unbranded "Not at Home" notices.

72. ORDERING AND PROVISIONING

- 72.1. Ordering and Provisioning Parity. Embarq shall provide necessary ordering and provisioning business process support as well as those technical and systems interfaces as may be required to enable CLEC to provide the same level and quality of service for all resale services, functions, features, capabilities and unbundled Network Elements at Parity.
- 72.2. National Exchange Access Center (NEAC)
 - 72.2.1. Embarq shall provide a NEAC or equivalent which shall serve as CLEC's point of contact for all activities involved in the ordering and provisioning of Embarq's unbundled Network Elements, features, functions, and resale services.
 - 72.2.2. The NEAC shall provide to CLEC a nationwide telephone number (available from 6:00 a.m. to 8:00 p.m. Eastern Standard Time, Monday through Friday, and 8:00 am through 5:00 P.M. Eastern Standard Time

on Saturday) answered by competent, knowledgeable personnel trained to answer questions and resolve problems in connection with the ordering and provisioning of unbundled Network Elements (except those associated with local trunking interconnection), features, functions, capabilities, and resale services.

- 72.2.3. Embarq shall provide, as requested by CLEC, through the NEAC, provisioning and premises visit installation support in the form of coordinated scheduling, status, and dispatch capabilities during Embarq's standard business hours and at other times as agreed upon by the parties to meet end user demand.
- 72.3. Street Index Guide (SIG). Within thirty (30) Days of CLEC's written request, Embarq shall provide to CLEC the SIG data in the National Emergency Number Association Two (NENA2) format. A CDROM containing the SIG data will be shipped to the CLEC's designated contact on a monthly basis until the request is cancelled.
- 72.4. CLASS and Custom Features. Where generally available in Embarq's serving area, CLEC, at the tariff rate, may order the entire set of CLASS, CENTREX and Custom features and functions, or a subset of any one of such features.
- 72.5. Number Administration/Number Reservation
 - 72.5.1. Embarq shall provide testing and loading of CLEC's NXX on the same basis as Embarq provides itself or its affiliates. Further, Embarq shall provide CLEC with access to abbreviated dialing codes, and the ability to obtain telephone numbers, including vanity numbers, while a subscriber is on the phone with CLEC. When CLEC uses numbers from an Embarq NXX, Embarq shall provide the same range of number choices to CLEC, including choice of exchange number, as Embarq provides its own subscribers. Reservation and aging of Embarq NXX's shall remain Embarq's responsibility.
 - 72.5.2. In conjunction with an order for service, Embarq shall accept CLEC orders for vanity numbers and blocks of numbers for use with complex services including, but not limited to, DID, CENTREX, and Hunting arrangements, as requested by CLEC.
 - 72.5.3. For simple services number reservations and aging of Embarq's numbers, Embarq shall provide real-time confirmation of the number reservation when the Electronic Interface has been implemented. For number reservations associated with complex services, Embarq shall provide confirmation of the number reservation within twenty-four (24) hours of CLEC's request. Consistent with the manner in which Embarq provides numbers to its own subscribers, no telephone number assignment is guaranteed until service has been installed.
- 72.6. Service Order Process Requirements

72.6.1. Service Migrations and New Subscriber Additions

- (a) For resale services, other than for a CLEC order to convert “as is” a CLEC subscriber, Embarq shall not disconnect any subscriber service or existing features at any time during the migration of that subscriber to CLEC service without prior CLEC agreement.
- (b) For services provided through UNEs, Embarq shall recognize CLEC as an agent, in accordance with OBF developed processes, for the subscriber in coordinating the disconnection of services provided by another CLEC or Embarq. In addition, Embarq and CLEC will work cooperatively to minimize service interruptions during the conversion.
- (c) Unless otherwise directed by CLEC and when technically capable, when CLEC orders resale Telecommunications Services all trunk or telephone numbers currently associated with existing services shall be retained without loss of feature capability and without loss of associated ancillary services including, but not limited to, Directory Assistance and 911/E911 capability.
- (d) For subscriber conversions requiring coordinated cut-over activities, on a per order basis, Embarq, to the extent resources are readily available, and CLEC will agree on a scheduled conversion time, which will be a designated time period within a designated date.
- (e) Any request made by CLEC to coordinate conversions after normal working hours, or on Saturdays or Sundays or Embarq holidays shall be performed at CLEC’s expense.
- (f) A general Letter of Agency (LOA) initiated by CLEC or Embarq will be required to process a PLC or PIC change order. Providing the LOA, or a copy of the LOA, signed by the end user will not be required to process a PLC or PIC change ordered by CLEC or Embarq. CLEC and Embarq agree that PLC and PIC change orders will be supported with appropriate documentation and verification as required by FCC and Commission rules. In the event of a subscriber complaint of an unauthorized PLC record change where the Party that ordered such change is unable to produce appropriate documentation and verification as required by FCC and Commission rules (or, if there are no rules applicable to PLC record changes, then such rules as are applicable to changes in long distance carriers of record), such Party shall be liable to pay and shall pay all nonrecurring and/or other charges associated with reestablishing the subscriber’s local service with the original local carrier.

72.6.2. Intercept Treatment and Transfer Service Announcements. Embarq shall provide unbranded intercept treatment and transfer of service announcements to CLEC's subscribers. Embarq shall provide such treatment and transfer of service announcement in accordance with local tariffs and as provided to similarly situated Embarq subscribers for all service disconnects, suspensions, or transfers.

72.6.3. Due Date

- (a) Embarq shall supply CLEC with due date intervals to be used by CLEC personnel to determine service installation dates.
- (b) Embarq shall use reasonable efforts to complete orders by the CLEC requested DDD within agreed upon intervals.
- (c) Subscriber Premises Inspections and Installations
 - (i) CLEC shall perform or contract for all CLEC's needs assessments, including equipment and installation requirements required beyond the Demarcation/NID, located at the subscriber premises.
 - (ii) Embarq shall provide CLEC with the ability to schedule subscriber premises installations at the same morning and evening commitment level of service offered Embarq's own customers. The parties shall mutually agree on an interim process to provide this functionality during the implementation planning process.
- (d) Firm Order Confirmation (FOC)
 - (i) Embarq shall provide to CLEC, a Firm Order Confirmation (FOC) for each CLEC order. The FOC shall contain the appropriate data elements as defined by the OBF standards.
 - (ii) For a revised FOC, Embarq shall provide standard detail as defined by the OBF standards.
 - (iii) Embarq shall provide to CLEC the date that service is scheduled to be installed.

72.6.4. Order Rejections

- (a) Embarq shall reject and return to CLEC any order that Embarq cannot provision, due to technical reasons, missing information, or jeopardy conditions resulting from CLEC ordering service at less than the standard order interval. When an order is rejected, Embarq shall, in its reject notification, specifically describe all of the reasons for which the order was rejected. Embarq shall reject any orders on account of the customer Desired Due Date conflicts with published Embarq order provisioning interval requirements.

72.6.5. Service Order Changes

- (a) In no event will Embarq change a CLEC initiated service order without a new service order directing said change. If an installation or other CLEC ordered work requires a change from the original CLEC service order in any manner, CLEC shall initiate a revised service order. If requested by CLEC, Embarq shall then provide CLEC an estimate of additional labor hours and/or materials.
- (b) When a service order is completed, the cost of the work performed will be reported promptly to CLEC.
- (c) If a CLEC subscriber requests a service change at the time of installation or other work being performed by Embarq on behalf of CLEC, Embarq, while at the subscriber premises, shall direct the CLEC subscriber to contact CLEC, and CLEC will initiate a new service order.

72.7. Network Testing. Embarq shall perform all its standard pre-service testing prior to the completion of the service order.

72.8. Service Suspensions/Restorations. Upon CLEC's request through an Industry Standard, OBF, Suspend/Restore Order, or mutually agreed upon interim procedure, Embarq shall suspend or restore the functionality of any Network Element, feature, function, or resale service to which suspend/restore is applicable. Embarq shall provide restoration priority on a per network element basis in a manner that conforms with any applicable regulatory Rules and Regulations or government requirements.

72.9. Order Completion Notification. Upon completion of the requests submitted by CLEC, Embarq shall provide to CLEC a completion notification in an industry standard, OBF, or in a mutually agreed format. The completion notification shall include detail of the work performed, to the extent this is defined within OBF guidelines, and in an interim method until such standards are defined.

72.10. Specific Unbundling Requirements. CLEC may order and Embarq shall provision unbundled Network Elements. However, it is CLEC's responsibility to combine the individual network elements should it desire to do so.

72.11. Systems Interfaces and Information Exchanges

72.11.1. General Requirements

- (a) Embarq shall provide to CLEC Electronic Interface(s) for transferring and receiving information and executing transactions for all business functions directly or indirectly related to Service Ordering and Provisioning of Network Elements, features, functions and Telecommunications Services, to the extent available.

- (b) Until the Electronic Interface is available, Embarq agrees that the NEAC or similar function will accept CLEC orders. Orders will be transmitted to the NEAC via an interface or method agreed upon by CLEC and Embarq.
- (c) If the method of connectivity is File Transfer Protocol (FTP), the response(s) will be loaded to the server every hour and it is the responsibility of CLEC to retrieve their response(s) from the server.
- (d) It is the responsibility of CLEC to provide Embarq with the LOA (Letter of Authorization) when another party is involved and is working on their behalf.

72.11.2. For any prospective CLEC subscriber, Embarq shall provide CLEC with access to that subscriber's CPNI without requiring CLEC to produce a signed LOA, subject to applicable rules, orders, and decisions, and based on CLEC's blanket representation that subscriber has authorized CLEC to obtain such CPNI.

- (a) The preordering Electronic Interface includes the provisioning of CPNI from Embarq to CLEC. The Parties agree to request end user CPNI only when the end user has specifically given permission to receive CPNI. The Parties agree that they will conform to FCC and/or state regulations regarding the provisioning of CPNI between the parties, and regarding the use of that information by the requesting party.
- (b) The requesting Party will document end user permission obtained to receive CPNI, whether or not the end user has agreed to change local service providers. With respect to end users whose CPNI has been received by CLEC, Embarq may request documentation from CLEC to substantiate that CLEC has requested and received permission from all such end users. If CLEC is not able to provide adequate documentation reflecting such permission from at least ninety-five (95%) of such end users, Embarq reserves the right to immediately disconnect the preordering Electronic Interface.
- (c) The Parties agree to execute carrier changes as specified by the FCC in 47 CFR 64.1120. Documentation reflecting the request for a carrier change and verification in the form set forth in 47 CFR 64.1120 may be requested by the Party whose CPNI has been accessed in connection with such requested carrier change to investigate possible slamming incidents, and for other reasons agreed to by the Parties. A Party's failure to obtain and maintain adequate documentation of the request for a carrier change and verification of the same in the form set forth in 47 CFR 64.1120 before changing service from the other Party, or failure to produce documentation of such request and verification upon request of the

other Party shall be considered a breach of the Agreement. A Party can cure the breach by submitting to the other Party a copy of such documentation within three (3) Business Days of notification of the breach.

- (d) If CLEC is not able to provide the LOA for ninety-five percent (95%) of the end users requested by Embarq, or if Embarq determines that an LOA is inadequate, CLEC will be considered in breach of the agreement. CLEC can cure the breach by submitting to Embarq evidence of an LOA for each inadequate or omitted LOA within three (3) Business Days of notification of the breach.
- (e) Should CLEC not be able to cure the breach in the timeframe noted above, Embarq will discontinue processing new service orders until, in Embarq's determination, CLEC has corrected the problem that caused the breach.
- (f) Embarq will resume processing new service orders upon Embarq's timely review and acceptance of evidence provided by CLEC to correct the problem that caused the breach.
- (g) If CLEC and Embarq do not agree that CLEC has appropriate documentation or verification of a requested carrier change by a specific end user, or that Embarq has erred in not accepting proof of such carrier change request, the Parties may immediately request dispute resolution in accordance with Part B. Embarq will not disconnect the preordering Electronic Interface during the Alternate Dispute Resolution process.

72.12. CLEC may use Embarq's ordering process (IRES) to:

72.12.1. to assign telephone number(s) (if the subscriber does not already have a telephone number or requests a change of telephone number) at Parity.

- (a) to schedule dispatch and installation appointments at Parity.
- (b) to access Embarq subscriber information systems which will allow CLEC to determine if a service call is needed to install the line or service at Parity.
- (c) to access Embarq information systems which will allow CLEC to provide service availability dates at Parity.
- (d) transmit status information on service orders, including acknowledgement, firm order confirmation, and completion at Parity.

72.13. Standards

72.13.1. General Requirements. CLEC and Embarq shall agree upon the appropriate ordering and provisioning codes to be used for UNEs.

These codes shall apply to all aspects of the unbundling of that element and shall be known as data elements as defined by the Telecommunications Industry Forum Electronic Data Interchange Service Order Subcommittee (TCIF-EDI-SOSC).

73. PROVISION OF USAGE DATA

73.1. This Section sets forth the terms and conditions for Embarq's provision of Recorded Usage Data (as defined in this Part) to CLEC and for information exchange regarding long distance and access billing. The parties agree to record call information for interconnection in accordance with this Section. To the extent technically feasible, each party shall record all call detail information associated with completed calls originated by or terminated to the other Party's local exchange subscriber, and long distance calls transited through one Party's network to the terminating provider. Embarq shall record for CLEC the messages that Embarq records for and bills to its end users and records for billing of interexchange carriers. These records shall be provided at a party's request and shall be formatted pursuant to Telcordia's EMI standards and the terms and conditions of this Agreement. These records shall be transmitted to the other party on non-holiday Business Days in EMI format via CDN, or provided on a cartridge. Embarq and CLEC agree that they shall retain, at each party's sole expense, copies of all EMI records transmitted to the other party for at least forty-five (45) Days after transmission to the other party.

73.2. General Procedures

73.2.1. Embarq shall comply with various industry and OBF standards referred to throughout this Agreement.

73.2.2. Embarq shall comply with OBF standards when recording and transmitting Usage Data.

73.2.3. Embarq shall record all usage originating from CLEC end users using resold services ordered by CLEC, where Embarq records those same services for Embarq end users. Recorded Usage Data includes, but is not limited to, the following categories of information:

- (a) Use of CLASS/LASS/Custom Features that Embarq records and bills for its end users on a per usage basis.
- (b) Calls to Information Providers (IP) reached via Embarq facilities will be provided in accordance with Section 73.2.7
- (c) Calls to Directory Assistance where Embarq provides such service to a CLEC end user.
- (d) Calls completed via Embarq-provided Operator Services where Embarq provides such service to CLEC's local service end user and where Embarq records such usage for its end users using Industry Standard Telcordia EMI billing records.

- (e) Access records related to long distance calling.
- (f) For Embarq-provided Centrex Service, station level detail.

- 73.2.4. Retention of Records. Embarq shall maintain a machine readable back-up copy of the message detail provided to CLEC for a minimum of forty-five (45) Days. During the forty-five (45) day period, Embarq shall provide any data back-up to CLEC upon the request of CLEC. If the forty-five (45) day period has expired, Embarq may provide the data back-up at CLEC's expense.
- 73.2.5. Embarq shall provide to CLEC Recorded Usage Data for CLEC end users. Embarq shall not submit other CLEC local usage data as part of the CLEC Recorded Usage Data.
- 73.2.6. Embarq shall not bill directly to CLEC subscribers any recurring or non-recurring charges for CLEC's services to the end user except where explicitly permitted to do so within a written agreement between Embarq and CLEC.
- 73.2.7. Embarq will record 976/N11 calls and transmit them to the IP for billing. Embarq will not bill these calls to either the CLEC or the CLEC's end user.
- 73.2.8. Embarq shall provide Recorded Usage Data to CLEC billing locations as agreed to by the Parties.
- 73.2.9. Embarq shall provide a single point of contact to respond to CLEC call usage, data error, and record transmission inquiries.
- 73.2.10. Embarq shall provide CLEC with a single point of contact and remote identifiers (IDs) for each sending location.
- 73.2.11. CLEC shall provide a single point of contact responsible for receiving usage transmitted by Embarq and receiving usage tapes from a courier service in the event of a facility outage.
- 73.2.12. Embarq shall bill and CLEC shall pay the charges for Recorded Usage Data. Billing and payment shall be in accordance with the applicable terms and conditions set forth herein.

73.3. Charges

- 73.3.1. Access services, including revenues associated therewith, provided in connection with the resale of services hereunder shall be the responsibility of Embarq and Embarq shall directly bill and receive payment on its own behalf from an IXC for access related to interexchange calls generated by resold or rebranded customers.

73.3.2. Embarq will be responsible for returning EMI records to IXC's with the proper EMI Return Code along with the Operating Company Number (OCN) of the associated ANI, (*i.e.*, Billing Number).

73.3.3. Embarq will deliver a monthly statement for Wholesale Services in the medium (e.g.: NDM, paper, or CD-ROM) requested by CLEC as follows:

- (a) Invoices will be provided in a standard Carrier Access Billing format or other such format as Embarq may determine;
- (b) Where local usage charges apply and message detail is created to support available services, the originating local usage at the call detail level in standard EMI industry format will be exchanged daily or at other mutually agreed upon intervals, and CLEC will pay Embarq for providing such call detail;
- (c) The Parties will work cooperatively to exchange information to facilitate the billing of in and out collect and inter/intra-region alternately billed messages;
- (d) Embarq agrees to provide information on the end-user's selection of special features where Embarq maintains such information (e.g.: billing method, special language) when CLEC places the order for service;
- (e) Monthly recurring charges for Telecommunications Services sold pursuant to this Agreement shall be billed monthly in advance.
- (f) Embarq shall bill for message provisioning and, if applicable data tape charges, related to the provision of usage records. Embarq shall also bill CLEC for additional copies of the monthly invoice.

73.3.4. For billing purposes, and except as otherwise specifically agreed to in writing, the Telecommunications Services provided hereunder are furnished for a minimum term of one month. Each month is presumed to have thirty (30) Days.

73.4. Central Clearinghouse and Settlement

73.4.1. Embarq and CLEC shall agree upon Clearinghouse and Incollect/Outcollect procedures.

73.4.2. Embarq shall settle with CLEC for both intra-region and inter-region billing exchanges of calling card, bill-to-third party, and collect calls under separately negotiated settlement arrangements.

73.5. Lost Data

73.5.1. Loss of Recorded Usage Data. CLEC Recorded Usage Data determined to have been lost, damaged or destroyed as a result of an error or

omission by Embarq in its performance of the recording function shall be recovered by Embarq at no charge to CLEC. In the event the data cannot be recovered by Embarq, Embarq shall estimate the messages and associated revenue, with assistance from CLEC, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by Embarq and CLEC. This estimate shall be used to adjust amounts CLEC owes Embarq for services Embarq provides in conjunction with the provision of Recorded Usage Data.

- 73.5.2. Partial Loss. Embarq shall review its daily controls to determine if data has been lost. When there has been a partial loss, actual message and minute volumes shall be reported, if possible through recovery as discussed in Section 73.5 above. Where actual data are not available, a full day shall be estimated for the recording entity, as outlined in the following paragraphs. The amount of the partial loss is then determined by subtracting the data actually recorded for such day from the estimated total for such day.
- 73.5.3. Complete Loss. When Embarq is unable to recover data as discussed in Section 73.5 above estimated message and minute volumes for each loss consisting of an entire AMA tape or entire data volume due to its loss prior to or during processing, lost after receipt, degaussed before processing, receipt of a blank or unreadable tape, or lost for other causes, shall be reported.
- 73.5.4. Estimated Volumes. From message and minute volume reports for the entity experiencing the loss, Embarq shall secure message/minute counts for the four (4) corresponding days of the weeks preceding that in which the loss occurred and compute an average of these volumes. Embarq shall apply the appropriate average revenue per message ("arpm") agreed to by CLEC and Embarq to the estimated message volume for messages for which usage charges apply to the subscriber to arrive at the estimated lost revenue.
- 73.5.5. If the day of loss is not a holiday but one (1) (or more) of the preceding corresponding days is a holiday, use additional preceding weeks in order to procure volumes for two (2) non-holidays in the previous two (2) weeks that correspond to the day of the week that is the day of the loss.
- 73.5.6. If the loss occurs on a weekday that is a holiday (except Christmas and Mother's day), Embarq shall use volumes from the two (2) preceding Sundays.
- 73.5.7. If the loss occurs on Mother's day or Christmas day, Embarq shall use volumes from that day in the preceding year multiplied by a growth factor derived from an average of CLEC's most recent three (3) month message volume growth. If a previous year's message volumes are not available, a settlement shall be negotiated.

73.6. Testing, Changes and Controls

73.6.1. The Recorded Usage Data, EMI format, content, and transmission process shall be tested as agreed upon by CLEC and Embarq.

73.6.2. Control procedures for all usage transferred between Embarq and CLEC shall be available for periodic review. This review may be included as part of an Audit of Embarq by CLEC or as part of the normal production interface management function. Breakdowns which impact the flow of usage between Embarq and CLEC must be identified and jointly resolved as they occur. The resolution may include changes to control procedures, so similar problems would be avoided in the future. Any changes to control procedures would need to be mutually agreed upon by CLEC and Embarq.

73.6.3. Embarq Software Changes

- (a) When Embarq plans to introduce any software changes which impact the format or content structure of the usage data feed to CLEC, designated Embarq personnel shall notify CLEC no less than ninety (90) Days before such changes are implemented.
- (b) Embarq shall communicate the projected changes to CLEC's single point of contact so that potential impacts on CLEC processing can be determined.
- (c) CLEC personnel shall review the impact of the change on the entire control structure. CLEC shall negotiate any perceived problems with Embarq and shall arrange to have the data tested utilizing the modified software if required.
- (d) If it is necessary for Embarq to request changes in the schedule, content or format of usage data transmitted to CLEC, Embarq shall notify CLEC.

73.6.4. CLEC Requested Changes:

- (a) CLEC may submit a purchase order to negotiate and pay for changes in the content and format of the usage data transmitted by Embarq.
- (b) When the negotiated changes are to be implemented, CLEC and/or Embarq shall arrange for testing of the modified data.

73.7. Information Exchange and Interfaces

73.7.1. Product/Service Specific. Embarq shall provide a Telcordia standard 42-50-01 miscellaneous charge record to support the Special Features Star Services if these features are part of Embarq's offering and are provided for Embarq's subscribers on a per usage basis.

73.8. Rejected Recorded Usage Data

- 73.8.1.1. Upon agreement between CLEC and Embarq, messages that cannot be rated and/or billed by CLEC may be returned to Embarq via CDN or other medium as agreed by the Parties. Returned messages shall be sent directly to Embarq in their original EMI format utilizing standard EMI return codes.
- 73.8.1.2. Embarq may correct and resubmit to CLEC any messages returned to Embarq. Embarq will not be liable for any records determined by Embarq to be billable to a CLEC end user. CLEC will not return a message that has been corrected and resubmitted by Embarq. Embarq will only assume liability for errors and unguideables caused by Embarq.

74. GENERAL NETWORK REQUIREMENTS

- 74.1. Embarq shall provide repair, maintenance and testing for all resold Telecommunications Services and such UNEs that Embarq is able to test, in accordance with the terms and conditions of this Agreement.
- 74.2. During the term of this Agreement, Embarq shall provide necessary maintenance business process support as well as those technical and systems interfaces at Parity. Embarq shall provide CLEC with maintenance support at Parity.
- 74.3. Embarq shall provide on a regional basis, a point of contact for CLEC to report vital telephone maintenance issues and trouble reports twenty four (24) hours and seven (7) days a week.
- 74.4. Embarq shall provide CLEC maintenance dispatch personnel on the same schedule that it provides its own subscribers.
- 74.5. Embarq shall cooperate with CLEC to meet maintenance standards for all Telecommunications Services and unbundled network elements ordered under this Agreement. Such maintenance standards shall include, without limitation, standards for testing, network management, call gapping, and notification of upgrades as they become available.
- 74.6. All Embarq employees or contractors who perform repair service for CLEC end users shall follow Embarq standard procedures in all their communications with CLEC end users. These procedures and protocols shall ensure that:
 - 74.6.1. Embarq employees or contractors shall perform repair service that is equal in quality to that provided to Embarq end users; and
 - 74.6.2. Trouble calls from CLEC shall receive response time priority that is equal to that of Embarq end users and shall be handled on a “first come first served” basis regardless of whether the end user is a CLEC end user or an Embarq end user.

- 74.7. Embarq shall provide CLEC with scheduled maintenance for resold lines, including, without limitation, required and recommended maintenance intervals and procedures, for all Telecommunications Services and network elements provided to CLEC under this Agreement equal in quality to that currently provided by Embarq in the maintenance of its own network. CLEC shall perform its own testing for UNEs.
- 74.8. Embarq shall give maximum advanced notice to CLEC of all non-scheduled maintenance or other planned network activities to be performed by Embarq on any network element, including any hardware, equipment, software, or system, providing service functionality of which CLEC has advised Embarq may potentially impact CLEC end users.
- 74.9. Notice of Network Event. Each party has the duty to alert the other of any network events that can result or have resulted in service interruption, blocked calls, or negative changes in network performance.
- 74.10. On all misdirected calls from CLEC end users requesting repair, Embarq shall provide such CLEC end user with the correct CLEC repair telephone number as such number is provided to Embarq by CLEC. Once the Electronic Interface is established between Embarq and CLEC, Embarq agrees that CLEC may report troubles directly to a single Embarq repair/maintenance center for both residential and small business end users, unless otherwise agreed to by CLEC.
- 74.11. Upon establishment of an Electronic Interface, Embarq shall notify CLEC via such electronic interface upon completion of trouble report. The report shall not be considered closed until such notification is made. CLEC will contact its end user to determine if repairs were completed and confirm the trouble no longer exists.
- 74.12. Embarq shall perform all testing for resold Telecommunications Services.
- 74.13. Embarq shall provide test results to CLEC, if appropriate, for trouble clearance. In all instances, Embarq shall provide CLEC with the disposition of the trouble.
- 74.14. If Embarq initiates trouble handling procedures, it will bear all costs associated with that activity. If CLEC requests the trouble dispatch, and either there is no trouble found, or the trouble is determined to be beyond the end user demarcation point, then CLEC will bear the cost.

75. MISCELLANEOUS SERVICES AND FUNCTIONS

75.1. General

- 75.1.1. The services described in Section 74 only apply shall only be available to the CLEC under this Agreement (i) when Embarq is providing the service to itself, (ii) in areas where Embarq is providing such service to Embarq's end-user subscribers, and (iii) subject to the limitations specified herein. To the extent that Embarq does not provide the services described in this Section 74 to itself, or the requested service is

not available to Embarq's end-user subscribers in such areas, CLEC must secure any desired services under a separate commercial agreement with Embarq or another provider. .

75.2. Basic 911 and E911 Service

75.2.1. Basic 911 and E911 provides a caller access to the appropriate emergency service bureau by dialing a 3-digit universal telephone number (911).

75.2.2. Basic 911 and E911 functions shall only be provided to CLEC for resale, and shall be at Parity with the support and services that Embarq provides to its subscribers for such similar functionality.

(a) Where it may be appropriate for Embarq to update the ALI database, Embarq shall update such database with CLEC data in an interval at Parity with that experienced by Embarq end users.

(b) Embarq shall transmit to CLEC daily all changes, alterations, modifications, and updates to the emergency public agency telephone numbers linked to all NPA NXXs. This transmission shall be electronic and be a separate feed from the subscriber listing feed.

75.2.3. In government jurisdictions where Embarq has obligations under existing agreements as the primary provider of the 911 System to the county (Host Embarq), CLEC shall participate in the provision of the 911 System in accordance with applicable tariffs, or if no tariff is applicable, then pursuant to a separate commercial agreement with Embarq.

75.2.4. If a third party is the primary provider of the 911 System to a government agency, CLEC shall negotiate separately with such third party with regard to the provision of 911 service to the agency. All relations between such third party and CLEC are totally separate from this Agreement and Embarq makes no representations on behalf of the third party.

75.2.5. Basic 911 and E911 Database Requirements

(a) The ALI database shall be managed by Embarq, but is the property of Embarq and CLEC for those records provided by CLEC.

(b) To the extent allowed by the governmental agency, and where available, copies of the SIG shall be provided within three Business Days from the time requested and provided on diskette, or in a format suitable for use with desktop computers.

- (c) CLEC shall be solely responsible for providing CLEC database records to Embarq for inclusion in Embarq's ALI database on a timely basis.
- (d) Embarq and CLEC shall arrange for the automated input and periodic updating of the E911 database information related to CLEC end users. Embarq shall work cooperatively with CLEC to ensure the accuracy of the data transfer by verifying it against the SIG. Embarq shall accept electronically transmitted files that conform to NENA Version #2 format.
- (e) CLEC shall assign an E911 database coordinator charged with the responsibility of forwarding CLEC end user ALI record information to Embarq or via a third-party entity, charged with the responsibility of ALI record transfer. CLEC assumes all responsibility for the accuracy of the data that CLEC provides to Embarq.
- (f) CLEC shall provide information on new subscribers to Embarq within one (1) business day of the order completion. Embarq shall update the database within two (2) Business Days of receiving the data from CLEC. If Embarq detects an error in the CLEC provided data, the data shall be returned to CLEC within two (2) Business Days from when it was provided to Embarq. CLEC shall respond to requests from Embarq to make corrections to database record errors by uploading corrected records within two (2) Business Days. Manual entry shall be allowed only in the event that the system is not functioning properly.
- (g) Embarq agrees to treat all data on CLEC subscribers provided under this Agreement as confidential and to use data on CLEC subscribers only for the purpose of providing E911 services.

75.3. Directory Listings Service

75.3.1. These requirements pertain to Embarq's Listings Service Request process that enables CLEC to (a) submit CLEC subscriber information for inclusion in Directory Listings databases; (b) submit CLEC subscriber information for inclusion in published directories; and (c) provide CLEC subscriber delivery address information to enable Embarq to fulfill directory distribution obligations.

75.3.2. When implemented by the Parties, Embarq shall accept orders on a real-time basis via electronic interface in accordance with OBF Directory Service Request standards within three (3) months of the effective date of this Agreement. In the interim, Embarq shall create a standard format and order process by which CLEC can place an order with a single point of contact within Embarq.

75.3.3. Embarq will provide to CLEC the following Directory Listing Migration Options:

- (a) Migrate with no Changes. Retain all white page listings for the subscriber in both DA and DL. Transfer ownership and billing for white page listings to CLEC.
- (b) Migrate with Additions. Retain all white page listings for the subscriber in DL. Incorporate the specified additional listings order. Transfer ownership and billing for the white page listings to CLEC.
- (c) Migrate with Deletions. Retain all white page listings for the subscriber in DL. Delete the specified listings from the listing order. Transfer ownership and billing for the white page listings to CLEC.
- (d) To ensure accurate order processing, Embarq or its directory publisher shall provide to CLEC the following information, with updates promptly upon changes:
 - (e) A matrix of NXX to central office;
 - (f) Geographical maps if available of Embarq service area;
 - (g) A description of calling areas covered by each directory, including but not limited to maps of calling areas and matrices depicting calling privileges within and between calling areas;
 - (h) Listing format rules;
 - (i) Standard abbreviations acceptable for use in listings and addresses;
 - (j) Titles and designations; and
 - (k) A list of all available directories and their Business Office close dates

75.3.4. Embarq shall update and maintain directory listings information to reflect which of the following categories CLEC subscribers fall into:

- (a) "LISTED" means the listing information is available for all directory requirements;
- (b) "NON-LISTED" means the listing information is available for all directory requirements, but the information does not appear in the published street directory;
- (c) "NON-PUBLISHED" means that a directory service may confirm, by name and address, the presence of a listing, but the telephone number is not available. The listing information is not available in either the published directory or directory assistance.

- 75.3.5. Based on changes submitted by CLEC, Embarq shall update and maintain directory listings data for CLEC subscribers who:
- (a) Disconnect Service;
 - (b) Change CLEC;
 - (c) Install Service;
 - (d) Change any service which affects DA information;
 - (e) Specify Non-Solicitation; and
 - (f) Change categories from Non-Published, Non-Listed, or Listed.
- 75.3.6. The charge for storage of CLEC subscriber information in the DL systems is included in the rates where CLEC is buying UNE Loops or resold services with respect to specific addresses. CLECs that are not buying UNE Loops or resold services shall pay for such storage services at the rate reflected on Table One.
- 75.3.7. CLEC acknowledges that many directory functions including but not limited to directory proofing, and directory distribution are not performed by Embarq but rather are performed by and are under the control of the directory publisher, and Embarq shall not have any liability to CLEC for any acts or omissions of the publisher. Embarq shall use reasonable efforts to assist CLEC in obtaining an agreement with the directory publisher that treats CLEC at Parity with the publisher's treatment of Embarq.
- 75.3.8. CLEC acknowledges that for a CLEC subscriber's name to appear in a directory, CLEC must submit a Directory Service Request (DSR).
- 75.3.9. CLEC shall provide directory listings to Embarq pursuant to the directory listing and delivery requirements in the approved OBF format, at a mutually agreed upon timeframe. Other formats and requirements shall not be used unless mutually agreed to by the parties.
- 75.3.10. Traditional White Pages Listings.
- (a) Embarq shall include in its master subscriber system database all white pages listing information for CLEC subscribers whose information was properly submitted a DSR.
 - (b) One basic White pages listing for each CLEC customer is included in the rates where CLEC is buying UNE Loops or resold services at a specific address and additional listings for a specific address shall be provided at the rates reflected on Table 1. If CLEC requests a listing for an address where CLEC is not buying UNE Loops or resold services, CLEC shall pay for all requested listings for such address at the rate reflected on Table One. A basic White

Pages listing is defined as a customer name, address and either the CLEC assigned number for a customer or the number for which number portability is provided, but not both numbers. Basic White Pages listings of CLEC customers will be interfiled with listings of Embarq and other LEC customers.

- (c) CLEC agrees to provide customer listing information for CLEC's subscribers, including without limitation directory distribution information, to Embarq, at no charge. Embarq will provide CLEC with the appropriate format for provision of CLEC customer listing information to Embarq. The parties agree to adopt a mutually acceptable electronic format for the provision of such information as soon as practicable. In the event OBF adopts an industry-standard format for the provision of such information, the parties agree to adopt such format.
- (d) Embarq agrees to provide White Pages database maintenance services to CLEC. CLEC will be charged a Service Order entry fee upon submission of Service Orders into Embarq's Service Order Entry (SOE) System, which will include compensation for such database maintenance services. Service Order entry fees apply when Service Orders containing directory records are entered into Embarq's SOE System initially, and when Service Orders are entered in order to process a requested change to directory records.
- (e) CLEC customer listing information will be used solely for the provision of directory services, including the sale of directory advertising to CLEC customers.
- (f) In addition to a basic White Pages listing, Embarq will provide, tariffed White Pages listings (e.g.: additional, alternate, foreign and non-published listings) for CLEC to offer for resale to CLEC's customers.
- (g) Embarq, or its directory publisher, will provide White Pages distribution services to CLEC customers, in areas where Embarq is providing such service to Embarq's end-user subscribers, at no additional charge to CLEC at times of regularly scheduled distribution to all customers. Embarq represents that the quality, timeliness, and manner of such distribution services will be at Parity with those provided to Embarq and to other CLEC customers.
- (h) Embarq agrees to include critical contact information pertaining to CLEC in the "Information Pages" of those of its White Pages directories containing information pages, if CLEC meets criteria established by its directory publisher. Critical contact information includes CLEC's business office number, repair number, billing

information number, and any other information required to comply with applicable regulations, but not advertising or purely promotional material. CLEC will not be charged for inclusion of its critical contact information. The format, content and appearance of CLEC's critical contact information must conform to applicable Embarq directory publisher's guidelines and will be consistent with the format, content and appearance of critical contact information pertaining to all CLECs in a directory.

- (i) Embarq will accord CLEC customer listing information the same level of confidentiality that Embarq accords its own proprietary customer listing information. Embarq shall ensure that access to CLEC customer proprietary listing information will be limited solely to those of Embarq and Embarq's directory publisher's employees, agents and contractors that are directly involved in the preparation of listings, the production and distribution of directories, and the sale of directory advertising. Embarq will advise its own employees, agents and contractors and its directory publisher of the existence of this confidentiality obligation and will take appropriate measures to ensure their compliance with this obligation. Notwithstanding any provision herein to the contrary, the furnishing of White Pages proofs to a CLEC that contains customer listings of both Embarq and CLEC will not be deemed a violation of this confidentiality provision.
- (j) Embarq will provide CLEC's customer listing information to any third party to the extent required by Applicable Rules.

75.4. Other Directory Services.

- 75.4.1. Embarq will exercise reasonable efforts to cause its directory publisher to enter into a separate agreement with CLEC which will address other directory services desired by CLEC as described in this Section 75.4. Both parties acknowledge that Embarq's directory publisher is not a party to this Agreement and that the provisions contained in this Section 75.4 are not binding upon Embarq's directory publisher.
- 75.4.2. Embarq will request that its publisher make available to CLEC the provision of a basic Yellow Pages listing to CLEC customers located within the geographic scope of publisher's Yellow Pages directories and distribution of Yellow Pages directories to CLEC customers.
- 75.4.3. Embarq will request that its publisher make directory advertising available to CLEC customers on a nondiscriminatory basis and subject to the same terms and conditions that such advertising is offered to Embarq and other CLEC customers. Directory advertising will be billed to CLEC customers by directory publisher.

- 75.4.4. Embarq will request that its publisher use commercially reasonable efforts to ensure that directory advertising purchased by customers who switch their service to CLEC is maintained without interruption.
 - 75.4.5. Embarq will request that its publisher make available information pages, in addition to any information page or portion of an information page containing critical contact information as described above in Section 0, subject to applicable directory publisher guidelines, criteria, and regulatory requirements.
 - 75.4.6. The directory publisher shall maintain full authority as publisher over its publishing policies, standards and practices, including decisions regarding directory coverage area, directory issue period, compilation, headings, covers, design, content or format of directories, and directory advertising sales.
- 75.5. Directory Assistance Data.
- 75.5.1. Directory Assistance Data consists of information within residential, business, and government subscriber records that can be used to create and maintain databases for the provision of live or automated operator assisted Directory Assistance.
 - 75.5.2. Under a separate agreement, Embarq will provide CLEC with unbundled and non-discriminatory access to the residential, business and government subscriber records for the purpose of obtaining Directory Assistance Data that is needed to enable telephone exchange CLECs to swiftly and accurately respond to requests by end-users for directory information, including, but not limited to name, address and phone numbers. The separate agreement shall provide for each of the following:
 - (a) Subscriber records. CLEC shall have access to the same subscriber record information that Embarq used to create and maintain its databases for the provision of live or automated operator assisted Directory Assistance.
 - (b) Data Transfer. Embarq shall provide to CLEC, at CLEC's request, all published Subscriber List Information (including such information that resides in Embarq's master subscriber system/accounts master file for the purpose of publishing directories in any format as specified by the Act) via an electronic data transfer medium and in a mutually agreed to format, on the same terms and conditions and at the same rates that the Embarq provides Subscriber List Information to itself or to other third parties. All changes to the Subscriber List Information shall be provided to CLEC pursuant to a mutually agreed format and schedule. Both the initial List and all subsequent Lists shall

indicate for each subscriber whether the subscriber is classified as residence or business class of service.

PART K – REPORTING STANDARDS

76. GENERAL

- 76.1. Embarq shall satisfy all service standards, intervals, measurements, specifications, performance requirements, technical requirements, and performance standards and will pay any penalties for violation of the performance standards that are required by law or regulation. In addition, Embarq's performance under this agreement shall be provided to CLEC at parity with the performance Embarq provides itself for like service(s).

PART L – COLLOCATION

77. SCOPE OF COLLOCATION TERMS

- 77.1. Embarq will provide Collocation to CLEC in accordance with this Agreement for the purposes of Interconnection to Embarq pursuant to the Act (including 47 USC § 251(c)(2)) and for obtaining access to Embarq's UNEs pursuant to the Act (including 47 USC § 251(c)(3)). Collocation shall be provided on a nondiscriminatory basis, on a "first-come, first-served" basis, and otherwise in accordance with the requirements of the Act (including 47 USC § 251(c)(6)).
- 77.2. Prices and fees for collocation and other services under this Agreement are contained in Table Two. In the event Embarq files tariffs for pricing of collocation and other services covered by this agreement, such pricing in the tariffs will control over Table Two as of the date the tariff becomes effective. The terms and conditions of this Agreement will control over any terms and conditions in the tariff.
- 77.3. This Agreement states the general terms and conditions upon which Embarq will grant to CLEC the non-exclusive right to gain access to and occupy the Collocation Space, and other associated facilities as may be necessary, for the sole and exclusive purpose of providing telecommunications service upon submission of an approved and provisioned Application for collocation service. Such service will be provided by installing, maintaining and operating CLEC's equipment, which will interconnect with Telecommunications Services and facilities provided by Embarq or others in accordance with this Agreement.

78. TERMINATION OF COLLOCATION SPACE

- 78.1. CLEC may terminate occupancy in a particular Collocation Space upon thirty (30) Days prior written notice to Embarq. Upon termination of such occupancy, CLEC at its expense shall remove its equipment and other property from the Collocation Space. CLEC shall have thirty (30) Days from the termination date to complete such removal, including the removal of all equipment and facilities of CLEC's Guests; provided, however, that CLEC shall continue payment of monthly fees to Embarq until such date as CLEC has fully vacated the Collocation Space. CLEC will surrender the Collocation Space to Embarq in the same condition as when first occupied by CLEC, except for ordinary wear and tear.
- 78.2. CLEC shall be responsible for the cost of removing any enclosure, together with all supporting structures (*e.g.*, racking, conduits), of an Adjacent Collocation arrangement at the termination of occupancy and restoring the grounds to their original condition.
- 78.3. Upon termination of CLEC's right to possession of a Collocation Space, CLEC shall surrender possession and vacate the Collocation Space within thirty (30) Days. Failure to surrender the Collocation Space within thirty (30) Days shall be

considered abandonment and Embarq will have the right to remove the equipment and other property of CLEC or the CLEC's Guest at CLEC's expense and with no liability for damage or injury to CLEC's property.

- 78.4. Should Embarq under any Section of this Agreement remove any of CLEC's equipment from its collocation space, Embarq will deliver to CLEC any equipment removed by Embarq only upon payment by CLEC of the cost of removal, storage and delivery, and all other amounts due Embarq under this Agreement. Should CLEC fail to remove any of its equipment deemed abandoned, title thereto shall pass to Embarq under this Agreement as if by a Bill of Sale. Nothing herein shall limit Embarq from pursuing, at its option, any other remedy in law, equity, or otherwise related to CLEC's occupancy in the Collocation Space, including any other remedy provided in this Agreement.
- 78.5. CLEC shall surrender all keys, access cards and Embarq-provided photo identification cards to the Collocation Space and the Building to Embarq, and shall make known to Embarq the combination of all combination locks remaining on the Collocation Space.
- 78.6. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives available, Embarq shall have the right, for good cause shown, and upon thirty (30) Days prior notice, to reclaim the Collocation Space or any portion thereof, any Inner Duct, Outside Cable Duct, Cable Vault space or other Embarq-provided facility in order to fulfill its common carrier obligations, any order or rule of the state commission or the FCC, or Embarq's tariffs to provide Telecommunications Services to its end user customers. In such cases, Embarq will reimburse CLEC for reasonable direct costs and expenses in connection with such reclamation.
- 78.7. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives, to require CLEC to move to equivalent space in the Premises upon receipt of sixty (60) Days written notice from Embarq, in which event, Embarq shall pay all moving costs, and the Collocation License Fee provided for herein shall remain the same.

79. COLLOCATION OPTIONS

- 79.1. Embarq will offer Collocation Space to allow CLEC to collocate its equipment and facilities, and without requiring the construction of a cage or similar structure. Embarq shall make cageless collocation available in single bay increments. For equipment requiring special technical considerations, CLEC must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in Telcordia GR-63-Core and shall be responsible for constructing all special technical requirements associated with such equipment pursuant to this Agreement.
- 79.2. Embarq will authorize the enclosure of CLEC's equipment and facilities at CLEC's option. Embarq will provide guidelines and specifications upon request.

Based on CLEC's request, space and cage enclosures in amounts as small as that sufficient to house and maintain a single rack or bay or equipment will be made available. At CLEC's option, Embarq will permit CLEC to arrange with a third party vendor to construct a Collocation Arrangement enclosure at CLEC's sole expense. CLEC's third party vendor will be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. The third party vendor shall bill CLEC directly for all work performed for CLEC and Embarq will have no liability for nor responsibility to pay such charges imposed by the third party vendor. CLEC must provide the local Embarq building contact with one Access key used to enter the locked enclosure. Except in case of emergency, Embarq will not access CLEC's locked enclosure prior to notifying CLEC and obtaining authorization.

79.2.1. Embarq has the right to review CLEC's plans and specifications prior to allowing construction to start. Embarq will complete its review within fifteen (15) Days of receipt of such plans. Embarq has the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications. Embarq can require CLEC to remove or correct, at its cost, any structure that does not meet these plans.

79.3. CLEC may allow other telecommunications carriers to share its caged collocation arrangement pursuant to terms and conditions agreed to by CLEC ("Host") and other telecommunications carriers ("Guests"). CLEC will notify Embarq in writing upon execution of any agreement between the Host and its Guest within twelve (12) Days of its execution. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall contain a certification by CLEC that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement.

79.3.1. As Host, CLEC will be the sole interface and responsible party to Embarq for the purpose of submitting applications for initial and additional equipment placements of Guest (to the extent required under other Sections of this Agreement); for assessment and payment of rates and charges applicable to the Collocations space; and for the purposes of ensuring that the safety and security requirements of this Agreement are fully complied with by the Guest, its employees and agents. In making shared cage arrangements, Embarq will not increase the cost of site preparation or nonrecurring charges above the cost of provisioning a similar caged arrangement to a CLEC.

79.3.2. Embarq will not place unreasonable restrictions on CLEC's use of a cage, and as such will allow CLEC to contract with other CLECs to share the cage in a sublease type arrangement. If two (2) or more CLECs that have interconnection agreements with Embarq utilize a shared collocation cage, Embarq will permit each CLEC to order UNEs and provision service from the shared collocation space, regardless of which CLEC was the original collocater.

- 79.3.3. If Host terminates a Collocation Arrangement, Host will provide Guest thirty (30) Days notice. Guest will assume all obligations and rights of Host as to that Collocation Arrangement if Guest remains in the Collocation Space, including payment of all charges.
- 79.4. Embarq will provide adjacent collocation arrangements ("Adjacent Arrangement") where space within the Premises is legitimately exhausted, subject to technical feasibility. Both Parties will mutually agree on the location of the designated space on the Embarq property where the adjacent structure (such as a CEV or similar structure) will be placed. If a mutual agreement cannot be reached, Embarq will decide the location, subject to zoning or other state and local regulations and future use by Embarq or other requesting Telecommunications Carriers pursuant to an application submitted under Section **Error! Reference source not found.**
- 79.4.1. CLEC will provide a concrete pad, the structure housing the arrangement, HVAC, lighting, and all facilities that connect the structure (*i.e.*, racking, conduits, etc.) to the Embarq point of interconnection. Should CLEC elect such an option, CLEC must arrange with a third party vendor to construct an Adjacent Arrangement structure in accordance with this Agreement.
- 79.4.2. Embarq maintains the right to review CLEC's plans and specifications prior to construction of an Adjacent Arrangement(s). Embarq will complete its review within thirty (30) Days of site selection and receipt of plans. Except that such time period may be extended if any delay is due to the actions of CLEC. Embarq may inspect the Adjacent Arrangement(s) following construction and prior to commencement to ensure the design and construction comply with submitted plans. Embarq may require CLEC to correct any deviations from approved plans found during such inspection(s).
- 79.4.3. Embarq will provide AC power, as requested, subject to being technically feasible. At its option, CLEC may choose to provide its own AC power to the adjacent structure as long as the AC power source is from the same provider as Embarq's.
- 79.4.4. Subject to CLEC being on the waiting list, in the event that space in an Embarq Premises becomes available, Embarq will provide the option to the CLEC to relocate its equipment from an Adjacent Facility into the Embarq Premises. In the event CLEC chooses to relocate its equipment, appropriate charges will apply, including charges to vacate the adjacent collocation arrangement and charges applicable for collocation within the Embarq Premises.
- 79.5. To the extent possible, Embarq will provide CLEC with contiguous space for any subsequent request for physical collocation space, but makes no assurances that contiguous space will be available.

- 79.6. Embarq will provide virtual collocation, subject to being technically feasible, if physical collocation is not practical for technical reasons or because of space limitations and in accordance with the Act (including 47 USC § 251(c)(6) and 47 CFR § 51.321).
- 79.6.1. CLEC may lease to Embarq, at no cost to Embarq, equipment that meets applicable FCC requirements and in accordance with this Agreement, for the sole purpose of having Embarq install and maintain the equipment in accordance with terms and conditions mutually agreed upon by the Parties.
- 79.6.2. Virtually collocated equipment shall be purchased by CLEC. Embarq does not assume any responsibility for the design, engineering, testing or performance for the end-to-end connection of CLEC's equipment, arrangement or facilities.
- 79.6.3. Embarq will install, maintain, and repair CLEC's collocated equipment within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of Embarq, Embarq's affiliates or third parties. The following services are not covered by this Agreement:
- (a) services to resolve software or hardware problems resulting from products provided by parties other than Embarq or causes beyond the control of Embarq;
 - (b) service of attached, related, collateral or ancillary equipment or software not covered by this Section;
 - (c) repairing damage caused to CLEC's collocated equipment by persons other than Embarq, or its authorized contractors, or
 - (d) repairing damage to other property or equipment caused by operation of CLEC's collocated equipment and not caused by the sole negligence of Embarq.
- 79.6.4. CLEC warrants that Embarq shall have quiet enjoyment of the equipment. Embarq will be entitled to the benefit of any applicable manufacturer's warranties and indemnities and, to the extent assignable, such warranties and indemnities are hereby assigned by CLEC for the benefit of Embarq and CLEC shall take all reasonable action to enforce such warranties and indemnities where available to Embarq. CLEC shall execute, upon presentation, such documents and instruments as may be required to allow Embarq manufacturer's warranty coverage for any equipment. CLEC warrants that it has full authority to lease the equipment under the terms and conditions set forth herein and that there are no restrictions, legal or otherwise, which would preclude it from so doing.

- (a) In the event Embarq's right to quiet enjoyment is breached, either by CLEC's failure to make or cause to be made payment to the equipment manufacturer of the full purchase price for the equipment when such payment becomes due, or otherwise, Embarq may give written notice to CLEC and all of Embarq's obligations relating to the affected equipment shall terminate immediately.

79.6.5. Embarq's preparation, if any, of the Premises (*e.g.*, Power, environmental, etc.) for the Virtual Collocation equipment will be charged to CLEC at rates on Table Two or as filed in a tariff and approved by the Commission.

80. DEMARCATION POINT

- 80.1. Embarq will designate the point of demarcation, unless otherwise mutually agreed to by the Parties, in or adjacent to its Collocation Space. At CLEC's request, Embarq will identify the location(s) of other possible demarcation points available to CLEC, and CLEC will designate from these location(s) the point(s) of demarcation between its collocated equipment and Embarq's equipment. Embarq will use its best efforts to identify the closest demarcation point to CLEC's equipment that is available.
- 80.2. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point.
- 80.3. At CLEC's option and expense, a point of termination (POT) bay, frame or digital cross-connect may be placed in or adjacent to the Collocation Space that may, at CLEC's option, serve as the demarcation point. If CLEC elects not to provide a POT frame, Embarq will agree to handoff the interconnection cables to CLEC at its equipment, at CLEC's designated demarcation point. When CLEC elects to install its own POT frame/cabinet, Embarq must still provide and install the required DC power panel.

81. APPLICATION PROCESS

- 81.1. Upon CLEC's selection of a Premises in which it desires to collocate its Equipment, Embarq will provide a then current collocation application form (the "Application") to CLEC. CLEC will submit an Application when initially requesting Collocation Space, or modifying the use of the Collocation Space. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in CLEC's Collocation Space(s), the amount of square footage required (or, in the case of Cageless Collocation, bay space) for the current year plus the next calendar year from the date of application, as well as the associated power requirements, floor loading, and heat release of each piece.
 - 81.1.1. CLEC will complete the Application, and return it, along with the appropriate Application Fee, to Embarq. The Application shall include complete details of the collocation and interconnection requested,

including, but not limited to, specific floor space, power, and environmental conditioning requirements. Embarq will not process an Application until both the Application and the applicable Application fee are received.

- 81.1.2. In the event CLEC desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Embarq, CLEC will complete a subsequent Application detailing all information regarding the modification to the Collocation Space together with payment of the appropriate Application Augment Fee. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions.
- 81.1.3. Where CLEC modifies the use of the Collocation Space or adds equipment that requires no additional engineering or preparation work on the part of Embarq, Embarq will not impose additional charges or additional intervals that would delay CLEC's operation. CLEC will notify Embarq of the modifications or additional equipment prior to installation.
- 81.1.4. If Collocation Space is unavailable or CLEC withdraws its request, the Application fee, less the costs incurred by Embarq (e.g., engineering record search and administrative activities required to process the Application) will be refunded.
- 81.2. If CLEC wishes Embarq to consider multiple methods for collocation on a single Application, CLEC will need to include in each Application a prioritized list of its preferred methods of collocating, e.g., caged, shared, or other, as well as adequate information, (e.g., specific layout requirements, cage size, number of bays, requirements relative to adjacent bays, etc.) for Embarq to process the Application for each of the preferred methods. If CLEC provides adequate information and its preferences with its Application, Embarq may not require an additional Application, nor would CLEC be required to restart the quotation interval should its first choice not be available in a requested Premises. Only one collocation arrangement will be provisioned per Application. Embarq will not select for CLEC the type of collocation to be ordered.
- 81.3. Within ten (10) Days after receiving CLEC's Application for collocation, Embarq will inform CLEC whether the Application meets each of Embarq's established collocation standards. Should CLEC submit a revised Application curing any deficiencies in an Application for collocation within ten Days after being informed of them, CLEC shall retain its original position within any collocation queue that Embarq maintains. If Embarq informs CLEC that there is a deficiency in an Application, Embarq will provide sufficient detail so that CLEC has a reasonable opportunity to cure each deficiency.

- 81.4. All revisions to an initial request for a Physical Collocation Arrangement submitted by CLEC must be in writing. A new interval for the Physical Collocation Arrangement will be established which shall not exceed two months beyond the originally established date. CLEC will be required to pay any applicable Application fees.
- 81.5. Embarq shall provide confirmation of space availability within ten (10) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications submitted. Space availability response will be increased by five (5) Days for every five (5) additional Applications received.
- 81.5.1. Embarq will notify CLEC in writing as to whether its request for Collocation Space has been granted or denied due to lack of space. The notification will also include a possible future space relief date, if applicable.
- 81.5.2. In order to increase the amount of space available for collocation, Embarq will, upon request, remove obsolete unused equipment, from its Premises to increase the amount of space available for collocation.
- 81.6. After notifying the CLEC that Embarq has no available space for Physical Collocation in the requested Central Office ("Denial of Application"), Embarq will allow the CLEC, upon request, to tour the entire Central Office within ten (10) Days, or other mutually agreeable timeframe, of such Denial of Application. In order to schedule said tour the request for a tour of the Central Office must be received by Embarq within five (5) Days of the Denial of Application.
- 81.6.1. If CLEC contests Embarq's notice that there is not sufficient space for Physical Collocation in the Central Office, the parties agree to seek expedited resolution of the dispute at the Commission pursuant to § 251(c)(6) of the Act. If the Commission determines that space is not available, Embarq will not be required to conduct a review of floor space availability in the same central office more frequently than once every six months.
- 81.6.2. On a first come, first serve basis, Embarq will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate.
- 81.6.3. Embarq will simultaneously notify the telecommunications carriers on the waiting list when space becomes available if there is enough space to accommodate additional collocation. Subsequent to the granting of a Petition for Waiver, if CLEC has been denied Physical Collocation space at an Embarq Premises and challenges Embarq on space availability at said Premises, CLEC will be given priority for space assignment if, as a result of the challenge, space is found to be available. CLEC will reaffirm its collocation request within thirty (30) Days of

such notification; otherwise, it will be dropped to the bottom of the list. Upon request, Embarq will advise CLEC as to its position on the list.

- 81.6.4. If CLEC's Application for Physical Collocation is denied due to lack of space, Embarq will place CLEC on the waiting list for collocation in particular Premises according to the date CLEC submitted its Application and not the date of denial for lack of space.
- 81.6.5. Embarq will maintain on its Website a notification document that will indicate all Premises that are without available space. Embarq will update such document within ten (10) Days of the date at which a Premises runs out of physical collocation space.
- 81.7. Embarq will provide a price quote within thirty (30) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications. Price quote response will be increased by five (5) Days for every five (5) additional Applications received. The quotation will include the applicable nonrecurring and recurring rates.
- 81.8. CLEC has thirty (30) Days from receipt of the quotation to accept the quotation in writing. The quotation expires after thirty (30) Days. After thirty (30) Days, a new Application and Application fee are required. Collocation Space is not reserved until the quotation is accepted. Embarq need not meet the deadlines for provisioning Physical Collocation if, after receipt of any price quotation provided by Embarq, CLEC does not notify Embarq that physical collocation should proceed.
- 81.9. CLEC will indicate its intent to proceed with equipment installation in an Embarq Premises by accepting the price quote, which constitutes a Bona Fide Firm Order ("BFFO"). If CLEC makes changes to its Application in light of Embarq's written Application Response, Embarq may be required to re-evaluate and respond to the change(s). In this event, CLEC's Application will be treated as a Revision.
- 81.10. Space preparation for the Collocation Space will not begin until Embarq receives the BFFO and all applicable fees, including all non-recurring charges required by Embarq at the time of the BFFO.

82. SPACE RESERVATION

- 82.1. The parties may reserve physical collocation space for their own specific uses for the remainder of the current year, plus twelve (12) months in accordance with Section **Error! Reference source not found.** Neither Embarq, nor any of its affiliates, will reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use.

83. PROVISIONING INTERVALS

- 83.1. Embarq will complete construction of Caged Physical (including Shared Caged), Cageless Physical, and Virtual Collocation arrangements within ninety (90) Days of receipt of a BFFO. If Embarq is unable to complete construction as provided herein, the parties may agree to a mutually acceptable interval or Embarq may petition the Commission for waiver.

84. CONSTRUCTION AND COMMENCEMENT OF BILLING

- 84.1. Embarq shall permit CLEC or its designated subcontractor to perform the construction of physical collocation space, provided however, that any such CLEC subcontractor shall be subject to Embarq's security standards. Embarq reserves the right to reject any CLEC subcontractor upon the same criteria that Embarq would use on its own subcontractors. CLEC will notify Embarq in writing when construction of physical collocation space is complete.
- 84.2. Embarq shall have the right to inspect CLEC's completed installation of equipment and facilities prior to CLEC turning up such equipment and facilities. CLEC shall provide written notification to Embarq when CLEC has completed its installation of equipment and facilities in the Collocation space, and Embarq shall, within five (5) Business Days of receipt of such notice, either (i) inspect such Collocation space or (ii) notify CLEC that Embarq is not exercising its right to inspect such Collocation space at that time and that CLEC may turn up its equipment and facilities. Failure of Embarq to either inspect the Collocation space or notify CLEC of its election not to inspect such space within the foregoing five (5) Business Day period shall be deemed an election by Embarq not to inspect such Collocation space. CLEC shall have the right to be present at such inspection, and if CLEC is found to be in non-compliance with the terms and conditions of this Agreement that relate to the installation and use of CLEC's Collocated equipment and facilities, CLEC shall modify its installation to achieve compliance prior to turning up its equipment and facilities.
- 84.3. To the extent Embarq performs the construction of the Physical Collocation Arrangement, Embarq shall construct the Collocated Space in compliance with a mutually agreed to collocation request. Any deviation to CLEC's order must thereafter be approved by CLEC. The Parties acknowledge that CLEC approved deviations may require additional construction time and may incur additional CLEC expenses. CLEC shall pay the incremental cost incurred by Embarq as the result of any Revision to the Collocation request. CLEC will pay all applicable fees, including any nonrecurring charges required by Embarq, prior to Embarq commencing construction of the collocation space.
- 84.4. CLEC will be responsible for all extraordinary costs, as determined in accordance with the Act, incurred by Embarq to prepare the Collocation space for the installation of CLEC's equipment and for extraordinary costs to maintain the Collocation space for CLEC's equipment on a going-forward basis. Extraordinary costs may include costs for such items as asbestos removal, fire

suppression system or containment, modifications or expansion of cable entry facility, increasing the DC power system infrastructure capacity, increasing the capacity of the standby AC system (if available) or the existing commercial power facility, conversion of non-Collocation space, compliance with federal and state requirements, or other modifications required by local ordinances. Embarq will charge for these extraordinary costs on a time-sensitive or time-and-materials basis and will allocate the costs fairly among itself, CLEC and other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to CLEC prior to commencing such work. Extraordinary costs will only be billed to CLEC if such costs have been authorized by CLEC. Embarq must advise CLEC if extraordinary costs will be incurred.

- 84.5. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents.
- 84.6. Embarq will notify CLEC when construction of a Collocation Space is complete. The Parties will complete an acceptance walk through of each provisioned Collocation Space. Embarq will commence to correct any deviations to CLEC's original or jointly amended requirements within five (5) Days after the walk through. If CLEC does not conduct an acceptance walk through within fifteen (15) Days of the notification that the Collocation Space construction is complete, CLEC will be deemed to have accepted the Collocation Space and billing will commence.
- 84.7. CLEC must submit a written request to cancel its order for Physical, Caged, Shared Cage, Adjacent Space, or Virtual Collocation. CLEC will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.

85. EQUIPMENT

- 85.1. CLEC may only locate equipment necessary for interconnection to Embarq or accessing Embarq's unbundled network elements in accordance with Applicable Rules, including but not limited to 47 USC 251(C)(3), 47 USC 251(C)(2), and 47 CFR 51.323(b-c).
- 85.2. CLEC's equipment and facilities shall not be placed or operated in such a manner that creates hazards or causes physical harm to any individual or the public. CLEC is responsible for the shipping delivery of all equipment or materials associated with the collocation arrangement, and CLEC shall instruct equipment vendors to ship equipment or materials directly to the CLEC or their Embarq approved contractor on the CLEC's behalf. No CLEC equipment or supplies may be delivered (other than by CLEC or their Embarq approved contractor) to a Premises containing the Collocation Space, nor shall such equipment or supplies be stored or staged outside of the licensed Collocation Space.

- 85.3. All equipment to be collocated must meet Level 1 safety requirements as set forth in Telcordia Network Equipment and Building Specifications ("NEBS"), but Embarq will not impose safety requirements on CLEC that are more stringent than the safety requirements it imposes on its own equipment. If Embarq denies collocation of CLEC's equipment, citing safety standards, Embarq must provide to CLEC within five (5) Business Days of the denial a list of all equipment that Embarq locates within the Premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that Embarq contends the competitor's equipment fails to meet. In the event that Embarq believes that the collocated equipment is not necessary for interconnection or access to unbundled network elements or determines that CLEC's equipment does not meet NEBS Level 1 safety requirements, CLEC will be given ten (10) Days to comply with the requirements or remove the equipment from the collocation space. If the parties do not resolve the dispute, the Parties may file a complaint at the Commission seeking a formal resolution of the dispute. While the dispute is pending, CLEC will not install said equipment.
- 85.4. CLEC must notify Embarq in writing that collocation equipment installation is complete and is operational with Embarq's network. If CLEC fails to place operational telecommunications equipment in the collocated space and either interconnect to Embarq or install UNEs to its collocation arrangement (per 47 USC 251 §251(c)(6)) within one-hundred-eighty (180) Days of CLEC's acceptance of Embarq's price quote, or other time period mutually agreed to by the CLEC and Embarq, Embarq may terminate the applicable Collocation Space upon written notice. CLEC will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.
- 85.5. If CLEC has provisioned services to any customers without being in compliance with 85.4 above, CLEC will be billed access rates for all services for the period beginning with the installation of the services until the collocation arrangement is decommissioned or until it is brought into compliance.

86. AUGMENTS AND ADDITIONS

- 86.1. When CLEC modifies the Collocation Arrangement or adds equipment that requires no additional space preparation work on the part of Embarq, Embarq may not impose additional charges or additional intervals that would delay the CLEC's operation. CLEC will notify Embarq of the modifications or additional equipment prior to installation.
- 86.2. In the event CLEC desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Embarq, CLEC will complete a subsequent Application detailing all information regarding the modification to the Collocation Space. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and

equipment additions. A major or minor Augments fee will apply. Major Augments include adding or removing power cables, entrance cables, cross-connect cables and switchboard cables. Minor Augments include changes to DC power fuses and extensions of occasional use AC power circuits used temporarily for outlets and light.

- 86.3. CLEC must submit an Application and applicable Application fee to obtain a price quote. CLEC must provide an accurate front equipment view (a.k.a. rack elevation drawing) specifying bay(s) for the CLEC's point of termination. The price quote will contain the charges and the construction interval for that application. The construction interval for augments will not exceed ninety (90) Days from BFFO. If special or major construction is required, Embarq will work cooperatively with CLEC to negotiate mutually agreeable construction intervals for augments.

87. USE OF COMMON AREAS

- 87.1. CLEC, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by Embarq from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas for vehicles of persons while working for or on behalf of CLEC at the Collocation Space; provided, however, that Embarq shall have the right to reserve parking spaces for Embarq's exclusive use or use by other occupants of the Building. Embarq does not guarantee that there is or will be sufficient parking spaces in parking areas to meet CLEC's needs. Embarq does not guarantee that restroom facilities or water will be available. All common areas shall remain under the exclusive control and management of Embarq, and Embarq shall have the right to change the level, location and arrangement of parking areas and other common areas, as Embarq may deem necessary. Use of all common areas shall be subject to such reasonable rules and regulations as Embarq may from time to time impose, consistent with CLEC's right to access its Collocation Space.
- 87.2. Embarq, where water is available for its own use, shall furnish running water from regular Building outlets for drinking, lavatory and toilet purposes drawn through fixtures installed by Embarq, for the non-exclusive use of CLEC, Embarq and any other building occupant. CLEC shall not waste or permit the waste of water.
- 87.3. Embarq shall furnish Building and Premises security in accordance with its normal business practices. Other than the locks on the entrances to the Collocation Space, Embarq shall provide no security specific to CLEC's Collocation Space. Embarq shall not be liable to CLEC or any other party for loss of or damage to the Collocation Space or CLEC equipment unless Embarq has failed to provide Building and Premises security in accordance with its normal business practices.

- 87.4. Embarq shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which CLEC has access pursuant to the terms of this Agreement twenty-four (24) hours a day, seven (7) days a week. Freight elevator service when used by CLEC's contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Embarq.

88. CO-CARRIER CROSS CONNECTION

- 88.1. Co-carrier cross-connects ("CCXCs") are connections between CLEC and another collocated Telecommunications Carrier other than Embarq, and are only available when both collocation arrangements (either caged, cageless, and/or virtual) being interconnected are within the same Embarq Premises, provided that the collocated equipment is also used for interconnection with Embarq and/or for access to Embarq's unbundled Network Elements. Embarq shall provide such CCXCs from CLEC's collocation arrangement to the collocation arrangement of another Telecommunications Carrier in the same Embarq premises under the terms and conditions of this Agreement. CCXC is provided at the same transmission level from CLEC to another Telecommunications Carrier.

- 88.1.1. Embarq will provide such CCXCs for non-adjacent collocation arrangements at the expense of CLEC per CLEC's request. Embarq will provide connections between CLEC's own non-adjacent virtual and/or physical collocation arrangements within the same central office at the expense of CLEC and provisioned per CLEC's order.

- 88.1.2. Embarq, at its sole discretion, shall permit CLEC to self-provision CCXCs to interconnect its network with that of another adjacently collocated Telecommunications Carrier in the same Embarq Premises without application.

- 88.1.3. In those cases where CLEC's Virtual and/or Physical Collocation space is adjacent in the Central Office, CLEC may have the option, at Embarq's sole discretion, of using CLEC's own technicians to deploy direct connections ("DCs") using either electrical or optical facilities between the collocation spaces and constructing its own dedicated cable support structure according to Embarq's technical and safety standards.

- 88.2. The term "Adjacent" in this Section **Error! Reference source not found.** refers to collocation arrangements in the same Premises that have a common border; and is not referring to the form of Physical Collocation as described in 47 CFR 51.323(k)(3).

89. RATES

- 89.1. The rates for collocation are listed on Table Two.
- 89.2. If CLEC is the first collocater in the Embarq premises, CLEC will not be responsible for the entire cost of site preparation and security. However, ancillary

charges for unique collocator requests for collocation options directly attributable to the requesting collocator will not be prorated. Examples include power arrangements, remote switch module related options and POT bay-related options.

89.3. The rates and charges in this Agreement do not include costs for any Americans with Disability Act (ADA) construction generated or caused by the physical collocation space request. If required, ADA construction will be provided on an ICB. If Embarq is required to upgrade a Premises, or portion of the Premises to comply with the ADA which arises as a direct result of CLEC's Collocation Arrangement, Embarq will prorate the total forward-looking economic cost of the upgrade, and allocate the charge to each CLEC collocated within the Premises, based on the total space utilized by each collocated CLEC. Should Embarq benefit in any way whatsoever from the ADA upgrades, it shall share in the proration of costs. Should Embarq be the sole beneficiary of an upgrade (e.g., an upgrade would have had to be made regardless of whether or not a CLEC was collocated in the Premises), Embarq shall absorb all of the costs related to such an upgrade.

89.4. Facility Modifications

- 89.4.1. To the extent that a modification is made for the specific benefit of any particular party, costs of modification are to be proportionately born by those who directly benefit including the ILEC. The cost is allocated using the proportion of the new space occupied to the total new space made available.
- 89.4.2. If a non-requesting party benefits from the modification, e.g., using the opportunity to bring their equipment or arrangement into compliance with certain standards, or making adjustments leading to improvement, then the party will be deemed to be sharing. This party will be responsible for its share of the modification costs.
- 89.4.3. None of the costs will be allocated to a third party that gains incidental benefit, but did not cause the modification or modify their facilities.
- 89.4.4. If a current user of space subsequently initiates new uses of the modified facility by other parties to avoid modification costs or if new entrants use the facility, they will share in the modification costs. The modifying party(s) may recover a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. If measurable depreciation has occurred as a result of the modification, the subsequent party may pay a lower cost.
- 89.4.5. Parties requesting or joining in a modification also will be responsible for resulting costs to maintain the facility on an ongoing basis.

90. EMBARQ SERVICES AND OBLIGATIONS

90.1. Embarq shall furnish air conditioning and/or other environmental controls for the area in which the Collocation Space is located in a manner consistent with those provided elsewhere in the building. Embarq shall furnish air conditioning and/or other environmental controls for the Collocation Space based on information provided by CLEC to Embarq in its Application which CLEC hereby represents to Embarq is sufficient to allow the CLEC equipment to function without risk of harm or damage to the Collocation Space, the building or any equipment or facilities of Embarq or any other occupant of the building. These environmental conditions shall adhere to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed upon standards.

90.1.1. If CLEC locates equipment or facilities in the Collocation Space which Embarq determines, in the exercise of its sole discretion, affect the temperature or other environmental conditions otherwise maintained by Embarq in the building, Embarq reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Collocation Space, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by CLEC's equipment or facilities shall be paid by CLEC to Embarq. If supplementary air conditioning units or other environmental control devices are required for more than one CLEC each CLEC will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation.

90.2. If Embarq, in the exercise of its reasonable business judgment, determines that the electricity provided to CLEC pursuant to this Section is insufficient to support the activity being carried on by the CLEC in the Collocation Space, Embarq may require the installation of additional electrical circuits to provide CLEC with additional electricity and CLEC shall reimburse Embarq for any expenses incurred in making such additional electrical circuits available to CLEC's Collocation Space. CLEC shall also pay for additional electricity provided via these circuits.

90.2.1. CLEC covenants and agrees that Embarq shall not be liable or responsible to CLEC for any loss, damage or expense which CLEC may sustain or incur if either the quality or character of electrical service is changed or is no longer suitable for CLEC's requirements.

90.2.2. CLEC agrees to request in writing, via a complete and accurate Application, all electrical needs to power its equipment. The Application shall contain the total power needs, the date needed, and the exact location where termination of the electrical power shall occur. Actual power usage of the CLEC's equipment shall not exceed the requested capacity.

- 90.2.3. Central office power supplied by Embarq into the CLEC equipment area shall be supplied in the form of power feeders (cables) on cable racking into the designated CLEC equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of CLEC equipment. The termination location shall be as agreed by the parties.
- 90.2.4. Embarq shall provide power as requested by CLEC to meet CLEC's need for placement of equipment, interconnection, or provision of service.
- 90.2.5. Embarq power equipment supporting CLEC's equipment shall:
- (a) Comply with applicable industry standards (*e.g.*, Telcordia, NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout or at minimum, at Parity with that provided for similar Embarq equipment;
 - (b) Have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for CLEC equipment, or, at minimum, at parity with that provided for similar Embarq equipment;
 - (c) Provide, upon CLEC's request and at CLEC's expense, the capability for real time access to power performance monitoring and alarm data that impacts (or potentially may impact) CLEC traffic;
 - (d) Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of CLEC equipment plus or minus two (2) feet to the left or right of CLEC's final request; and
 - (f) Provide feeder cable capacity and quantity to support the ultimate equipment layout for CLEC's equipment in accordance with CLEC's collocation request.
- 90.2.6. Embarq shall provide cabling that adheres to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;
- 90.2.7. Embarq shall provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines.
- 90.2.8. Embarq will provide CLEC with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to CLEC equipment located in Embarq facility. Embarq shall provide CLEC immediate notification by

telephone of any emergency power activity that would impact CLEC's equipment.

90.3. Embarq shall provide fire protection systems in Embarq buildings and on Embarq premises as required by Federal and State regulatory rules and in full compliance with local ordinances. Embarq shall furnish fire or smoke detection systems designed to comply with the National Fire Protection Association (NFPA) Standards on Automatic Fire Detectors.

90.3.1. Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Embarq as required by applicable fire codes.

90.3.2. Embarq and Embarq's insurance carriers will perform regular inspections of fire protection systems, and CLEC hereby agrees to provide Embarq and Embarq's insurance carriers access to the Collocation Space for purposes of such inspections, via pass key or otherwise. Embarq agrees to provide CLEC with notice of its intent to access CLEC's Collocation Space where, in Embarq's sole discretion, such notice is practicable; provided, however, that no failure of Embarq to give such notice will affect Embarq's right of access or impose any liability on Embarq. Embarq will, at its expense, maintain and repair the fire and smoke detection systems unless maintenance or repair is required due to the act or omission of CLEC, its employees, agents or invitees, in which case CLEC shall reimburse Embarq for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, the CLEC shall, if at fault, and at Embarq's option, replace Halon or other fire extinguishing material discharged as a result of CLEC's act or omission. CLEC shall have no duty to inspect fire protection systems outside the Collocation Space; provided, however, if CLEC is aware of damage to the fire protection systems it shall promptly notify Embarq.

90.3.3. CLEC is aware the Collocation Space will contain a fire detection system and may contain a fire suppression system. In the event of discharge, Embarq is relieved of all liability for damage to equipment or personal injury except in cases where such damage to equipment or personal injury is due to the willful misconduct of Embarq, its officers, agents or employees.

90.4. Embarq shall, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishment or decorating to the Collocation Space, building and Premises, in a manner consistent with Embarq's normal business practices.

90.4.1. Embarq shall not be obligated to inspect the Collocation Space, make any repairs or perform any maintenance unless first notified of the need in writing by CLEC. If Embarq shall fail to commence the repairs or maintenance within twenty (20) Days after written notification, provided

that the delay are not caused by CLEC, CLEC's sole right and remedy shall be, after further notice to Embarq, to make such repairs or perform such maintenance and to deduct that cost and expenses from the physical collocation fees payable; provided, however, that the amount of such deduction shall not exceed the reasonable value of such repairs or maintenance.

90.4.2. Embarq shall, where practical, provide CLEC with twenty-four (24) hours prior notice before making repairs and/or performing maintenance on the Collocation Space; provided, however, that Embarq shall have no obligation to provide such notice if Embarq determines, in the exercise of its sole discretion, that such repair or maintenance must be done sooner in order to preserve the safety of the Building or the Collocation Space, or if required to do so by any court or governmental authority. Work shall be completed during normal working hours or at other times identified by Embarq. CLEC shall pay Embarq for overtime and for any other expenses incurred if such work is done during other than normal working hours at CLEC's request. CLEC shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.

90.4.3. The cost of all repairs and maintenance performed by or on behalf of Embarq to the Collocation Space which are, in Embarq's reasonable judgment, beyond normal repair and maintenance, or are made necessary as a result of misuse or neglect by CLEC or CLEC's employees, invitees or agents, shall be paid by CLEC to Embarq within ten (10) Days after being billed for the repairs and maintenance by Embarq.

90.5. Embarq shall provide CLEC with notice via email three (3) Business Days prior to those instances where Embarq or its subcontractors perform work which is known to be a service affecting activity. Embarq will inform CLEC by e-mail of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Embarq learns that such outage has occurred.

90.6. Embarq reserves the right to stop any service when Embarq deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Embarq agrees to use its best efforts not to interfere with CLEC's use of Collocation Space. Embarq does not warrant that any service will be free from interruptions caused by labor controversies, accidents, inability to obtain fuel, water or supplies, governmental regulations, or other causes beyond the reasonable control of Embarq.

90.6.1. No such interruption of service shall be deemed an eviction or disturbance of CLEC's use of the Collocation Space or any part thereof, or render Embarq liable to CLEC for damages, by abatement of CLEC Fees or otherwise, except as set forth in the Tariff, or relieve CLEC from performance of its obligations under this Agreement. CLEC hereby

waives and releases all other claims against Embarq for damages for interruption or stoppage of service.

- 90.7. For physical collocation, subject to reasonable building rules and any applicable Security Arrangements, CLEC shall have the right of entry twenty-four (24) hours per day seven (7) days a week to the building, common areas, Collocation Space and common cable space.

90.7.1. Embarq reserves the right to close and keep locked all entrance and exit doors of the Premises during hours Embarq may deem advisable for the adequate protection of the Premises. Use of the Premises at any time it is unattended by appropriate Embarq personnel, or on Sundays and state and federal or other holidays recognized by Embarq, or, if CLEC's Collocation Space is not fully segregated from areas of the Premises containing Embarq equipment, shall be subject to such reasonable rules and regulations as Embarq may from time to time prescribe for its own employees and third party contractors.

90.7.2. Embarq reserves the right to require all persons entering or leaving the Premises during such hours as Embarq may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to leave or enter, and to exclude or expel any solicitor or person at any time from the Collocation Space or the Premises. Embarq is not responsible and shall not be liable for any damage resulting from the admission or refusal to admit any unauthorized person or from the admission of any authorized person to the Premises.

- 90.8. Embarq shall have access to CLEC's Physical Collocation Space at all times, via pass key or otherwise, to allow Embarq to react to emergencies, to maintain the space (not including CLEC's equipment), and to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Embarq, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. If a secure enclosure defining the location of the CLEC's Collocation Space has been established, and if conditions permit, Embarq will provide CLEC with notice (except in emergencies) of its intent to access the Collocation Space, thereby providing CLEC the option to be present at the time of access. CLEC shall not attach, or permit to be attached, additional locks or similar devices to any door or window, nor change existing locks or the mechanism thereof.

90.8.1. Embarq may enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Embarq deems necessary. CLEC hereby waives any claim for damage, injury, interference with CLEC's business, any loss of occupancy or quiet enjoyment of the Collocation Space, and any other loss occasioned by the exercise of Embarq's access rights, except in the event such damages result solely from the willful misconduct of Embarq.

- 90.8.2. Embarq may use any means Embarq may deem proper to open Collocation Space doors or enclosures in an emergency. Entry into the Collocation Space obtained by Embarq by any such means shall not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of CLEC from the Collocation Space or any portion thereof.

91. CLEC'S OBLIGATIONS

- 91.1. CLEC shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. CLEC shall promptly notify Embarq of any damage to the Collocation Space or of the need to perform any repair or maintenance of the Collocation Space, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical, and other mechanical facilities in the Collocation Space). CLEC shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.
- 91.2. CLEC agrees to abide by all of Embarq's security practices for non-Embarq employees with access to the building, including, without limitation:
- 91.2.1. CLEC must obtain non-employee photo identification cards for each CLEC employee or vendor. Temporary identification cards may otherwise be provided by Embarq for employees or agents, contractors and invitees of CLEC who may require occasional access to the Collocation Space.
- 91.2.2. CLEC will supply to Embarq the completed access form for employees or approved vendors who require access to the Premises. Embarq may reasonably deny access to any person into the building. Embarq's objections will be consistent with the grounds for denying access to personnel of its own contractors or for denying employment directly with Embarq. Embarq may issue security cards, codes, or keys to CLEC's listed employees or vendors where such systems are available and their use by CLEC will not otherwise compromise building security. The rate for the issuance of security cards is listed on Table Two.
- 91.2.3. CLEC is responsible for returning identification and security cards, codes, or keys of its terminated employees or its employees who no longer require access to the Collocation Space. All cards, codes, or keys must be returned upon termination of the applicable Collocation Space. CLEC will reimburse Embarq actual costs due to unreturned or replacement cards, codes, or keys.
- 91.2.4. In the event that a key is lost, CLEC is responsible for costs associated with recoring locks and reissuing keys to Embarq and other parties authorized to access the Premise.
- 91.2.5. CLEC's employees, agents, invitees and vendors must display identification cards at all times.

- 91.2.6. CLEC will assist Embarq in validation and verification of identification of its employees, agents, invitees and vendors by providing a telephone contact available twenty-four (24) hours a day, seven (7) days a week to verify identification.
- 91.2.7. Removal of all furniture, equipment or similar articles will be based on local Embarq security practices. These security practices will not be more stringent for CLEC than Embarq requires for its own employees or Embarq's contractors.
- 91.2.8. Before leaving the Collocation Space unattended, CLEC shall close and securely lock all doors and windows and shut off unnecessary equipment in the Collocation Space. Any injury to persons or damage to the property of Embarq or any other party with equipment in the Building resulting from CLEC's failure to do so shall be the responsibility of CLEC. CLEC will defend and indemnify Embarq from and against any claim by any person or entity resulting in whole or in part from CLEC's failure to comply with this Section.
- 91.2.9. CLEC agrees that Embarq may provide a security escort for physical collocation, at no cost or undue delay to CLEC, to CLEC personnel while on Embarq Premises. While such escort shall not be a requirement to CLEC's entry into the Building, CLEC must allow the security escort to accompany CLEC personnel at all times and in all areas of the Building, including the Collocation Space, if so requested.
- 91.2.10. CLEC shall post in a prominent location visible from the common building area, the names and telephone numbers of emergency contact personnel along with names and telephone numbers of their superiors for 24 hour emergency use by Embarq. CLEC shall promptly update this information as changes occur.
- 91.3. CLEC will provide Embarq with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Embarq equipment located in CLEC facility. CLEC shall provide Embarq immediate notification by telephone of any emergency power activity that would impact Embarq equipment.
- 91.4. CLEC shall not provision and/or install Uninterruptible Power Supply ("UPS") systems within the Embarq premises. The customer is permitted to install Inverted Power Systems if and only if documented compliance with National Equipment Building Standards (NEBS) III and Listing by Underwriters Laboratory (UL) has been met.
- 91.5. CLEC shall not place Electro-Chemical Storage Batteries of any type inside the Collocation Space.

- 91.6. CLEC shall provide Embarq with written notice three (3) Business Days prior to those instances where CLEC or its subcontractors perform work, which is to be a known service affecting activity. CLEC will inform Embarq by e-mail of any unplanned service outages. The parties will then agree upon a plan to manage the outage so as to minimize customer interruption. Notification of any unplanned service outage shall be made as soon as practicable after CLEC learns that such outage has occurred so that Embarq can take any action required to monitor or protect its service.
- 91.7. CLEC may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by CLEC and at CLEC's expense, Embarq will provide basic telephone service with a connection jack in the Collocation Space.
- 91.8. CLEC shall, with the prior written consent of Embarq, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that CLEC may not install or use sprinklers or carbon dioxide fire suppression systems within the building or the Collocation Space.
- 91.8.1. If any governmental bureau, department or organization or Embarq's insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the building in which the Collocation Space of CLECs in general are located, such changes, modifications, or additions shall be made by Embarq and CLEC shall reimburse Embarq for the cost thereof in the same proportion as the size of the CLEC's Collocation Space as compared to the total available collocation space in the affected portion of the building.
- 91.9. CLEC shall identify and shall notify Embarq in writing of any Hazardous Materials CLEC may bring onto the Premises, and will provide Embarq copies of any inventories or other data provided to State Emergency Response Commissions ("SERCs"), Local Emergency Planning Committees ("LEPCs"), or any other governmental agencies if required by the Emergency Planning and Community Right to Know Act (41 USC 11001, *et seq.*). CLEC, its agents and employees shall transport, store and dispose of Hazardous Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. CLEC will promptly notify Embarq of any releases of Hazardous Materials and will copy Embarq on any notification of or correspondence with any governmental agency which may be required by any environmental law as a result of such release.
- 91.9.1. CLEC shall provide Embarq copies of all Material Safety Data Sheets ("MSDSs") for materials or chemicals regulated under the OSHA Hazard Communication Standard (29 CFR 1910.1200) that are brought onto the property. All such materials shall be labeled in accordance with

29 CFR 1910.1200 and applicable state regulations if such regulations are more stringent.

- 91.9.2. If Embarq discovers that CLEC has brought onto Embarq's Premises Hazardous Materials without notification, or is storing or disposing of such materials in violation of any applicable environmental law, Embarq may, at Embarq's option and without penalty, terminate the applicable Collocation Space or, in the case of pervasive violation, this Agreement or suspend performance hereunder. CLEC shall be responsible for, without cost to Embarq, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. CLEC shall also be responsible for removing and disposing of all Hazardous Materials on its Collocation Space at the termination of the applicable Collocation Space or this Agreement. If Embarq elects to terminate the applicable Collocation Space or this Agreement or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials contrary to the terms of this Agreement, CLEC shall have no recourse against Embarq and shall be responsible for all costs and expenses associated with such termination or suspension of service in addition to being responsible for any remedies available to Embarq for defaults under this Agreement.
- 91.9.3. CLEC shall indemnify and hold harmless Embarq, its successors and assigns against, and in respect of, any and all damages, claims, losses, liabilities and expenses, including, without limitation, all legal, accounting, consulting, engineering and other expenses, which may be imposed upon, or incurred by, Embarq or asserted against Embarq by any other party or parties (including, without limitation, Embarq's employees and/or contractors and any governmental entity) arising out of, or in connection with, CLEC's use, storage or disposal of Hazardous Materials.
- 91.9.4. For purposes of this Section, "Hazardous Materials" shall mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation, asbestos) as defined in, or pursuant to, the OSHA Hazard Communication Standard (29 CFR Part 1910, Subpart Z), the Resource Conservation and Recovery Act of 1976 (42 USC Section 6901, et seq.), or regulations adopted pursuant to those statutes, the Toxic Substances Control Act (15 USC Section 2601, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Section 9601, et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall survive the termination, cancellation, modification or recession of this Agreement.
- 91.10. CLEC shall not do or permit anything to be done upon the Collocation Space, or bring or keep anything thereon which is in violation of any federal, state or local laws or regulations (including environmental laws or regulations not previously

described), or any rules, regulations or requirements of the local fire department, Fire Insurance Rating Organization, or any other similar authority having jurisdiction over the building. CLEC shall not do or permit anything to be done upon the Collocation Space which may in any way create a nuisance, disturb, endanger, or otherwise interfere with the Telecommunications Services of Embarq, any other occupant of the building, their patrons or customers, or the occupants of neighboring property, or injure the reputation of the Premises.

91.10.1. CLEC shall not exceed the Uniformly Distributed Live Load Capacity. Embarq shall evaluate and determine Live Load Capacity rating on a site specific basis prior to equipment installation. CLEC agrees to provide Embarq with equipment profile information prior to installation authorization.

91.10.2. CLEC shall not paint, display, inscribe or affix any sign, trademark, picture, advertising, notice, lettering or direction on any part of the outside or inside of the building, or on the Collocation Space, without the prior written consent of Embarq.

91.10.3. CLEC shall not use the name of the building or Embarq for any purpose other than that of the business address of CLEC, or use any picture or likeness of the building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Embarq.

91.10.4. CLEC shall not exhibit, sell or offer for sale, rent or exchange in the Collocation Space or on the Premises any article, thing or service except those ordinarily embraced within the use of the Collocation Space specified in Sections 3 and 11 of this Agreement without the prior written consent of Embarq.

91.10.5. CLEC shall not place anything or allow anything to be placed near the glass of any door, partition or window which Embarq determines is unsightly from outside the Collocation Space; take or permit to be taken in or out of other entrances of the building, or take or permit to be taken on any passenger elevators, any item normally taken through service entrances or elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, or shipping platform. CLEC shall lend its full cooperation to keep such areas free from all obstruction and in a clean and neat condition, move all supplies, furniture and equipment directly to the Collocation Space as soon as received, and move all such items and waste, other than waste customarily removed by employees of the building.

91.10.6. CLEC shall not, without the prior written consent of Embarq install or operate any lead-acid batteries, refrigerating, heating or air conditioning apparatus or carry on any mechanical business in the Collocation Space. Embarq may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.

- 91.10.7. CLEC shall not use the Collocation Space for housing, lodging or sleeping purposes.
- 91.10.8. CLEC shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space.
- 91.10.9. CLEC shall not permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Collocation Space or permit the presence of any animals except those used by the visually impaired.
- 91.11. CLEC, its employees, agents, contractors, and business invitees shall:
 - 91.11.1. comply with all rules and regulations which Embarq may from time to time adopt for the safety, environmental protection, care, cleanliness and/or preservation of the good order of the building, the Premises and the Collocation Space and its tenants and occupants, and
 - 91.11.2. comply, at its own expense, with all ordinances which are applicable to the Collocation Space and with all lawful orders and requirements of any regulatory or law enforcement agency requiring the correction, prevention and abatement of nuisances in or upon the Collocation Space during the Term of this Agreement or any extension hereof.
- 91.12. CLEC shall not make installations, alterations or additions in or to the Collocation Space without submitting plans and specifications to Embarq and securing the prior written consent of Embarq in each instance. Embarq's consent shall not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Collocation Space that do not adversely affect the building's appearance, value, structural strength and mechanical integrity. Such work shall be done at the sole expense of CLEC.
 - 91.12.1. All installations, alterations and additions shall be constructed in a good and workmanlike manner and only new and good grades of material shall be used, and shall comply with all insurance requirements, governmental requirements, and terms of this Agreement. Work shall be performed at such times and in such manner as to cause a minimum of interference with Embarq's transaction of business. CLEC shall permit Embarq to inspect all construction operations within the Collocation Space.
 - 91.12.2. All installations, alterations and additions which take the form of fixtures, except trade fixtures, placed in the Collocation Space by and at the expense of CLEC or others shall become the property of Embarq, and shall remain upon and be surrendered with the Collocation Space. Upon termination of this Agreement, however, Embarq shall have the right to require CLEC to remove such fixtures and installations, alterations or additions at CLEC's expense, and to surrender the

Collocation Space in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.

91.12.3. All fixtures and other equipment to be used by CLEC in, about or upon the Collocation Space shall be subject to the prior written approval of Embarq, which shall not be unreasonably withheld.

91.13. Fireproofing Policy. CLEC shall not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Collocation Space or the Building, outside or inside, without the prior written consent of Embarq. If CLEC desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of CLEC. Embarq shall have the right of prior approval of such utility or service connections, and shall direct where and how all connections and wiring for such service shall be introduced and run. In all cases, in order to maintain the integrity of the Halon space for proper Halon concentration, and to ensure compliance with Embarq's fireproofing policy, any penetrations by CLEC, whether in the Collocation Space, the building or otherwise, shall be sealed as quickly as possible by CLEC with Embarq-approved fire barrier sealants, or by Embarq at CLEC's cost.

91.14. Equipment Grounding. CLEC equipment shall be connected to Embarq's grounding system.

91.15. Representations and Warranties. CLEC hereby represents and warrants that the information provided to Embarq in any Application or other documentation relative to CLEC's request for telecommunications facility interconnection and Central Office building collocation as contemplated in this Agreement is and shall be true and correct, and that CLEC has all necessary corporate and regulatory authority to conduct business as a telecommunications carrier. Any violation of this Section shall be deemed a material breach of this Agreement.

92. BUILDING RIGHTS

92.1. Embarq may, without notice to CLEC:

92.1.1. Change the name or street address of the Premises;

92.1.2. Install and maintain signs on the exterior and interior of the Premises or anywhere on the Premises;

92.1.3. Designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverages, foods, towels, vending machines or toilet supplies used or consumed in the Collocation Space;

92.1.4. Have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding CLEC's safes;

92.1.5. Reduce heat, light, water and power as required by any mandatory or voluntary conservation programs;

- 92.1.6. Approve the weight, size and location of safes, computers and all other heavy articles in and about the Collocation Space and the Building, and to require all such items and other office furniture and equipment to be moved in and out of the Building or Collocation Space only at such times and in such a manner as Embarq shall direct and in all events at CLEC's sole risk and responsibility;
- 92.1.7. At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Collocation Space, the Premises, or any part thereof (including, without limitation, the permanent or temporary relocation of any existing facilities such as parking lots or spaces), and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through the Collocation Space or any part of the Premises all material and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities. Embarq shall limit inconvenience or annoyance to CLEC as reasonably possible under the circumstances;
- 92.1.8. Do or permit to be done any work in or about the Collocation Space or the Premises or any adjacent or nearby building, land, street or alley;
- 92.1.9. Grant to anyone the exclusive right to conduct any business or render any service on the Premises, provided such exclusive right shall not operate to exclude CLEC from the use expressly permitted by this Agreement, unless Embarq exercises its right to terminate this Agreement with respect to all or a portion of the Collocation Space;
- 92.1.10. Close the Building at such reasonable times as Embarq may determine, under such reasonable regulations as shall be prescribed from time to time by Embarq subject to CLEC's right to access.
- 92.2. If the owner of the Building or Embarq sells, transfers or assigns any interest in the Building, or there is any material change in the Lease to which the Building is subject, and such sale, transfers assignment or material change in the Lease gives rise to an obligation which is inconsistent with this Agreement, Embarq's performance under this Agreement shall be excused to the extent of the inconsistency. Embarq hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation shall in no way obligate Embarq to incur any out of pocket expenses in its efforts to avoid such inconsistencies.
- 92.3. This Agreement shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments) that may be placed on the Collocation Space and CLEC agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

93. INDEMNIFICATION

- 93.1. CLEC shall indemnify and hold Embarq harmless from any and all claims arising from:
 - 93.1.1. CLEC's use of the Collocation Space;
 - 93.1.2. the conduct of CLEC's business or from any activity, work or things done, permitted or suffered by CLEC in or about the Collocation Space or elsewhere;
 - 93.1.3. any and all claims arising from any breach or default in the performance of any obligation on CLEC's part to be performed under the terms of this Agreement; and
 - 93.1.4. any negligence of the CLEC, or any of CLEC's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
- 93.2. If any action or proceeding is brought against Embarq by reason of any such claim, CLEC, upon notice from Embarq, shall defend same at CLEC's expense employing counsel satisfactory to Embarq.
- 93.3. CLEC shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of CLEC, or out of any work performed, material furnished, or obligations incurred by CLEC in, upon or otherwise in connection with the Collocation Space. CLEC shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLEC's liability under this Section.
 - 93.3.1. If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLEC shall give Embarq written notice thereof as soon as CLEC obtains such knowledge.
 - 93.3.2. CLEC shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and for the account of CLEC, from obtaining such discharge and release if CLEC fails or refuses to do the same within the thirty-day period.
 - 93.3.3. If CLEC has first discharged the lien as provided by law, CLEC may, at CLEC's expense, contest any mechanic's lien in any manner permitted by law.

94. PARTIAL DESTRUCTION

- 94.1. If the Collocation Space or a portion thereof sufficient to make the Collocation Space substantially unusable shall be destroyed or rendered unoccupiable by fire or other casualty, Embarq may, at its option, restore the Collocation Space to its previous condition. CLEC's rights to the applicable Collocation Space shall not terminate unless, within ninety (90) Days after the occurrence of such casualty, Embarq notifies CLEC of its election to terminate CLEC's rights to the applicable Collocation Space. If Embarq does not elect to terminate CLEC's rights to the applicable Collocation Space, Embarq shall repair the damage to the Collocation Space caused by such casualty.
- 94.2. Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of CLEC, its agents, employees, contractors, CLECs, customers or business invitees, unless Embarq otherwise elects, the CLEC's rights to the applicable Collocation Space shall not terminate, and, if Embarq elects to make such repairs, CLEC shall reimburse Embarq for the cost of such repairs, or CLEC shall repair such damage, including damage to the building and the area surrounding it, and the License Fee shall not abate.
- 94.3. If the building shall be damaged by fire or other casualty to the extent that portions are rendered unoccupiable, notwithstanding that the Collocation Space may be directly unaffected, Embarq may, at its election within ninety (90) Days of such casualty, terminate CLEC's rights to the applicable Collocation Space by giving written notice of its intent to terminate CLEC's rights to the applicable Collocation Space. The termination as provided in this paragraph shall be effective thirty (30) Days after the date of the notice.

95. EMINENT DOMAIN

- 95.1. If the Premises, or any portion thereof which includes a substantial part of the Collocation Space, shall be taken or condemned by any competent authority for any public use or purpose, CLEC's rights to the applicable Collocation Space shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of the Premises, or if the grade of any street or alley adjacent to the Premises is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the Premises to conform to the changed grade, Embarq shall have the right to terminate CLEC's rights to the applicable Collocation Space upon not less than 30 Days notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Embarq to CLEC for such cancellation, and the CLEC shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

96. BANKRUPTCY

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

97. ASBESTOS

- 97.1. CLEC is aware the Premises in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and CLEC is hereby notified that the Premises in which the Collocation Space is located may contain asbestos or asbestos containing building material (ACBM). CLEC agrees that it is responsible for contacting the appropriate Embarq manager responsible for the Premises to determine the presence, location and quantity of asbestos or ACBM that CLEC's employees, agents, or contractors may reasonably expect to encounter while performing activities in the Premises. CLEC shall not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with, or resulting from the disturbance of asbestos or ACBM in the Premises unless such disturbance arises out of or in connection with, or results from CLEC's use of the Collocation Space or placement of equipment onto ACBM or into areas containing asbestos identified by Embarq. Embarq agrees to provide CLEC reasonable notice prior to undertaking any asbestos control, abatement, or other activities which may disturb asbestos or ACBM that could potentially affect CLEC's equipment or operations in the Collocation Space, including but not limited to the contamination of such equipment. Embarq will not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with the presence of asbestos in Embarq Premises.

98. MISCELLANEOUS

- 98.1. CLEC warrants that it has had no dealings with any broker or agent in connection with this Agreement, and covenants to pay, hold harmless and indemnify Embarq from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Agreement or the negotiation thereof.
- 98.2. Submission of this instrument for examination or signature by Embarq does not constitute a reservation of or option for license and it is not effective, as a license or otherwise, until execution and delivery by both Embarq and CLEC.
- 98.3. Neither Embarq nor its agents have made any representation or warranties with respect to the Collocation Space of this Agreement except as expressly set forth

herein; no rights, easements, or licenses shall be acquired by CLEC by implication or otherwise unless expressly set forth herein.

98.4. In the event of work stoppages, Embarq may establish separate entrances for use by personnel of CLEC. CLEC shall comply with any emergency operating procedures established by Embarq to deal with work stoppages.

98.5. The individuals executing this Agreement on behalf of CLEC represent and warrant to Embarq they are fully authorized and legally capable of executing this Agreement on behalf of CLEC.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed and accepted by its duly authorized representatives.

“Customer”

“Embarq”

By: _____

By: _____

Name : _____

Name: William E. Cheek

Title: _____

Title: President Wholesale Markets

Date: _____

Date: _____

TABLE ONE

TABLE TWO

EXHIBIT A

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@Embarq.com]
Sent: Tuesday, September 11, 2007 7:14 AM
To: Ballesteros, Rebecca
Cc: Hicks, Thomas
Subject: RE: Intrado-Embarq 251 Call

Great - I have it scheduled. We can use my bridge - 866-459-9589 Code 913-315-7858. We will have Julie Ward - Regulatory Policy, Dick Showers - Network, Jennifer Trowbridge - 911 and me - Contract Negotiation.

From: Ballesteros, Rebecca [mailto:Rebecca.Ballesteros@Intrado.com]
Sent: Monday, September 10, 2007 5:48 PM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: RE: Intrado-Embarq 251 Call

We would like to hold the call on Tuesday 9/18 beginning at 9:00 a.m. Central. Tom Hicks and myself will be on the call for Intrado Comm. Please send us the call-in information.

Thank you.

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@Embarq.com]
Sent: Monday, September 10, 2007 12:12 PM
To: Ballesteros, Rebecca
Subject: RE: Intrado-Embarq 251 Call

Rebecca - We are available to meet the following times (all CST).

Tues. 9/18 - 9-10
Tues 9/25 - 9-10:30 or 11-2
Friday 9/28 - 1:30 -3

From: Ballesteros, Rebecca [mailto:Rebecca.Ballesteros@Intrado.com]
Sent: Tuesday, September 04, 2007 10:19 AM
To: Feeney, Kathryn L [EQ]
Subject: Intrado-Embarq 251 Call

Please let us know if you require additional information before we can schedule a meet & greet call. Thank you.

From: Hicks, Thomas
Sent: Tuesday, September 04, 2007 7:54 AM
To: Ballesteros, Rebecca
Cc: Hicks, Thomas
Subject: FW: Intrado-Embarq 251 Call

Rebecca,

I am providing this information about our service needs for Embarq's consideration as possible discussion topics for our introduction and general discussion conference call this afternoon.

- Intrado Communications Inc. (Intrado Comm) is currently certificated in most Embarq-served states. We anticipate obtaining certification in Ohio and Pennsylvania before year end.
- Intrado Comm plans to provide IP-based Next Generation E911 network services throughout much of Embarq's serving areas, and will be deploying secured emergency network technology capable of interfacing with existing TDM legacy networks, as well as seamless interoperability with legacy CPE PSAP-based apparatus.
- Because Intrado has not yet purchased physical transport facilities from Embarq (i.e. fiber optics, copper, radio, etc.) typically required to interconnect the Intrado Comm 911 network components, Intrado will need to order select interconnection services from Embarq or other providers to interconnect the network elements of Intrado's selective routing system with public safety locations. Such interconnection may include both special access and UNE loops.
- Given the nature of wireless call routing and the potential need to transfer wireless 911 calls between selective routing networks with ALI, there will be requirements for cooperative interconnection arrangements between Embarq's 911 tandems and Intrado Comm's 911 selective routing systems. Inter-selective routing trunking will likely be necessary in both directions so that Embarq-served PSAPs and Intrado Comm-served PSAPs may transfer calls in either direction. This interoperability may be similar to those functions Embarq already currently performs in other areas.
- Intrado may also need to arrange for collocation within Embarq's end offices where cost savings may be realized and passed on to the 911 controlling authorities subscribing to our services.
- Where Intrado Comm has been designated as the 911 network service provider by a 911 controlling authority AND where Embarq end users are to be served by Intrado-served PSAPs, Embarq will need to provide the translations and interconnecting facilities to Intrado's point of interface (POI) for those end offices. Embarq performs in this manner today where other ILECs are providing E911 selective routing and ALI services.

For our initial call I would suggest we use the following list of topics as an agenda for the call, but am very willing to include other topics they may wish to discuss.

1. Introductions
2. Brief Background on Intrado Comm
3. Timing and immediate locations to be served by Intrado Comm
4. The importance of interoperability for wireless call transfers between Embarq and Intrado Comm
5. The importance of Embarq termination to the Intrado Comm 911 network to enable Embarq end users to reach Intrado Comm-served PSAPs.
6. The importance of ALI node interconnection for purposes of No Record Found steering where capabilities exists.
7. The importance of mirroring pANI steering table entries.

I have also attached a high level diagram that may aid us in our discussion.

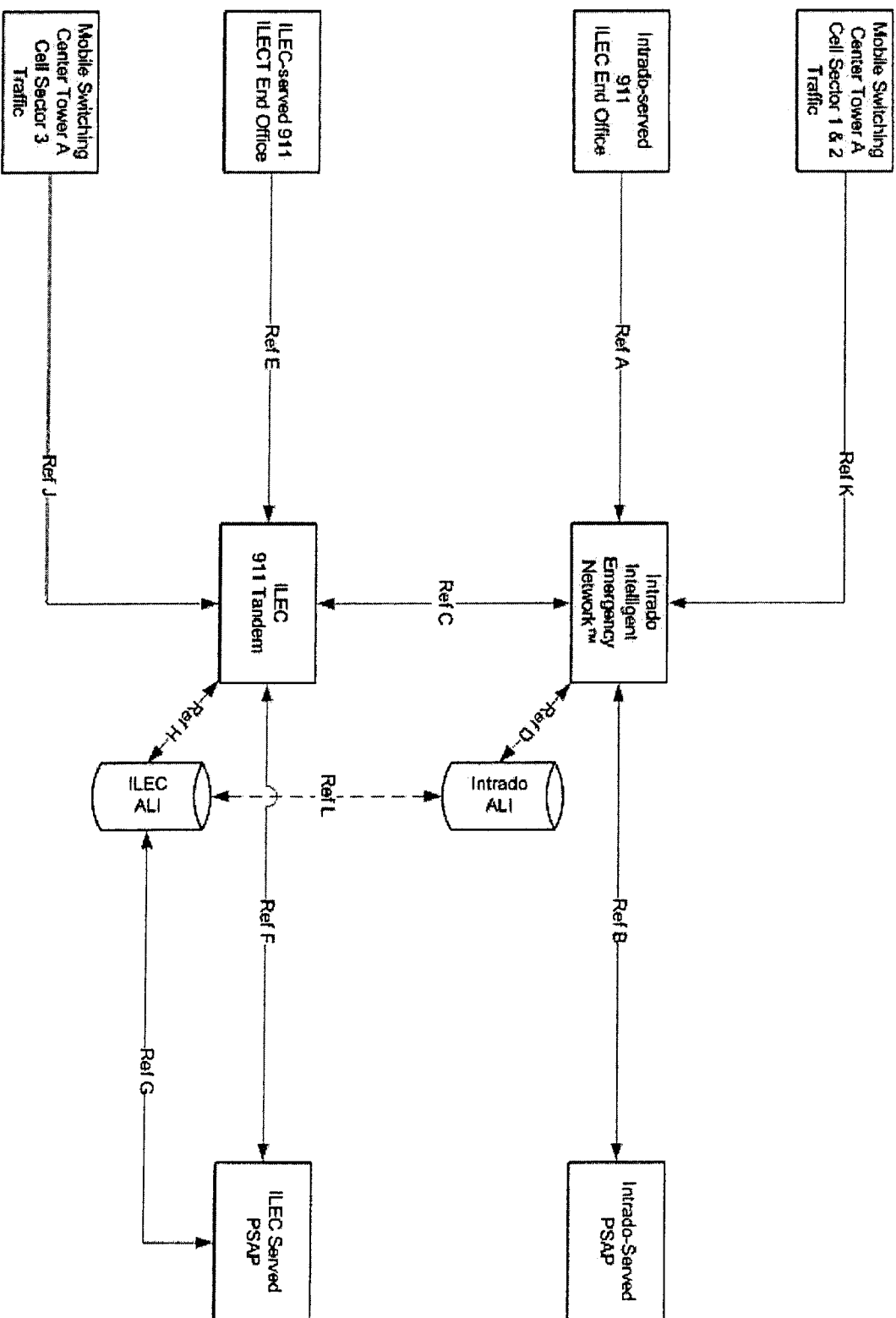
Please forward this along to your Embarq contacts if you believe it to be appropriate for our call.

Best Regards,

Tom Hicks, ENP
Intrado Inc.
Director- Carrier Relations

Tel: (972) 772-5883
Mob: (972) 342-4482
Email: thomas.hicks@intrado.com

Intrado Intelligent Emergency Network™ Interoperable Network Interconnections



From: Hicks, Thomas
Sent: Sunday, September 23, 2007 9:33 PM
To: Kathryn Feeney (Kathryn.L.Feeney@Embarq.com)
Cc: Hicks, Thomas
Subject: Intrado-Embarq 251 Interconnection Agreement

Dear Kathryn,

The attached file contains Intrado's proposed changes and additions to *select* sections of Embarq's 251 agreement template, and are being submitted for you and your organization's review and consideration.

Our edits are representative of the joint discussions we had with Ms. Trowbridge, Ms. Lott, Mr. Andrews, Mr. Knight, Mr. Maples, Mr. Showers and Mr. Smith on September 18. Clearly we are eager to bring closure to this negotiation, so please feel free to call me if you should need immediate clarification of our proposed changes. Further, please be advised that we have not as yet finalized our edits to Sections 10, 11, 12 and 27, but hope to do so early this week.

If we were to schedule a conference call for this coming Thursday (Sep 27) or Friday (Sep 28), would that afford you and your organization enough time to be able to share any questions or concerns you may have with our proposed edits?

Your expedited response is greatly appreciated.

Best Regards,

Tom Hicks, ENP
Intrado Inc.
Director- Carrier Relations
Tel: (972) 772-5883
Mob: (972) 342-4482
Email: thomas.hicks@intrado.com



**INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT
FOR THE STATE OF [INSERT STATE NAME]**

*Insert Date of Agreement
(leave blank until ready for final signature)*

Intrado Communications Inc.

and

[Insert Embarq Company Name]

THIS DOCUMENT IS A DRAFT AND REPRESENTS THE CURRENT POSITIONS OF THE EMBARQ LOCAL OPERATING COMPANIES WITH RESPECT TO INTERCONNECTION AND RESALE. EMBARQ RESERVES THE RIGHT TO MODIFY THIS DRAFT AGREEMENT, INCLUDING ANY APPENDICES, SCHEDULES AND/OR ATTACHMENTS THERETO, AT ANY TIME PRIOR TO THE EXECUTION OF A FINAL AGREEMENT BY BOTH PARTIES. THIS DOCUMENT IS NOT AN OFFER. TO THE EXTENT THE PARTIES AGREE TO ALSO NEGOTIATE NETWORK ELEMENTS, SERVICES, OR INTERCONNECTION RATES, TERMS AND CONDITIONS NOT GOVERNED BY 47 USC 251 ("NON-251 SERVICES"), THE PARTIES AGREEMENT TO NEGOTIATE BOTH TYPES OF SERVICES DOES NOT MAKE THE NON-251 SERVICES SUBJECT TO THE PROVISIONS OF 47 USC 252 AND DOES NOT TRIGGER THE VARIOUS PROCESSES UNDER SECTION 252, INCLUDING THE RIGHT TO COMPULSORY ARBITRATION OF THE RATES, TERMS AND CONDITIONS FOR NON-251 SERVICES. FURTHER, CLC INTRADO COMM AGREES NOT TO ARGUE THAT AGREEMENT TO DISCUSS BOTH 251 AND NON-251 SERVICES CONSTITUTES AN AGREEMENT BY EMBARQ THAT THE NON-251 SERVICES ARE SUBJECT TO 252.

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INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT

This Interconnection, Collocation and Resale Agreement (the "Agreement"), dated this ____ day of _____, 20__, is entered into by and between [~~Insert CLEC Name~~]Intrado Communications Inc (hereafter referred to as INTRADO COMM) (~~CLEC~~), a [~~Insert State Name~~] corporation, and [~~Insert Embarq Company Name~~] ("Embarq"), a [~~Insert state of incorporation~~] corporation, to establish the rates, terms and conditions for local interconnection, collocation, local resale, and purchase of unbundled Network Elements (individually referred to as the "service" or collectively as the "services").

WHEREAS, the Parties wish to interconnect their local exchange networks for the purposes of transmission and termination of calls, so that customers of each can receive calls that originate on the other's network and place calls that terminate on the other's network, and for ~~CLEC~~INTRADO COMM's use in the provision of exchange access ("Local Interconnection"); and

WHEREAS, ~~CLEC~~INTRADO COMM wishes to purchase Telecommunications Services for resale to others, and Embarq is willing to provide these services; and

WHEREAS, ~~CLEC~~INTRADO COMM wishes to purchase unbundled Network Elements, ancillary services and functions and additional features ("Network Elements") for the provision of Telecommunications Services to others, and Embarq is willing to provide unbundled Network Elements and services; and

WHEREAS, the Parties intend the rates, terms and conditions of this Agreement, and their performance of obligations thereunder, to comply with the Communications Act of 1934, as amended (the "Act"), the Rules and Regulations of the Federal Communications Commission ("FCC"), and the orders, rules and regulations of the Commission; and

WHEREAS, the Parties wish to replace any and all other prior agreements, written and oral, applicable to the state of [~~Insert State Name~~].

Now, therefore, in consideration of the terms and conditions contained in this Agreement, ~~CLEC~~INTRADO COMM and Embarq hereby mutually agree as follows:

PART A – DEFINITIONS

1. DEFINED TERMS

- 1.1. Capitalized terms defined in this Section shall have the meanings as set forth in this Agreement. Other terms used but not defined will have the meanings ascribed to them in the Act or in the Rules and Regulations of the FCC or the Commission. The Parties acknowledge that other terms appear in this Agreement, which are not defined or ascribed as stated above. The Parties agree that any such terms shall be construed in accordance with their customary usage in the telecommunications industry as of the Effective Date of this Agreement.
- 1.2. **“911 Service”** means a universal telephone number which gives the public direct access to the Public Safety Answering Point (“PSAP”). Basic 911 service collects 911 calls from one or more local exchange switches that serve a geographic area. The calls are then sent to the correct authority designated to receive such calls.
- 1.3. **“Access Services”** refers to interstate and intrastate switched access and private line transport services.
- 1.4. **“Act”** means the Communications Act of 1934, as amended.
- 1.5. **“Affiliate”** is as defined in the Act.
- 1.6. **“Augment”** refers to a modification (increase/addition or decrease/reduction) to an existing Collocation Arrangement. Examples include changes to the space, cage, power, cross-connect cabling, conduit, vault, riser, or cabling associated with the Collocation Arrangement.
- 1.7. **“Automated Message Accounting”** (“AMA”) is the structure inherent in switch technology that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Telcordia as GR-1100-CORE which defines the industry standard for message recording.
- 1.8. **“Automatic Location Identification”** (“ALI”) means a feature that provides the caller’s telephone number, address and the names of the Emergency Response agencies that are responsible for that address.
- 1.9. **“Automatic Location Identification/Data Management System”** (“ALI/DMS”) means the emergency service (“E911/911”) database containing subscriber location information (including name, address, telephone number, and sometimes special information from the local service provider) used to determine to which Public Safety Answering Point (“PSAP”) to route the call.
- 1.10. **“Automatic Number Identification”** (“ANI”) is a feature that identifies and displays the number of a telephone line that originates a call.

- 1.11. **“Automatic Route Selection” (“ARS”)** is a service feature associated with a specific grouping of lines that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.
- 1.12. **“ATU - C”** refers to an ADSL Transmission Unit - Central Office.
- 1.13. **“Busy Line Verify/Busy Line Verify Interrupt” (“BLV/BLVI”)** means an operator call in which the caller inquires as to the busy status of, or requests an interruption of a call on another subscriber’s telephone line.
- 1.14. **“Business Day(s)”** means the days of the week excluding Saturdays, Sundays, and all Embarq holidays.
- 1.15. **“Business Line”** is an Embarq-owned switched access line used to serve a business customer, whether by Embarq or by a competitive LEC that leases the line from Embarq. The number of Business Lines in a Wire Center shall equal the sum of all Embarq business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, Business Line tallies (1) shall include only those access lines connecting end-user customers with Embarq end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to twenty-four (24) 64 kbps-equivalents, and therefore to twenty-four (24) “Business Lines.”
- 1.16. **“Cable Vault”** shall mean a location in a Premises where facilities enter the Premises from the Outside Cable Duct and access the Inner Duct for distribution within the Premises.
- 1.17. **“Carrier Access Billing System” (“CABS”)** is the system which is defined in a document prepared under the direction of the Billing Committee of the OBF. The CABS document is published by Telcordia in Volumes 1, 1A, 2, 3, 3A, 4 and 5 as Special Reports SR-OPT-001868, SR-OPT-001869, SR-OPT-001871, SR-OPT-001872, SR-OPT-001873, SR-OPT-001874, and SR-OPT-001875, respectively, and contains the recommended guidelines for the billing of access and other connectivity services. Embarq’s carrier access billing system is its Carrier Access Support System (CASS). CASS mirrors the requirements of CABS.
- 1.18. **“Central Office Building” or “Building”** shall mean a structure (not including a controlled environment vault (“CEV”)) housing Embarq network equipment that is under the control of Embarq and for which Embarq has the right to grant access and/or occupation by third parties.
- 1.19. **“Central Office Switches”** - are switching facilities within the public switched telecommunications network, including, but not limited to:
- 1.19.1. **“End Office Switches” (“EOs”)** are switches from which end user Telephone Exchange Services are directly connected and offered.

- 1.19.2. **“Tandem Switches”** are switches that are used to connect and switch trunk circuits between and among Central Office Switches.
- 1.19.3. **“Remote Switches”** are switches that are away from their host or control office. All or most of the central control equipment for the remote switch is located at the host or Control Office.
- 1.20. **“Centrex”** means a Telecommunications Service associated with a specific grouping of lines that uses central office switching equipment for call routing to handle direct dialing of calls, and to provide numerous private branch exchange-like features.
- 1.21. **“CLASS/LASS”** (Telcordia Service Mark) refers to service features that utilize the capability to forward a calling party’s number between end offices as part of call setup. Features include Automatic Callback, Automatic Recall, Caller ID, Call Trace, and Distinctive Ringing.
- 1.22. **“Collocation Arrangement”** refers to a single, specific provision of collocation in a particular Premises, not limited to a cage enclosing CLECINTRADO COMM’s equipment within the Premises.
- 1.23. **“Collocation Space”** shall mean an area of space located in a building to be used by CLECINTRADO COMM to house telecommunications equipment that is necessary for interconnection or access to UNEs. Additionally, roof or wall space used for wireless interconnection shall be included in the definition where applicable.
- 1.24. **“Commingle”** means the act of Commingling.
- 1.25. **“Commingling”** means the connecting, attaching, or otherwise linking of an unbundled Network Element, or a combination of unbundled Network Elements, to one or more facilities or services that CLECINTRADO COMM has obtained at wholesale from Embarq or the combining of an unbundled Network Element, or a combination of unbundled Network Elements with one or more such facilities or services.
- 1.26. **“Commission”** means the [*Insert Commission Name*].
- 1.27. **“Common Channel Signaling”** (“CCS”) is a method of digitally transmitting call set-up and network control data over a digital signaling network fully separate from the public switched telephone network that carries the actual call.
- 1.28. **“Common Transport”** provides a local interoffice transmission path between End Office Switches, between End Office Switches and Tandem Switches and between Tandem Switches in Embarq’s network. Common Transport is shared between multiple customers and is required to be switched at the Tandem Switch.
- 1.29. **“Confidential and/or Proprietary Information”** has the meaning set forth in Section 15.
- 1.30. **“Controlled Environment Vault”** (“CEV”) shall mean a below ground room

other than a Central Office Building which is controlled by Embarq and which is suitable for collocation of telecommunications equipment under controlled temperature and humidity.

- 1.31. **"Control Office"** is an exchange carrier center or office designated as the Party's single point of contact for the provisioning and maintenance of its portion of local interconnection arrangements.
- 1.32. **"Copper Loop"** is a stand-alone local loop comprised entirely of copper wire or cable. Copper Loops include two-wire and four-wire analog voice-grade Copper Loops, digital Copper Loops (*e.g.*, DS0s and integrated services digital network lines), as well as two-wire and four-wire Copper Loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the Copper Loops are in service or held as spares. The Copper Loop includes attached electronics using time division multiplexing technology, but does not include packet switching capabilities.
- 1.33. **"Custom Calling Features"** means a set of Telecommunications Service features available to residential and single-line business customers including call-waiting, call-forwarding and three-party calling.
- 1.34. **"Customer Proprietary Network Information" ("CPNI")** is as defined in the Act.
- 1.35. **"Database Management System" ("DBMS")** is a computer process used to store, sort, manipulate and update the data required to provide Selective Routing and ALI.
- 1.36. **"Day"** means Days unless otherwise specified.
- 1.37. **"Dedicated Transport"** includes Embarq transmission facilities between Wire Centers or Switches owned by Embarq, or between Wire Centers or Switches owned by Embarq and Switches owned by CLEGINTRADO COMM, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.
- 1.38. **"Demarcation Point"** is that point on the facility where Embarq's control of the facility ceases, and the End User Customer's control of the facility begins.
- 1.39. **"Digital Subscriber Line Access Multiplexer" ("DSLAM")** is equipment that links end-user xDSL connections to a single high-speed packet switch, typically ATM or IP.
- 1.40. **"Directory Assistance Database"** refers to any subscriber record used by Embarq in its provision of live or automated operator-assisted directory assistance including but not limited to 411, 555-1212, NPA-555-1212.
- 1.41. **"Directory Assistance Services"** provides listings to callers. Directory Assistance Services may include the option to complete the call at the caller's direction.

- 1.42. **“DS1 Loop”** is a digital Local Loop having a total digital signal speed of 1.544 megabytes per second. DS1 Loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services.
- 1.43. **“DS3 Loop”** is a digital Local Loop having a total digital signal speed of 44.736 megabytes per second.
- 1.44. **“DSLAM”** refers to a Digital Subscriber Line Access Multiplexer.
- 1.45. **“Duct”** is a single enclosed path to house facilities to provide Telecommunications Services.
- 1.46. **“Effective Date”** is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.
- 1.47. **“Electronic Interface”** means access to operations support systems consisting of preordering, ordering, provisioning, maintenance and repair and billing functions.
- 1.48. **“Emergency Response Agency”** is a governmental entity authorized to respond to requests from the public to meet emergencies.
- 1.49. **“Emergency Service Number” (“ESN”)** is a number assigned to the ALI and selective routing databases for all subscriber telephone numbers. The ESN designates a unique combination of fire, police and emergency medical service response agencies that serve the address location of each in-service telephone number.
- 1.50. **“Enhanced Extended Link” (“EEL”)** for purposes of this Agreement refers to the combination of unbundled Network Elements, specifically NID, Loop, multiplexing (MUX) if necessary and Dedicated Transport, in the Embarq Network.
- 1.51. **“Exchange Message Interface System” (“EMI”)** is the Industry standard for exchanging telecommunications message information for billable, non-billable, sample settlement and study records. The EMI is published by ATIS (Alliance for Telecommunications Industry Solutions).
- 1.52. **“End Date”** is the date this Agreement terminates as referenced in 5.1.
- 1.53. **“Enhanced 911 Service” (“E911”)** means a telephone communication service which will automatically route a call dialed “9-1-1” to a designated public safety answering point (PSAP) attendant and will provide to the attendant the calling party’s telephone number and, when possible, the address from which the call is being placed and the Emergency Response agencies responsible for the location from which the call was dialed.
- 1.54. **“FCC”** means the Federal Communications Commission.
- 1.55. **“Fiber-based Collocator”** means any carrier, unaffiliated with Embarq, that

maintains a Collocation Arrangement in Embarq's wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a Collocation Arrangement within the Wire Center; (2) leaves Embarq's Wire Center premises; and (3) is owned by a party other than Embarq or any affiliate of Embarq, except as set forth in this definition. Dark fiber obtained from Embarq on an indefeasible right of use basis shall be treated as non-Embarq fiber-optic cable. Two or more Affiliated Fiber-based Collocators in a single Wire Center shall collectively be counted as a single Fiber-based Collocator. For purposes of this definition, the term Affiliate is defined by 47 USC § 153(1) and any relevant interpretation in the Act.

- 1.56. **"Fiber-to-the-curb Loop" ("FTTC Loop")** means a Local Loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential multiple dwelling units ("MDUs"), not more than 500 feet from the MDU's minimum point of entry ("MPOE"). The fiber optic cable in a fiber-to-the curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises.
- 1.57. **"Fiber-to-the-home Loop" ("FTTH Loop")** means a Local Loop consisting entirely of fiber optic cable, whether dark or lit, and serving an end-user's customer premises or, in the case of predominantly residential MDUs, a fiber optic cable, whether dark or lit, that extends to the multiunit premises' MPOE.
- 1.58. **"Grandfathered Service"** means service which is no longer available for new customers and is limited to the current customer at their current locations with certain provisioning limitations, including but not limited to upgrade denials, feature adds/changes and responsible/billing party.
- 1.59. **"High Frequency Portion of the local Loop" ("HFPL")** is defined as the frequency range above the voice band on a Copper Loop facility that is being used to carry analog circuit-switched voice band transmissions provided by Embarq to the end-user customer.
- 1.60. **"Hybrid Loop"** means a Local Loop comprised of both fiber optic cable, usually in the feeder plant, and copper wire or cable usually in the distribution plant.
- 1.61. **"Incumbent Local Exchange Carrier" ("ILEC")** is as defined in the Act.
- 1.62. **"Information Services"** shall have the meaning defined in 47 CFR 51.5.
- 1.63. **"Interexchange Carrier" ("IXC")** means a provider of interexchange Telecommunications Services.
- 1.64. **"Interexchange Service"** shall mean telecommunications service between stations in different exchange areas.
- 1.65. **"ISP-Bound Traffic,"** for the purposes of this Agreement, is defined as traffic

- that is transmitted to an Internet Service Provider (“ISP”) consistent with the ISP Remand Order (FCC 01-131), 16 F.C.C. Rcd. 9151 (2001).
- 1.66. **“Inner Duct”** or **“Conduit”** shall mean any passage or opening in, on, under, over or through the Embarq Central Office Building cable or conduit systems.
- 1.67. **“Line Information Data Base” (“LIDB”)** means a Service Control Point (SCP) database that provides for such functions as calling card validation for telephone line number cards issued by Embarq and other entities and validation for collect and billed-to-third services.
- 1.68. **“Live Load Capacity”** as it relates to a CLECINTRADO COMM’s Collocation Space refers to the structural strength of the floor to support the weight of CLECINTRADO COMM’s property and equipment installed in the collocated space.
- 1.69. **“Local Loop”** refers to a transmission facility between the main distribution frame [cross-connect], or its equivalent, in an Embarq Central Office or wire center, and up to the demarcation point (*e.g.*, Network Interface Device) at a customer’s premises, to which CLECINTRADO COMM is granted exclusive use. This includes all electronics, optronics and intermediate devices (including repeaters and load coils) used to establish the transmission path to the customer premises. Local loops include Copper Loops, Hybrid Loops, DS1 loops, DS3 loops, FTTC Loops and FTTH Loops.
- 1.70. **“Local Number Portability” (“LNP”)** means the ability of users of Telecommunications Services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one Telecommunications Carrier to another.
- 1.71. **“Local Service Request” (“LSR”)** means an industry standard form or a mutually agreed upon change thereof, used by the Parties to add, establish, change or disconnect local services.
- 1.72. **“Local Traffic”** for the purposes of this Agreement the Parties shall agree that “Local Traffic” means traffic (excluding Commercial Mobile Radio Service “CMRS” traffic) that is originated and terminated within Embarq’s local calling area, or mandatory extended area service (EAS) area, as defined by the Commission or, if not defined by the Commission, then as defined in existing Embarq Tariffs. For this purpose, Local Traffic does not include any ISP-Bound Traffic.
- 1.73. **“Mobile Wireless Service”** means any mobile wireless telecommunications service, including any commercial mobile radio service (CMRS). CMRS includes paging, air-ground radiotelephone service and offshore radiotelephone service, as well as mobile telephony services, such as the voice offerings of carriers using cellular radiotelephone, broadband PCS and SMR licenses.
- 1.74. **“Multiple Exchange Carrier Access Billing” (“MECAB”)** refers to the document prepared by the Billing Committee of the ATIS Ordering and Billing

Forum (“OBF”). The MECAB document contains the recommended guidelines for the billing of an access service provided to a customer by two or more providers or by one provider in two or more states within a single LATA.

- 1.75. **“Multiple Exchange Carrier Ordering And Design” (“MECOD”)** refers to the guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices of the OBF, which functions under the auspices of the Carrier Liaison Committee (“CLC”) of the Alliance for Telecommunications Industry Solutions (“ATIS”). The MECOD document, published by Telcordia as Special Report SR STS-002643, establishes recommended guidelines for processing orders for Access Service which is to be provided by two or more Telecommunications Carriers.
- 1.76. **“National Emergency Number Association” (“NENA”)** is an association with a mission to foster the technological advancement, availability and implementation of 911 nationwide.
- 1.77. **“Network Element”** is as defined in the Act.
- 1.78. **“North American Numbering Plan” (“NANP”)** means the plan for the allocation of unique 10-digit directory numbers consisting of a three-digit area code, a three-digit office code, and a four-digit line number. The plan also extends to format variations, prefixes, and special code applications.
- 1.79. **“Numbering Plan Area” (“NPA”)** (sometimes referred to as an area code) is the three-digit indicator which is designated by the first three digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, “Geographic NPAs” and “Non-Geographic NPAs.” A “Geographic NPA” is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A “Non-Geographic NPA,” also known as a “Service Access Code (SAC Code)” is typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas; 500, 800, 900, 700, and 888 are examples of Non-Geographic NPAs.
- 1.80. **“NXX,” “NXX Code,” “COC,” “Central Office Code,” or “CO Code”** is the three-digit switch entity indicator which is defined by the fourth, fifth and sixth digits of a 10-digit telephone number within NANP.
- 1.81. **“OBF”** means the Ordering and Billing Forum, which functions under the auspices of the CLC of the Alliance for Telecommunications Industry Solutions (ATIS).
- 1.82. **“Operator Services”** provides for:
 - 1.82.1. operator handling for call completion (*e.g.*, collect calls);
 - 1.82.2. operator or automated assistance for billing after the subscriber has dialed the called number (*e.g.*, credit card calls); and

- 1.82.3. special services (*e.g.*, BLV/BLI, Emergency Agency Call).
- 1.83. **“Outside Cable Duct”** shall mean any space located outside the Central Office Building and owned by or under the control of Embarq through which Embarq runs its cable, conduit or other associated facilities.
- 1.84. **“Parity”** means, subject to the availability, development and implementation of necessary industry standard Electronic Interfaces, the provision by Embarq of services, Network Elements, functionality or telephone numbering resources under this Agreement to CLECINTRADO COMM, including provisioning and repair, at least equal in quality to those offered to Embarq, its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources. Until the implementation of necessary Electronic Interfaces, Embarq shall provide such services, Network Elements, functionality or telephone numbering resources on a non-discriminatory basis to CLECINTRADO COMM as it provides to its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources.
- 1.85. **“P.01 Transmission Grade Of Service” (“GOS”)** means a trunk facility provisioning standard with the statistical probability of no more than one call in 100 blocked on initial attempt during the average busy hour.
- 1.86. **“Parties”** means, jointly, Embarq and CLECINTRADO COMM, and no other entity, Affiliate, subsidiary or assign.
- 1.87. **“Party”** means either Embarq or CLECINTRADO COMM, and no other entity, Affiliate, subsidiary or assign.
- 1.88. **“Percent Local Usage” (“PLU”)** is a calculation which represents the ratio of the local minutes to the sum of local and intraLATA toll minutes between exchange carriers sent over Local Interconnection Trunks. Directory assistance, BLV/BLVI, 900, and 976 transiting calls from other exchange carriers and switched access calls are not included in the calculation of PLU.
- 1.89. **“Physical Collocation”** is as defined in 47 CFR 51.5.
- 1.90. **“Point of Interconnection” (“POI”)** is the physical point that establishes the technical interface, the test point, and the operational responsibility hand-off between CLECINTRADO COMM and Embarq for the local interconnection of their networks. The POI also establishes the demarcation point to delineate each Party’s financial obligations for facility costs.
- 1.91. **“Premises”** is as defined in 47 CFR 51.5.
- 1.92. **“Pre-Order Loop Qualification” (“Loop Qualification”)** is an OSS function that includes supplying loop qualification information to CLECINTRADO COMMS as part of the Pre-ordering Process. Examples of the type of information provided are:
- 1.92.1. Composition of the loop material, i.e. fiber optics, copper;

- 1.92.2. Existence, location and type of any electronic or other equipment on the loop, including but not limited to:
 - 1.92.2.1. Digital Loop Carrier (“DLC”) or other remote concentration devices;
 - 1.92.2.2. Feeder/distribution interfaces;
 - 1.92.2.3. Bridge taps;
 - 1.92.2.4. Load coils;
 - 1.92.2.5. Pair gain devices; or
 - 1.92.2.6. Disturbers in the same or adjacent binders.
- 1.92.3. Loop length which is an indication of the approximate loop length, based on a 26-gauge equivalent and is calculated on the basis of Distribution Area distance from the central office;
- 1.92.4. Wire gauge or gauges; and
- 1.92.5. Electrical parameters.
- 1.93. **“Proprietary Information”** shall have the same meaning as Confidential Information.
- 1.94. **“Rate Center”** means the geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to Embarq or CLECINTRADO COMM for its provision of basic exchange Telecommunications Services. The “rate center point” is the finite geographic point identified by a specific V&H coordinate, which is used to measure distance-sensitive end user traffic to/from the particular NPA-NXX designations associated with the specific Rate Center. The “rate center area” is the exclusive geographic area identified as the area within which Embarq or CLECINTRADO COMM will provide Basic Exchange Telecommunications Services bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center point must be located within the Rate Center area.
- 1.95. **“Routing Point”** means a location which Embarq or CLECINTRADO COMM has designated on its own network as the homing (routing) point for traffic inbound to basic exchange Services provided by Embarq or CLECINTRADO COMM which bear a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Telcordia Practice BR 795-100-100, the Routing Point may be an “End Office” location, or a “LEC Consortium Point of Interconnection.” Pursuant to that same Telcordia Practice, examples of the latter shall be designated by a common language location identifier (CLLI) code with (x)MD or X(x) in positions 9, 10, 11, where (x) may be any alphanumeric A-Z or 0-9. The above referenced Telcordia document

refers to the Routing Point as the Rating Point. The Rating Point/Routing Point need not be the same as the Rate Center Point, nor must it be located within the Rate Center Area, but must be in the same LATA as the NPA-NXX.

- 1.96. **“Small Exchange Carrier Access Billing” (“SECAB”)** means the document prepared by the Billing Committee of the OBF. The SECAB document, published by ATIS as Special Report SR OPT-001856, contains the recommended guidelines for the billing of access and other connectivity services.
- 1.97. **“Selective Routing”** is a service which automatically routes an E911 call to the PSAP that has jurisdictional responsibility for the service address of the telephone that dialed 911, irrespective of telephone company exchange or Wire Center boundaries.
- 1.98. **“Signaling Transfer Point” (“STP”)** means a signaling point that performs message routing functions and provides information for the routing of messages between signaling points within or between CCIS networks. An STP transmits, receives and processes CCIS messages.
- 1.99. **“Splitter”** is a device that divides the data and voice signals concurrently moving across the loop, directing the voice traffic through copper tie cables to the switch and the data traffic through another pair of copper tie cables to multiplexing equipment for delivery to the packet-switched network. The Splitter may be directly integrated into the DSLAM equipment or may be externally mounted.
- 1.100. **“Street Index Guide” (“SIG”)** is a database defining the geographic area of an E911 Service. It includes an alphabetical list of the street names, high-low house number ranges, community names, and Emergency Service Numbers provided by the counties or their agents to Embarq.
- 1.101. **“Switch”** means a Central Office Switch as defined in this Part A.
- 1.102. **“Synchronous Optical Network” (“SONET”)** is an optical interface standard that allows interworking of transmission products from multiple vendors (*i.e.*, mid-span meets). The base rate is 51.84 MHps (OC-1/STS-1 and higher rates are direct multiples of the base rate up to 1.22 GHps).
- 1.103. **“Tandem Office Switches,” “Tandem,” and “Tandem Switching”** describe Class 4 switches which are used to connect and switch trunk circuits between and among End Office Switches and other tandems.
- 1.104. **“Tariff”** means a filing made at the state or federal level for the provision of a Telecommunications Service by a Telecommunications Carrier that provides for the terms, conditions and pricing of that service. Such filing may be required or voluntary and may or may not be specifically approved by the Commission or FCC.
- 1.105. **“Technically Feasible”** refers solely to technical or operational concerns, rather than economic, space, or site considerations.

- 1.106. **“Tier 1”** Wire Centers are those Embarq Wire Centers that contain at least four Fiber-based Collocators, at least 38,000 Business Lines, or both. Tier 1 Wire Centers also are those Embarq tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. Once a Wire Center is determined to be a Tier 1 Wire Center, that Wire Center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.
- 1.107. **“Tier 2”** Wire Centers are those Embarq Wire Centers that are not Tier 1 Wire Centers but contain at least three (3) Fiber-based Collocators, at least 24,000 Business Lines, or both. Once a Wire Center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.
- 1.108. **“Tier 3”** Wire Centers are those Embarq Wire Centers that are not Tier 1 or Tier 2 Wire Centers.
- 1.109. **“Telecommunications”** is as defined in the Act.
- 1.110. **“Telecommunications Carrier”** is as defined in the Act.
- 1.111. **“Telecommunications Service”** is as defined in the Act.
- 1.112. **“Transit Service”** means the delivery of Transit Traffic.
- 1.113. **“Transit Traffic”** means Local Traffic or ISP-Bound Traffic that originated on ~~CLEC~~INTRADO COMM’s network, transited through Embarq’s network, and terminated to a third party Telecommunications Carrier’s network or that is originated on a third party Telecommunications Carrier’s network, transited through Embarq, and terminated to ~~CLEC~~INTRADO COMM’s network.
- 1.114. **“Virtual Collocation”** is as defined in 47 CFR 51.5.
- 1.115. **Virtual NXX Traffic (“VNXX Traffic”)** – As used in this Agreement, Virtual NXX traffic or VNXX Traffic is defined as calls in which a Party’s customer is assigned a telephone number with an NXX Code (as set forth in the LERG) assigned to a Rate Center that is different from the Rate Center associated with the customer’s actual physical premise location.
- 1.116. **“Wholesale Service”** means Telecommunication Services that Embarq provides at retail to subscribers who are not Telecommunications Carriers as set forth in 47 USC § 251(c)(4) which Embarq provides to resellers at a wholesale rate.
- 1.117. **“Wire center”** is the location of an incumbent LEC local switching facility containing one or more central offices, as defined in part 36 of the Code of Federal Regulations. The Wire Center boundaries define the area in which all customers served by a given Wire Center are located.
- 1.118. **“xDSL”** refers to a generic term for a series of high speed transmission protocols, equipment, and services designed to operate over copper wire. This series includes but is not limited to ADSL, VDSL, SDSL, and others.

PART B – GENERAL TERMS AND CONDITIONS

2. SCOPE OF THIS AGREEMENT

- 2.1. This Agreement, including Parts A through L, Tables One and Two and exhibits, specifies the rights and obligations of each Party with respect to the establishment, purchase, and sale of Local Interconnection, Collocation, resale of Telecommunications Services and Unbundled Network Elements. Certain terms used in this Agreement shall have the meanings defined in PART A – DEFINITIONS, or as otherwise elsewhere defined throughout this Agreement. Other terms used but not defined in this Agreement will have the meanings ascribed to them in the Act and in the FCC’s and the Commission’s rules, regulations and orders. PART B sets forth the general terms and conditions governing this Agreement. The remaining Parts set forth, among other things, descriptions of the services, pricing, technical and business requirements, and physical and network security requirements.

3. NETWORK CHANGES

- 3.1. Embarq shall provide notice of network changes and upgrades in accordance with §§ 51.325 through 51.335 of Title 47 of the Code of Federal Regulations. Embarq may discontinue any interconnection arrangement, Telecommunications Service, or Network Element provided or required hereunder due to network changes or upgrades after providing CLECINTRADO COMM notice as required by this Section. Embarq agrees to cooperate with CLECINTRADO COMM and/or the appropriate regulatory body in any transition resulting from such discontinuation of service and to minimize the impact to customers, which may result from such discontinuance of service.

4. REGULATORY APPROVALS

- 4.1. This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with § 252 of the Act within thirty (30) Days after obtaining the last required Agreement signature. Embarq and CLECINTRADO COMM shall use their best efforts to obtain approval of this Agreement by any regulatory body having jurisdiction over this Agreement. In the event any governmental authority or agency rejects any provision hereof, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval.
- 4.2. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the texts of the Act and the orders, rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date (“Applicable Rules”). In the event of any amendment of the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Act to

the Parties or in which the court, FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, "Amended Rules"), either Party may, by providing written notice to the other Party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly within sixty (60) Days of the date of the notice to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

- 4.3. Notwithstanding any other provision of this Agreement to the contrary Section 4.2 hereof shall control. Any rates, terms or conditions thus developed or modified shall be substituted in place of those previously in effect and shall be effective under this Agreement as of the effective date established by the Amended Rules, whether such action was commenced before or after the Effective Date of this Agreement. Should the Parties be unable to reach agreement with respect to the applicability of such order or the resulting appropriate modifications to this Agreement, either party may invoke the Dispute Resolution provisions of this Agreement, it being the intent of the parties that this Agreement shall be brought into conformity with the then current obligations under the Act as determined by the Amended Rules. Embarq may charge rates to CLECINTRADO COMM under this Agreement that are approved by the Commission in a generic cost proceeding, whether such action was commenced before or after the Effective Date of this Agreement, as of the effective date of the Commission decision.
- 4.4. In the event that as a result of any effective decision, order, or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, Embarq determines that it is not required to furnish any service, facility, arrangement, or benefit required to be furnished or provided to CLECINTRADO COMM under this Agreement, then Embarq may discontinue any service, facility, arrangement, or benefit ("Discontinued Arrangement") to the extent permitted by any such decision, order, or determination by providing sixty (60) Days written notice to CLECINTRADO COMM. Immediately upon provision of such written notice to CLECINTRADO COMM, CLECINTRADO COMM will be prohibited from ordering and Embarq will not provide new Discontinued Arrangements.

5. TERM AND TERMINATION

- 5.1. This Agreement shall be deemed effective upon the Effective Date first stated above, and continue for a period of ~~three~~^{two} years until [Enter End Date] ("End Date"), unless earlier terminated in accordance with this Section 5, provided however that if CLECINTRADO COMM has any outstanding past due obligations to Embarq or any of Embarq's affiliates, this Agreement will not be effective until such time as any undisputed past due obligations with Embarq are paid in full. This agreement shall become binding upon execution by the Parties. No order or request for services under this Agreement shall be processed before the Effective Date, except as otherwise agreed to in writing by the Parties. No

order or request for services under this Agreement shall be processed before CLECINTRADO COMM has established a customer account with Embarq and has completed the Implementation Plan described in this Agreement.

- 5.2. In the event of either Party's material breach of any of the terms or conditions hereof, including the failure to make any undisputed payment when due, the non-defaulting Party may immediately terminate this Agreement in whole or in part if the non-defaulting Party so advises the defaulting Party in writing of the event of the alleged default and the defaulting Party does not remedy the alleged default within sixty (60) Days after written notice thereof. The non-defaulting Party may pursue all available legal and equitable remedies for such breach.
- 5.3. Embarq may terminate this Agreement upon ~~sixtyten (610)~~ sixty (60) Days notice if CLECINTRADO COMM is not exchanging traffic with Embarq or has not submitted orders pursuant to this Agreement within ~~one hundred eighty (180)~~ three hundred sixty (360) Days of the Effective Date. In addition, Embarq reserves the right to terminate this Agreement immediately upon written notice from the CLECINTRADO COMM that it has ceased doing business in this state. ~~In addition to notice from CLEC, Embarq may utilize any publicly available information in concluding that CLEC is no longer doing business in this state, and immediately terminate this Agreement.~~
- 5.4. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect to any act or omission prior to termination or from any obligation which is expressly stated in this Agreement to survive termination.
- 5.5. Notwithstanding the above, should Embarq sell or trade substantially all the assets in an exchange or group of exchanges that Embarq uses to provide Telecommunications Services, then Embarq may terminate this Agreement in whole or in part as to that particular exchange or group of exchanges upon sixty (60) Days prior written notice in accordance with relevant state commission approvals.

6. POST EXPIRATION INTERIM SERVICE ARRANGEMENTS

- 6.1. No later than one-hundred sixty (160) Days prior to the End Date, CLECINTRADO COMM will provide Embarq notice to commence negotiations pursuant to Sections 251 and 252 of the Act for terms, conditions and rates for a successor agreement to be effective on or before the End Date.
- 6.2. In the event that this Agreement expires under Section 5.1, CLECINTRADO COMM has submitted a notice to commence negotiations under Section 6.1, and the Parties have not executed a successor agreement at the time of expiration, provided the Parties are actually in arbitration or mediation before the Commission or FCC under § 252 of the Act or the Parties have a written agreement to continue negotiations under § 252, it is the intent of the Parties to

provide in this Section for post-expiration interim service arrangements between the Parties so that service to their respective end users will not be interrupted should a new agreement not be consummated prior to the End Date. Therefore, except in the case of termination as a result of the events under Sections 5.2, 5.4, and 5.5, services that had been available under this Agreement, were ordered prior to the End Date and are actually in service as of the End Date may continue uninterrupted after the End Date at the written request of either Party only until the earlier to occur of (i) the Parties execute a successor agreement, (ii) the issuance of an order, whether a final non-appealable order or not, by the Commission or FCC, approving an agreement resulting from the resolution of the issues set forth in such arbitration or mediation request, or (iii) the first anniversary of the End Date.

- 6.3. In the event that on the End Date the Parties have not executed a successor agreement and Section 6.2 does not apply or no longer applies, Embarq will continue to provide services pursuant to one of the following:

- 6.3.1. Such standard terms and conditions or tariffs approved by and made generally available by the Commission, if they exist; or
- 6.3.2. An existing agreement between Embarq and another carrier adopted by CLECINTRADO COMM for the remaining term of that agreement. If CLECINTRADO COMM fails to designate an agreement under this subsection, then Embarq may designate such agreement.

7. CHARGES, BILLING AND PAYMENT

- 7.1. In consideration of the services provided by Embarq under this Agreement, CLECINTRADO COMM shall pay the charges set forth in Part C subject to the provisions of Section 4 hereof and subject to the dispute provisions provided herein. Additional billing procedures for charges incurred by CLECINTRADO COMM hereunder are set forth in Part D.
- 7.2. Subject to the terms of this Agreement, the Parties shall pay invoices within thirty (30) Days from the bill date shown on the invoice.
- 7.2.1. For invoices not paid when due, late payment charges will be assessed under Section 7.4.
- 7.2.2. If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the next business day.
- 7.2.3. If an invoice is not paid within forty-five (45) Days after the bill date, Embarq may suspend processing new orders and cancel any pending orders.
- 7.2.4. If the account remains delinquent sixty (60) Days after the bill date, Embarq will terminate all services under this Agreement.

- 7.3. If the CLECINTRADO COMM disputes any charges shown on an invoice, the following billing dispute procedures are the exclusive means for challenging such charges, and the failure by CLECINTRADO COMM to follow such procedures will result in the suspension or termination of service for non-payment of invoiced amounts:
- 7.3.1. Any billing dispute must be submitted in writing, itemizing the particular charges that CLECINTRADO COMM is challenging, and explaining in reasonable detail the specific grounds for disputing the validity or applicability of such charges.
 - 7.3.2. Billing disputes must be submitted to the National Dispute Center on the billing dispute form designated by Embarq, along with any payment for undisputed charges that are shown on such invoice. The billing dispute form may be accompanied by any additional, relevant materials submitted by CLECINTRADO COMM.
 - 7.3.3. The payment due date of an invoice shall be suspended with respect to disputed amounts on such invoice, but only if a written, itemized dispute has been filed in compliance with Section 7.3 within thirty (30) Days of the bill date. Such payment due date for the disputed amounts shall remain suspended during negotiations between the Parties or pending a determination by the Commission under the dispute resolution provisions of Section 25.
 - 7.3.4. Billing disputes that are submitted in a timely manner in compliance with Section 7.3 shall not have the effect of suspending the payment due date with respect to *billed amounts that are not in dispute*, notwithstanding the existence of a dispute with respect to other amounts billed on the same invoice.
 - 7.3.5. The failure to submit a written dispute in compliance with Section 7.3 within thirty (30) Days of a bill date shall not preclude a Party from thereafter submitting a dispute or seeking a billing adjustment for any charges which have been paid, but any billing dispute which is not submitted within thirty (30) Days of a bill date or which is not submitted in writing in compliance with Section 7.3 shall not be effective to suspend the payment due date for the disputed amount or to prevent late charges and possible suspension or termination of service for non-payment of billed amounts in accordance with Section 7.2. Payment of billed amounts that are subsequently disputed or which become the subject of a request for adjustment shall not constitute or be deemed to represent a waiver of a Party's right to submit a dispute or seek an adjustment of such Party's account with respect to such paid amounts, and the paying Party shall not be required to designate any such payment as "conditional" or "under protest" in order to submit a dispute or seek a subsequent adjustment with respect to amounts which have previously been paid. A dispute which is filed more than 30 Days after a bill date or a request for an account

adjustment must be submitted in writing in the same manner as provided for in Section 7.3 with respect to disputes, and such requests shall be subject to the Dispute Resolution provisions of this Agreement.

- 7.4. Late payment charges on invoices not paid when due (or any portion thereof which is not subject to a timely filed dispute) will be assessed until the undisputed amount due is paid in full, and shall be calculated using a rate equal to the lesser of the following:
- 7.4.1. the total amount due times the highest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the payment due date to and including the date the customer actually makes the payment to Embarq, or
- 7.4.2. the total amount due multiplied by a factor of 0.000329 times the number of days which occurred between the payment due date and (including) the date CLECINTRADO COMM actually makes the payment to Embarq.
- 7.5. Embarq shall credit CLECINTRADO COMM for incorrect Connectivity Billing charges including without limitation: overcharges, services ordered or requested but not delivered, interrupted services, services of poor quality and installation problems if caused by Embarq. Such reimbursements shall be set forth in the appropriate section of the Connectivity Bill pursuant to CABS, or SECAB standards.
- 7.6. Embarq will bill CLECINTRADO COMM for message provisioning and, if applicable, data tape charges related to exchange access records. Embarq will bill CLECINTRADO COMM for the records at the rates on Table One. If CLECINTRADO COMM requests additional copies of the monthly invoice, Embarq may also bill CLECINTRADO COMM for the additional copies.
- 7.7. Embarq shall comply with various industry, OBF, and other standards referred to throughout this Agreement. Embarq will review any changes to industry standards, and implement the changes within the industry-defined window. Embarq will notify CLECINTRADO COMM of any deviations to the standards.
- 7.8. Where Parties have established interconnection, Embarq and the CLECINTRADO COMM agree to conform to MECAB and MECOD guidelines. They will exchange Billing Account Reference and Bill Account Cross Reference information and will coordinate Initial Billing Company/Subsequent Billing Company billing cycles. Embarq will provide CLECINTRADO COMM the appropriate records to bill exchange access charges to the IXC. Embarq will capture EMI records for inward terminating calls and send them to CLECINTRADO COMM, as appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom). Upon Embarq's request, CLECINTRADO COMM will provide Embarq the appropriate records to bill exchange access charges to the IXC. CLECINTRADO COMM will capture EMI records for inward terminating calls and send them to Embarq, as

- appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom).
- 7.9. Embarq shall provide a single point of contact for handling of any data exchange questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.
- 7.10. Revenue Protection. Embarq shall make available to ~~CLECINTRADO COMM~~, at Parity with what Embarq provides to itself, its Affiliates and other local telecommunications ~~CLECINTRADO COMMs~~, all present and future fraud prevention or revenue protection features, including prevention, detection, or control functionality embedded within any of the Network Elements. These features include, but are not limited to screening codes, information digits assigned such as information digits '29' and '70' which indicate prison and COCOT pay phone originating line types respectively, call blocking of domestic, international, 800, 888, 900, NPA-976, 700, 500 and specific line numbers, and the capability to require end-user entry of an authorization code for dial tone. Embarq shall, when technically capable and consistent with the implementation schedule for Operations Support Systems (OSS), additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent OSS.
- 7.11. Embarq reserves the right to secure the account with a suitable form of security deposit in accordance with Section 37.

8. AUDITS AND EXAMINATIONS

- 8.1. Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the other Party involved. Subject to each Party's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, either Party, at its own expense, may perform an audit through an independent third party of the other Party's books, records and other documents directly related to billing and invoicing once in any twelve (12) month period for the purpose of evaluating the accuracy of the other Party's billing and invoicing. "Audit" shall mean a comprehensive review of bills for services performed under this Agreement; "Examination" shall mean an inquiry into a specific element of or process related to bills for services performed under this Agreement. Either Party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date, with the assistance of the other Party, which will not be unreasonably withheld. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations, as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.
- 8.2. Upon thirty (30) Days written notice by the Requesting Party to Audited Party, Requesting Party shall have the right through its authorized representative to make an Audit, during normal business hours, of any records, accounts and

processes which contain information bearing upon the billing and invoicing of the services provided under this Agreement. Within the above-described thirty (30) Day period, the Parties shall reasonably agree upon the scope of the Audit or Examination, the documents and processes to be reviewed, and the time, place and manner in which the Audit or Examination shall be performed. Audited Party agrees to provide Audit or Examination support, including appropriate access to and use of Audited Party's facilities (e.g.: conference rooms, telephones, copying machines).

- 8.3. Each party shall bear its own expenses in connection with the conduct of the Audit or Examination. The reasonable cost of special data extraction required by the Requesting Party to conduct the Audit or Examination will be paid for by the Requesting Party. For purposes of this Section 8.3, a "Special Data Extraction" shall mean the creation of an output record or informational report (from existing data files) that is not created in the normal course of business. If any program is developed to Requesting Party's specifications and at Requesting Party's expense, Requesting Party shall specify at the time of request whether the program is to be retained by Audited Party for reuse for any subsequent Audit or Examination.
- 8.4. Adjustments based on the audit findings may be applied to the twelve (12) month period included in the audit. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) Days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such Audit or Examination and are agreed to by the Parties. Interest shall be calculated in accordance with Section 7.4 above.
- 8.5. Neither such right to examine and audit nor the right to receive an adjustment shall be affected by any statement to the contrary appearing on checks or otherwise, unless such statement expressly waiving such right appears in writing, is signed by the authorized representative of the Party having such right and is delivered to the other Party in a manner sanctioned by this Agreement.
- 8.6. This Section shall survive expiration or termination of this Agreement for a period of one (1) year after expiration or termination of this Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Intellectual property includes, without limitation, patent, copyright, trade mark, trade secrets, and other proprietary rights. Each Party grants to the other party a limited license to its intellectual property solely to the extent necessary for the use of any facility or equipment (including software) or for the receipt of services as provided under this Agreement. Except for such limited license to use its intellectual property, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel.

- 9.2. CLECINTRADO COMM acknowledges that its right under this Agreement for Local Interconnection with Embarq's network and to unbundled and/or combine Embarq's Network Elements may be subject to or limited by intellectual property rights and contract rights of third parties. Embarq agrees to use its best efforts to obtain for CLECINTRADO COMM, third party intellectual property rights, under commercially reasonable terms, to each unbundled Network Element necessary for CLECINTRADO COMM to use such unbundled Network Element in the same manner as Embarq.
- 9.3. Embarq shall have no obligations to attempt to obtain for CLECINTRADO COMM any third party intellectual property right(s) that would permit CLECINTRADO COMM to use any unbundled Network Element in a different manner than used by Embarq.
- 9.4. To the extent not prohibited by a contract with the vendor of the Network Element sought by CLECINTRADO COMM that contains intellectual property licenses, Embarq shall reveal to CLECINTRADO COMM the name of the vendor, the intellectual property rights licensed to Embarq under the vendor contract and the terms of the contract (excluding cost terms). Embarq shall, at CLECINTRADO COMM's request, contact the vendor to attempt to obtain permission to reveal additional contract details to CLECINTRADO COMM.
- 9.5. All costs associated with the extension of third party intellectual property rights to CLECINTRADO COMM pursuant to Section 9.2, including the cost of the license extension itself and the costs associated with the effort to obtain the license, shall be part of the cost of providing the unbundled Network Element to which the intellectual property rights relate and apportioned to all requesting CLECINTRADO COMM using that unbundled Network Element including Embarq.
- 9.6. Embarq hereby conveys no licenses to use such third party intellectual property rights and makes no warranties, express or implied, concerning CLECINTRADO COMM's rights with respect to such third party intellectual property rights and contract rights, including whether such rights will be violated by such Local Interconnection or unbundling and/or combining of Network Elements (including combining with CLECINTRADO COMM's use of other functions, facilities, products or services furnished under this Agreement). Any licenses or warranties for intellectual property rights associated with unbundled network elements are vendor licenses and warranties and are a part of the third party intellectual property rights Embarq agrees in Section 9.2 to use its best efforts to obtain.

10. LIMITATION OF LIABILITY [PENDING INTRADO COMM'S FURTHER REVIEW]

- 10.1. Neither Party, its parents, subsidiaries, affiliates, agents, servants or employees shall be liable for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, providing or failing to provide services or facilities

(including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of willful misconduct.

- 10.2. Notwithstanding the foregoing, in no event shall Embarq's liability to CLECINTRADO COMM for a service outage exceed an amount equal to the proportionate charge for the service(s) or unbundled element(s) provided for the period during which the service was affected.
- 10.3. Neither Party shall be responsible to the other for any indirect, special, consequential or punitive damages, including (without limitation) damages for loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted, or done hereunder (collectively "Consequential Damages"), whether arising in contract or tort except that the foregoing shall not limit a Party's obligation under Section 11 to indemnify, defend, and hold the other Party harmless against amounts payable to third parties.
- 10.4. EMBARQ SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF CLECINTRADO COMM'S EQUIPMENT AND OTHER PREMISES ONLY IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY EMBARQ'S SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.

11. **INDEMNIFICATION [PENDING INTRADO COMM'S FURTHER REVIEW]**

- 11.1. Each Party agrees to indemnify and hold harmless the other Party from and against claims by third parties for damage to tangible personal or real property and/or personal injuries to the extent caused by the negligence or willful misconduct or omission of the indemnifying Party.
- 11.2. CLECINTRADO COMM shall indemnify and hold harmless Embarq from all claims by CLECINTRADO COMM's subscribers.
- 11.3. Embarq shall indemnify and hold harmless CLECINTRADO COMM from all claims by Embarq's subscribers.
- 11.4. The indemnifying Party under this Section agrees to defend any suit brought against the other Party either individually or jointly with the indemnified Party for any such loss, injury, liability, claim or demand.
- 11.5. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which it is claimed that the indemnifying Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims.
- 11.6. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party of any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to

promptly assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.

- 11.7. When the lines or services of other companies and CLECINTRADO COMMs are used in establishing connections to and/or from points not reached by a Party's lines, neither Party shall be liable for any act or omission of the other companies or carriers.
- 11.8. In addition to its indemnity obligations hereunder, each Party shall, to the extent allowed by law or Commission Order, provide, in its tariffs and contracts with its subscribers that relate to any Telecommunications Services provided or contemplated under this Agreement, that in no case shall such Party or any of its agents, contractors or others retained by such Party be liable to any subscriber or third party for
 - 11.8.1. any loss relating to or arising out of this Agreement, whether in contract or tort, that exceeds the amount such Party would have charged the applicable subscriber for the service(s) or function(s) that gave rise to such loss, and
 - 11.8.2. Consequential Damages (as defined in Section 10 above).
- 11.9. If CLECINTRADO COMM has physical collocations under this Agreement, CLECINTRADO COMM shall also indemnify and hold Embarq harmless from any and all claims arising from:
 - 11.9.1 CLECINTRADO COMM's use of the Collocation Space;
 - 11.9.2 the conduct of CLECINTRADO COMM's business or from any activity, work or things done, permitted or suffered by CLECINTRADO COMM in or about the Collocation Space or elsewhere;
 - 11.9.3 any and all claims arising from any breach or default in the performance of any obligation on CLECINTRADO COMM's part to be performed under the terms of this Agreement; and
 - 11.9.4 any negligence of the CLECINTRADO COMM, or any of CLECINTRADO COMM's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
 - 11.9.5 If any action or proceeding is brought against Embarq by reason of any such claim, CLECINTRADO COMM, upon notice from Embarq, shall defend same at CLECINTRADO COMM's expense employing counsel satisfactory to Embarq.
- 11.10 ILEC shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments

arising directly or indirectly out of any use, occupancy or activity of CLECINTRADO COMM, or out of any work performed, material furnished, or obligations incurred by CLECINTRADO COMM in, upon or otherwise in connection with the Collocation Space. CLECINTRADO COMM shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLECINTRADO COMM's liability under this Section.

- 11.11 If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLECINTRADO COMM shall give Embarq written notice thereof as soon as CLECINTRADO COMM obtains such knowledge.
- 11.12 CLECINTRADO COMM shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and for the account of CLECINTRADO COMM, from obtaining such discharge and release if CLECINTRADO COMM fails or refuses to do the same within the thirty-day period.
- 11.13 If CLECINTRADO COMM has first discharged the lien as provided by law, CLECINTRADO COMM may, at CLECINTRADO COMM's expense, contest any mechanic's lien in any manner permitted by law.

12. INSURANCE [PENDING INTRADO COMM'S FURTHER REVIEW]

- 12.1. During the term of this Agreement, CLECINTRADO COMM shall carry, and shall cause any subcontractors to carry, with financially reputable insurers which are licensed to do business in all jurisdictions where any property is located, not less than the following insurance:
- 12.2. Commercial General Liability with limits of not less than \$1,000,000 combined single limit per occurrence and aggregate for bodily injury, property damage and personal and advertising injury liability insurance to include coverage for contractual and products/completed operations liability, naming Embarq as additional insured;
- 12.3. Business Auto liability, including all owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage liability, naming Embarq as additional insured;
- 12.4. Workers Compensation as provided for in the jurisdiction where the Property is located, with an Employer's Liability limit of not less than \$500,000 per accident or disease; and

- 12.5. Umbrella or excess liability in an amount not less than \$5,000,000 per occurrence and aggregate in excess of the above-referenced Commercial General, Business Auto and Employer's Liability, naming Embarq as additional insured; and
- 12.6. "All Risk" property insurance on a full replacement cost basis insuring CLECINTRADO COMM's property situated on or within the Property, naming Embarq as loss payee. CLECINTRADO COMM may elect to insure business interruption and contingent business interruption, as it is agreed that Embarq has no liability for loss of profit or revenues should an interruption of service occur.
- 12.7. Nothing contained in this Section shall limit CLECINTRADO COMM's liability to Embarq to the limits of insurance certified or carried.
- 12.8. All policies required of the CLECINTRADO COMM shall contain evidence of the insurer's waiver of the right of subrogation against Embarq for any insured loss covered thereunder. All policies of insurance shall be written as primary policies and not contributing with or in excess of the coverage, if any, that Embarq may carry.
- 12.9. CLECINTRADO COMM shall furnish to Embarq a certificate or certificates of insurance, satisfactory in form and content to Embarq, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled without first giving at least thirty (30) Days prior written notice to Embarq.

13. BRANDING

- 13.1. CLECINTRADO COMM shall provide the exclusive interface to CLECINTRADO COMM subscribers, except as CLECINTRADO COMM shall otherwise specify for the reporting of trouble or other matters identified by CLECINTRADO COMM for which Embarq may directly communicate with CLECINTRADO COMM subscribers. In those instances where CLECINTRADO COMM requests that Embarq personnel interface with CLECINTRADO COMM subscribers, such Embarq personnel shall inform the CLECINTRADO COMM subscribers that they are representing CLECINTRADO COMM, or such brand as CLECINTRADO COMM may specify.
- 13.2. Other business materials furnished by Embarq to CLECINTRADO COMM subscribers shall bear no corporate name, logo, trademark or tradename.
- 13.3. Except as specifically permitted by a Party, in no event shall either Party provide information to the other Party's subscribers about the other Party or the other Party's products or services.
- 13.4. Embarq shall share pertinent details of Embarq's training approaches related to branding with CLECINTRADO COMM to be used by Embarq to assure that Embarq meets the branding requirements agreed to by the Parties.

- 13.5. This Section shall not confer on either Party any rights to the service marks, trademarks and/or trade names owned by or used in connection with services by the other Party, except as expressly permitted in writing by the other Party.

14. REMEDIES

- 14.1. Except as otherwise provided herein, all rights of termination, cancellation or other remedies prescribed in this Agreement, or otherwise available, are cumulative and are not intended to be exclusive of other remedies to which the injured Party may be entitled in case of any breach or threatened breach by the other Party of any provision of this Agreement, and use of one or more remedies shall not bar use of any other remedy for the purpose of enforcing the provisions of this Agreement.

15. CONFIDENTIALITY AND PUBLICITY

- 15.1. All information which is disclosed by one Party (“Disclosing Party”) to the other (“Recipient”) in connection with this Agreement, or acquired in the course of performance of this Agreement, shall be deemed confidential and proprietary to the Disclosing Party and subject to this Agreement, such information includes but is not limited to, orders for services, usage information in any form, and CPNI as that term is defined by the Act and the rules and regulations of the FCC (“Confidential Information”).
- 15.2. During the term of this Agreement, and for a period of five (5) year thereafter, Recipient shall
- 15.2.1. use Confidential Information only for the purpose of performing under this Agreement,
 - 15.2.2. hold Confidential Information in confidence and disclose it only to employees or agents who have a need to know it in order to perform under this Agreement, and
 - 15.2.3. safeguard Confidential Information from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.
- 15.3. Recipient shall have no obligation to safeguard Confidential Information
- 15.3.1. which was in the Recipient’s possession free of restriction prior to its receipt from Disclosing Party,
 - 15.3.2. which becomes publicly known or available through no breach of this Agreement by Recipient,
 - 15.3.3. which is rightfully acquired by Recipient free of restrictions on its Disclosure, or

- 15.3.4. -which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.
- 15.4. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, if the Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and the Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient will comply with any protective order that covers the Confidential Information to be disclosed.
- 15.5. Each Party agrees that in the event of a breach of this Section 15 by Recipient or its representatives, Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 15.6. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, symbols or words from which the other Party's name may reasonably be inferred or implied in any product, service, advertisement, promotion, or any other publicity matter, except that nothing in this paragraph shall prohibit a Party from engaging in valid comparative advertising. This Section 15.6 shall confer no rights on a Party to the service marks, trademarks and trade names owned or used in connection with services by the other Party or its Affiliates, except as expressly permitted by the other Party.
- 15.7. Neither Party shall produce, publish, or distribute any press release nor other publicity referring to the other Party or its Affiliates, or referring to this Agreement, without the prior written approval of the other Party. Each party shall obtain the other Party's prior approval before discussing this Agreement in any press or media interviews. In no event shall either Party mischaracterize the contents of this Agreement in any public statement or in any representation to a governmental entity or member thereof.
- 15.8. Except as otherwise expressly provided in this Section 15, nothing herein shall be construed as limiting the rights of either Party with respect to its customer information under any applicable law, including without limitation § 222 of the Act.

16. DISCLAIMER OF WARRANTIES

- 16.1. EXCEPT AS SPECIFICALLY PROVIDED ELSEWHERE IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO QUALITY, FUNCTIONALITY OR CHARACTERISTICS OF THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF

MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR STATEMENT MADE BY EITHER PARTY OR ANY OF ITS AGENTS OR EMPLOYEES, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, ANY SPECIFICATIONS, DESCRIPTIONS OR STATEMENTS PROVIDED OR MADE SHALL BE BINDING UPON EITHER PARTY AS A WARRANTY.

17. ASSIGNMENT AND SUBCONTRACT

- 17.1. If any Affiliate of either Party succeeds to that portion of the business of such Party that is responsible for, or entitled to, any rights, obligations, duties, or other interests under this Agreement, such Affiliate may succeed to those rights, obligations, duties, and interest of such Party under this Agreement. In the event of any such succession hereunder, the successor shall expressly undertake in writing to the other Party the performance and liability for those obligations and duties as to which it is succeeding a Party to this Agreement. Thereafter, the successor Party shall be deemed ELECINTRADO COMM or Embarq and the original Party shall be relieved of such obligations and duties, except for matters arising out of events occurring prior to the date of such undertaking.
- 17.2. Except as provided in Section 17.1, any assignment of this Agreement or of the work to be performed, in whole or in part, or of any other interest of a Party hereunder, without the other Party's written consent, which consent shall not be unreasonably withheld or delayed, shall be void.

18. GOVERNING LAW

- 18.1. This Agreement shall be governed by and construed in accordance with the Act, the FCC's Rules and Regulations and orders of the Commission, except insofar as state law may control any aspect of this Agreement, in which case the domestic laws of the Commission's state, without regard to its conflicts of laws principles, shall govern.

19. RELATIONSHIP OF PARTIES

- 19.1. It is the intention of the Parties that each Party shall be an independent contractor and nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other.

20. NO THIRD PARTY BENEFICIARIES

- 20.1. The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person, and this Agreement shall not provide any person not a party hereto with any remedy, claim, liability, reimbursement, right of action, or other right in excess of those existing without reference hereto. This shall not be construed to prevent ELECINTRADO COMM from providing its Telecommunications Services to other carriers.

21. NOTICES

- 21.1. Except as otherwise provided herein, all notices or other communication hereunder shall be deemed to have been duly given when made in writing and delivered in person or deposited in the United States mail, certified mail, postage prepaid, return receipt requested and addressed as follows:

If to "Customer":

Intrado Communications Inc.
Director – Regulatory Compliance
1601 Dry Creek Drive
Longmont, CO 80503

If to Embark:

Director - Wholesale Markets
Embark
KSOPKB0401-413
9300 Metcalf Avenue
Overland Park, KS 66212

With a copy to:

With a copy to:

- 21.2. If delivery, other than certified mail, return receipt requested, is used to give notice, a receipt of such delivery shall be obtained and the notice shall be effective when received. If delivery via certified mail, return receipt requested, is used, notice shall be effective when sent. The address to which notices or communications may be given to either Party may be changed by written notice given by such Party to the other pursuant to this Section.

22. WAIVERS

- 22.1. No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed.
- 22.2. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.
- 22.3. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

23. SURVIVAL

- 23.1. 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 including but not limited to Sections 7, 8, 9, 10, 11, 15, 20, 22, and 25.

24. FORCE MAJEURE

24.1. Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, strikes, work stoppage affecting a supplier or unusually severe weather. No delay or other failure to perform shall be excused pursuant to this Section 24 unless delay or failure and consequences thereof are beyond the control and without the fault or negligence of the Party claiming excusable delay or other failure to perform. Subject to Sections 4.4, 5.2, 5.2, and 5.5 hereof, in the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delayed Party shall perform its obligations at a performance level no less than that which it uses for its own operations. In the event of such performance delay or failure by Embarq, Embarq agrees to resume performance in a nondiscriminatory manner and not favor its own provision of Telecommunications Services above that of ~~CLEC~~INTRADO COMM.

25. DISPUTE RESOLUTION

- 25.1. The Parties recognize and agree that the Commission has continuing jurisdiction to implement and enforce all terms and conditions of this Agreement, except those services in Part I (non-251 services). Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties cannot resolve, other than Part I (non-251 services), may be submitted to the Commission for resolution, in the manner provided for herein. The dispute resolution provisions of this Section shall not preclude the Parties from seeking relief available in any other forum.
- 25.2. A Party may not submit a dispute to the Commission for resolution unless at least sixty (60) Days have elapsed after the Party asserting the dispute has given written notice of such dispute to the other Party. Such notice must explain in reasonable detail the specific circumstances and grounds for each disputed item, which shall include the specific information required in Section 7.3 for billing disputes. If a Party gives notice of a billing dispute more than thirty (30) Days after the billing date and has not paid the disputed amounts by the payment due date, then the notice of such dispute shall be deemed to have been given thirty (30) Days after the billing date for purposes of calculating the time period before such dispute may be submitted to the Commission.
- 25.3. The Parties shall meet or confer as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the Parties, provided, however, that all reasonable requests for relevant, non-

privileged, information made by one Party to the other Party shall be honored, and provided that the following terms and conditions shall apply:

- 25.3.1. If Embarq provides written notice to the CLECINTRADO COMM that a billing dispute has been denied, stating the grounds for such determination, then the CLECINTRADO COMM shall have ten (10) Days in which to either pay the disputed amounts or to send written notice to the National Dispute Center advising that the CLECINTRADO COMM disagrees with the determination by Embarq, and such notice may be accompanied by any additional, relevant materials submitted by CLECINTRADO COMM. Failure by the CLECINTRADO COMM to make a timely response to a notice of denial by Embarq shall result in lifting the suspension of the payment due date for such disputed invoice, and the possible assessment of late charges and suspension or termination of service for non-payment of billed amount in accordance with Section 7.2.
- 25.3.2. Failure by the CLECINTRADO COMM to make a timely response to a notice of denial by Embarq shall also preclude the CLECINTRADO COMM from thereafter requesting an escalation of the same dispute under Section 25.4, although the CLECINTRADO COMM may file a petition in compliance with Section 25.5.
- 25.4. If the Parties are unable to resolve the dispute in the normal course of business within thirty (30) Days after delivery of notice of the Dispute, then upon the request of either Party, the dispute shall be escalated to other representatives of each Party that have authority to settle the dispute, and such escalation may be repeated every thirty (30) Days during which negotiations continue. Referral of a dispute by a Party to its legal counsel shall be considered an escalation for purposes of this paragraph.
- 25.5. If the Parties are unable to resolve the dispute within sixty (60) Days after delivery of the initial notice of the dispute, then either Party may file a petition or complaint with the Commission seeking resolution of the dispute. The petition or complaint shall include a statement that both Parties have agreed to request an expedited resolution by the Commission within sixty (60) Days from the date on which the petition or complaint was filed with the Commission.
- 25.6. If the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each Party shall pay half of the fees and expenses so incurred.
- 25.7. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement provided, however, that neither Party shall be required to act in any unlawful fashion.
- 25.8. A dispute which has been resolved by a written settlement agreement between the Parties or pursuant to a determination by the Commission may not be resubmitted under the dispute resolution process.

26. COOPERATION ON FRAUD

- 26.1. The Parties agree that they 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 unduly burden or harm one party as compared to the other.

27. TAXES [PENDING INTRADO COMM'S FURTHER REVIEW]

- 27.1. For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including Tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.
- 27.2. Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.
- 27.2.1. Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.
- 27.2.2. Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.
- 27.3. Taxes and Fees Imposed on Purchasing Party but Collected And Remitted By Providing Party.
- 27.3.1. Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.
- 27.3.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 27.3.3. If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefore, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any

such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.

- 27.3.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
 - 27.3.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
 - 27.3.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
 - 27.3.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.
- 27.4. Taxes and Fees Imposed on Providing Party But Passed On To Purchasing Party.
- 27.4.1. Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
 - 27.4.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
 - 27.4.3. If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such

tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.

- 27.4.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 27.4.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 27.4.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorneys' fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 27.4.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.
- 27.5. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.
- 27.6. To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. If Applicable Law excludes or exempts a purchase of services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party furnishes the providing Party with a letter or other evidence of exemption, reasonably satisfactory to the providing Party,

claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate. If the exemption is later found to be invalid by the applicable jurisdiction, then the purchasing Party shall pay any tax, interest and/or penalty that is determined to be due, and shall be responsible for any costs incurred by the providing Party, including but not limited to reasonable attorneys' fees.

28. AMENDMENTS AND MODIFICATIONS

28.1. No provision of this Agreement shall be deemed waived, amended or modified by either Party unless such a waiver, amendment or modification is in writing, dated, and signed by both Parties.

29. SEVERABILITY

29.1. Subject to Section 4.2, if any part of this Agreement is held to be invalid, void or unenforceable for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

30. HEADINGS NOT CONTROLLING

30.1. The headings and numbering of Sections and Parts in this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

31. ENTIRE AGREEMENT

31.1. This Agreement, including all Parts and subordinate documents attached hereto or referenced herein, all of which are hereby incorporated by reference herein, subject only to the terms of any applicable Tariff on file with the state Commission or the FCC, constitute the entire matter thereof, and supersede all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter thereof.

32. SUCCESSORS AND ASSIGNS

32.1. Subject to the terms of this Agreement, Embarq and ~~CLEC~~INTRADO COMM agree this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

33. IMPLEMENTATION PLAN

33.1. This Agreement sets forth the overall standards of performance for the services, processes, and systems capabilities that the Parties will provide to each other, and

the intervals at which those services, processes and capabilities will be provided. The Parties understand that the arrangements and provision of services described in this Agreement shall require technical and operational coordination between the Parties. Accordingly, the Parties agree to form a team (the "Implementation Team") which shall develop and identify those processes, guidelines, specifications, standards and additional terms and conditions necessary to support and satisfy the standards set forth in this Agreement and implement each Party's obligations hereunder.

- 33.2. Dispute Resolution. If the Implementation Team is unable to agree upon any of the matters to be included in the Implementation Plan, then either Party may invoke the procedures set forth in Part B Section 25.

34. FEDERAL JURISDICTIONAL AREAS

- 34.1. Article 1, § 8, Clause 17 of the United States Constitution provides the authority to Congress to exercise exclusive jurisdiction over areas and structures used for military purposes (Federal Enclaves). Thus, Telecommunications Services to such Federal Enclaves are not subject to the jurisdiction of the Commission. The Parties agree that Services provided within Federal Enclaves are not within the scope of this Agreement. To the extent Embarq has contracts with federal entities that limit or prohibit the ability of CLECINTRADO COMM to provide resale or UNEs such contract will govern Telecommunications Services on such Federal Enclave. If the contract with the federal entity provides for the resale or provision of UNEs to provide service on the Federal Enclave, Embarq will provide CLECINTRADO COMM with information regarding the provision of service on the Federal Enclave.

PART C – GENERAL PRINCIPLES

35. USE OF FACILITIES

35.1. In situations where a competitive LEC has the use of the facilities (*i.e.*, Local Loop) to a specific customer premise, either through resale of local service or the lease of the Local Loop as an Unbundled Network Element, and Embarq receives a good faith request for service from a customer at the same premise or from another carrier with the appropriate customer authorization, the procedures below will apply.

35.1.1. Embarq will process such orders and provision services consistent with the terms contained in Section ~~727271~~, of this Agreement.

35.1.2. Where ~~CLEC~~INTRADO COMM is using a single facility to provide service to multiple end user customers, Embarq will not disconnect that facility as a result of the following procedures.

35.1.3. Embarq will follow methods prescribed by the FCC and any applicable state regulation for carrier change verification.

35.1.4. Customer with Existing Service Changing Local Service Provider:

In situations where a competitive LEC submits an order for an end user customer that is changing local service providers for existing service, and is not adding service (*i.e.*, an additional line), Embarq will process the service request without delay, and provide the losing competitive LEC a customer loss notification consistent with industry standards.

35.1.5. Customer with Existing Service Adding New Service

In situations where an order is submitted for an end user customer adding service to existing service (*i.e.*, an additional line), the order should be marked as an additional line and existing facilities will not be affected.

35.1.6. Customer Requesting New Service where Previous Customer has Abandoned Service

(a) The following applies in the case where an end user customer vacates premises without notifying the local service provider and a new end user customer moves into the vacated premises and orders new service from a local service provider and neither Embarq nor the previous local service provider are aware that the original end user customer has abandoned the service in place.

(b) When a carrier requests service at a location and marks the order as abandoned and ~~CLEC~~INTRADO COMM is the

previous local service provider, Embarq shall notify CLECINTRADO COMM via fax that it has had a request for service at the premise location that is currently being served by CLECINTRADO COMM;

- (c) If available to Embarq, Embarq shall include the name and address of the party receiving service at such locations, but at a minimum shall provide local service address location information;
- (d) If CLECINTRADO COMM does not respond within twenty-four (24) hours (excluding weekends and holidays) after receiving Embarq's notification or if CLECINTRADO COMM responds relinquishing the facilities, Embarq shall be free to use the facilities in question and Embarq shall issue a disconnect order with respect to the CLECINTRADO COMM service at that location. If CLECINTRADO COMM responds stating that the service is working and should not be disconnected, Embarq will notify the carrier ordering service and request verification of the address and location or the submission of an order for an additional line.

36. PRICE SCHEDULE

36.1. All prices under this Agreement are set forth in the attachments designated Table One and Table Two of this Agreement are hereby incorporated into, and made a part of, this Agreement. If this Agreement provides for a service that does not have a corresponding rate in Table One or Table Two, or is not subject to Section Error! Reference source not found.~~Error! Reference source not found.~~⁴², Embarq will develop a rate consistent with Section Error! Reference source not found.~~Error! Reference source not found.~~⁴³.

36.2. Subject to the provisions of Part B, Section 4 of this Agreement, all rates provided under this Agreement shall remain in effect for the term of this Agreement.

36.3. Local Service Resale

The rates that CLECINTRADO COMM shall pay to Embarq for Local Resale are as set forth in Table One of this Agreement and shall be applied consistent with the provisions of Part D of this Agreement.

36.4. Unbundled Network Elements

The charges that CLECINTRADO COMM shall pay to Embarq for Unbundled Network Elements are set forth in Table One of this Agreement.

36.5. Collocation

The charges that CLECINTRADO COMM shall pay to Embarq for Collocation are set forth in Table Two of this Agreement.

36.6. Call Related Databases

The charges that CLECINTRADO COMM shall pay to Embarq for Call Related Databases purchased pursuant to Part J are set forth in Table One of this Agreement.

37. SECURITY DEPOSIT

- 37.1. Embarq reserves the right to secure the account with a suitable security deposit in the form and amounts set forth herein.
- 37.2. Security deposits shall take the form of cash or cash equivalent, an irrevocable letter of credit or other form of security acceptable to Embarq.
- 37.3. If a security deposit is required on a new account, CLECINTRADO COMM will remit such security deposit prior to inauguration of service. If a security deposit is requested for an existing account, payment of the security deposit will be made prior to acceptance by Embarq of additional orders for service.
- 37.4. Security deposits shall be in an amount equal to two (2) months' estimated billings as calculated by Embarq, or twice the most recent month's invoices from Embarq for existing accounts. All security deposits will be subject to a minimum deposit level of \$10,000.
- 37.5. The fact that a security deposit has been made in no way relieves CLECINTRADO COMM from complying with Embarq's regulations as to advance payments and the prompt payment of bills on presentation, nor is it a waiver or modification of the regular practices of Embarq for the discontinuance of service for non-payment of any sums due Embarq.
- 37.6. Embarq may increase the security deposit requirements when gross monthly billing has increased beyond the level initially used to determine the security deposit. If payment of the additional security deposit amount is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLECINTRADO COMM will be considered in breach of the Agreement.
- 37.7. Any security deposit shall be held by Embarq as a guarantee of payment of any charges for services billed to CLECINTRADO COMM pursuant to this Agreement or in connection with any other services provided to CLECINTRADO COMM by Embarq. Embarq may exercise its right to credit any cash deposit to CLECINTRADO COMM's account, or to demand payment from the issuing bank or bonding company of any irrevocable bank letter of credit, upon the occurrence of any one of the following events:
 - 37.7.1. when CLECINTRADO COMM's undisputed balances due to Embarq are more than thirty (30) Days past due; or
 - 37.7.2. when CLECINTRADO COMM files for protection under the bankruptcy laws; or

- 37.7.3. when an involuntary petition in bankruptcy is filed against CLECINTRADO COMM and is not dismissed within sixty (60) Days;
 - 37.7.4. when this Agreement expires or terminates;
 - 37.7.5. any letter of credit issued hereunder or any bank issuing a letter of credit hereunder (each, a “Letter of Credit Bank”) fails to meet the terms, conditions, and requirements set forth below in this Section; ; or
 - 37.7.6. CLECINTRADO COMM fails to provide Embarq with a replacement letter of credit on the terms set forth herein at least ten (10) Business Days prior to the expiration of any letter of credit issued to Embarq hereunder.
- 37.8. If any security deposit held by Embarq is applied as a credit toward payment of CLECINTRADO COMM’s balances due to Embarq, then Embarq may require the CLECINTRADO COMM to provide a new deposit. If payment of the new deposit is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLECINTRADO COMM will be considered in breach of the Agreement.
- 37.9. Any security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service. No interest will accrue or be paid on deposits.
- 37.10. Any letter of credit issued to Embarq hereunder must meet the following requirements:
- 37.10.1. The bank issuing any letter of credit hereunder (the “Letter of Credit Bank”) must maintain a minimum credit rating of A (by Standard & Poor’s) or A2 (by Moody’s). If CLECINTRADO COMM proposes that the letter of credit be issued by a bank that is not so rated by Standard & Poor’s or Moody’s, then CLECINTRADO COMM must obtain the prior written approval by Embarq to use such bank as the Letter of Credit Bank.
 - 37.10.2. The original letter of credit shall be in such form and on terms that are acceptable to Embarq and must include an automatic one-year renewal extension.
 - 37.10.3. If CLECINTRADO COMM receives notice from the Letter of Credit Bank of any non-renewal of a letter of credit issued hereunder, then CLECINTRADO COMM shall promptly notify Embarq of such notice of non-renewal. Not later than ten (10) Business Days prior to the expiration of the letter of credit, CLECINTRADO COMM shall provide Embarq a replacement letter of credit on substantially identical terms to the existing letter of credit (or such other terms as are acceptable to Embarq). If CLECINTRADO COMM provides a replacement letter of credit not later than 10 Business Days prior to the expiration of the expiring letter of credit, then Embarq shall not make

a drawing under the expiring letter of credit. Upon receipt of a replacement letter of credit meeting the requirements set forth in this Agreement, Embarq will provide the original, expiring letter of credit to CLECINTRADO COMM.

- 37.10.4. If CLECINTRADO COMM desires to replace any letter of credit issued to Embarq hereunder, whether due to non-renewal or otherwise, each such replacement letter of credit and the Letter of Credit Bank issuing such replacement letter of credit must meet the terms, conditions and requirements set forth in this Section.

PART D – LOCAL RESALE

38. TELECOMMUNICATIONS SERVICES PROVIDED FOR RESALE

38.1. At the request of CLECINTRADO COMM, and pursuant to the requirements of the Act, and FCC and Commission Rules and Regulations, Embarq shall make available to CLECINTRADO COMM for resale Telecommunications Services that Embarq currently provides or may provide hereafter at retail to subscribers who are not Telecommunications Carriers. Such resale may be as allowed by the FCC and Commission. The Telecommunications Services provided by Embarq to CLECINTRADO COMM pursuant to this Part D are collectively referred to as "Local Resale." To the extent that this Part describes services which Embarq shall make available to CLECINTRADO COMM for resale pursuant to this Agreement, this list of services is neither all inclusive nor exclusive.

39. GENERAL TERMS AND CONDITIONS

39.1. The prices charged to CLECINTRADO COMM for Local Resale are the Embarq Tariff retail prices, discounted as set forth in Part C of this Agreement.

39.1.1. Voluntary Federal and State Subscriber Financial Assistance Programs. Subsidized local Telecommunications Services are provided to low-income subscribers pursuant to requirements established by the appropriate state regulatory body, and include programs such as Voluntary Federal Subscriber Financial Assistance Program and Link-Up America. Voluntary Federal and State Subscriber Financial Assistance Programs are not Telecommunications Services that are available for resale under this Agreement.

39.1.2. Embarq shall offer for resale to CLECINTRADO COMM all Grandfathered Services solely for the existing grandfathered base on a customer specific basis. Embarq shall make reasonable efforts to provide CLECINTRADO COMM with advance copy of any request for the termination of service and/or grandfathering to be filed by Embarq with the Commission.

39.1.3. Embarq shall offer for resale all of its Telecommunications Services available at retail to subscribers who are not Telecommunications Carriers, including but not limited to Contract Service Arrangements (or ICB), Special Arrangements (or ICB), and Promotions in excess of ninety (90) Days, all in accordance with FCC and Commission Rules and Regulations. For Contract Service Arrangements, Special Arrangements, or ICBs, the end-user customer's agreement with Embarq will terminate and any applicable termination liabilities will be charged to the end-user customer. The terms of the Contract Service Arrangement, Special Arrangement or ICB will apply commencing on the date CLECINTRADO COMM commences to provide service to the

end-user customer and ending on the end date of the Contract Service Arrangement, Special Arrangement or ICB. Embarq will apply the rate in the Contract Service Arrangement, Special Arrangement or ICB in accordance with Section 39.1.

- 39.1.4. Customer Owned Coin Operated Telephone (COCOT) or Pay Telephone Access lines will not be resold to payphone service providers at wholesale prices under this Agreement.
- 39.1.5. For Telecommunications Services that are offered by Embarq to its end users and that are available for resale, the rules and regulations associated with Embarq's retail Tariff(s) shall apply when the services are resold by CLECINTRADO COMM. Use limitations shall be in Parity with services offered by Embarq to its end users.
- 39.1.6. Except as set forth above and as may be allowed by the FCC or Commission, Embarq shall not place conditions or restrictions on CLECINTRADO COMM's resale of wholesale regulated Telecommunications Services, except for restrictions on the resale of residential service to other classifications (e.g., residential service to business customers) and for promotions of ninety (90) Days or less in length. In addition, CLECINTRADO COMM shall be prohibited from marketing its products using the Embarq product name (e.g., CLECINTRADO COMM may purchase the features package called "Embarq Essential" but shall be prohibited from reselling this product using the Embarq brand name or the Embarq product name). Every regulated retail service rate, including promotions over ninety (90) Days in length, discounts, and option plans will have a corresponding wholesale rate. Embarq will make wholesale Telecommunications Service offerings available for all new regulated services at the same time the retail service becomes available.
- 39.1.7. Voice Mail Service is not a Telecommunications Service available for resale under this Agreement. However, where available, Embarq shall make available for Local Resale the SMDI-E (Station Message Desk Interface-Enhanced), or SMDI (Station Message Desk Interface) where SMDI-E is not available, feature capability allowing for Voice Mail Services. Embarq shall make available the MWI (Message Waiting Indicator) interrupted dial tone and message waiting light feature capabilities where technically available. Embarq shall make available CF-B/DA (Call Forward on Busy/Don't Answer), CF/B (Call Forward on Busy), and CF/DA (Call Forward Don't Answer) feature capabilities allowing for Voice Mail services. Where available, CLECINTRADO COMM may purchase Voice Mail Service and related services for its end users at Embarq's retail rates.
- 39.1.8. Hospitality Service. Embarq shall provide all blocking, screening, and all other applicable functions available for hospitality lines under tariff.

39.1.9. LIDB Administration

- (a) Embarq shall maintain customer information for CLECINTRADO COMM customers who subscribe to resold Embarq local service dial tone lines, in Embarq's LIDB in the same manner that it maintains information in LIDB for its own similarly situated end-user subscribers. Embarq shall update and maintain the CLECINTRADO COMM information in LIDB on the same schedule that it uses for its own similarly situated end-user subscribers.
- (b) Until such time as Embarq's LIDB has the software capability to recognize a resold number as CLECINTRADO COMM's, Embarq shall store the resold number in its LIDB at no charge and shall retain revenue for LIDB look-ups to the resold number.

39.1.10. Embarq will continue to provide Primary Interexchange Carrier ("PIC") processing for end-users obtaining resold service from CLECINTRADO COMM. Embarq will bill and CLECINTRADO COMM will pay any PIC change charges. Embarq will only accept said requests for PIC changes from CLECINTRADO COMM and not from CLECINTRADO COMM's end users.

PART E – UNBUNDLED NETWORK ELEMENTS

40. GENERAL

- 40.1. Pursuant to the following terms, Embarq will unbundle and separately price and offer Unbundled Network Elements (“UNEs”). CLECINTRADO COMM shall pay Embarq each month for the UNEs provisioned, and shall pay the non-recurring charges listed in Table One or agreed to by the Parties. It is CLECINTRADO COMM’s obligation to combine Embarq-provided UNEs with any facilities and services that CLECINTRADO COMM may itself provide.

41. USE OF UNBUNDLED NETWORK ELEMENTS

- 41.1. Embarq shall offer UNEs to CLECINTRADO COMM for the purpose of offering Telecommunications Service to CLECINTRADO COMM subscribers. Embarq shall offer UNEs to CLECINTRADO COMM on an unbundled basis on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of this Agreement.
- 41.2. CLECINTRADO COMM may use one or more UNEs to provide any feature, function, capability, or service option that such UNE(s) is (are) technically capable of providing, except as otherwise limited herein. Except as provided elsewhere in this Agreement, it is CLECINTRADO COMM’s obligation to combine Embarq provided UNEs with any and all facilities and services whether provided by Embarq, CLECINTRADO COMM, or any other party. CLECINTRADO COMM may Commingle UNEs with Wholesale Services or Tariffed access services obtained from Embarq as provided for in this Agreement.
- 41.3. Each UNE provided by Embarq to CLECINTRADO COMM shall be at Parity with the quality of design, performance, features, functions, capabilities and other characteristics, that Embarq provides to itself, Embarq’s own subscribers, to an Embarq Affiliate or to any other Telecommunications Carrier requesting access to that UNE.
- 41.4. CLECINTRADO COMM may use Network Elements provided under this Agreement for any Telecommunications Service subject to the conditions listed below. By placing an order for UNEs, CLECINTRADO COMM certifies that these requirements are met.
- 41.4.1. Any combination of the following, where both are provided by Embarq, are subject to the EEL use restrictions in Section 53. Such restrictions apply irrespective of the manner in which the loops and transport are combined
- (a) high capacity loops (DS1, DS3), to the extent available, and special access transport (a commingled facility); or

- (b) special access channel terminations (DS1, DS3) and Dedicated Transport (DS1, DS3), to the extent available (a commingled facility), or
- (c) high capacity loops (DS1, DS3) and Dedicated Transport (DS1, DS3).

- 41.4.2. ~~CLECINTRADO~~ COMM may not order or use a UNE for the exclusive provision of Mobile Wireless Service. Facilities connecting Embarq's network and CMRS carriers' networks do not qualify as UNEs and will not be available to ~~CLECINTRADO~~ COMM as UNEs.
- 41.4.3. ~~CLECINTRADO~~ COMM may not order or use a UNE for the exclusive provision of Interexchange Services (*i.e.*, interLATA or intraLATA long distance). Facilities connecting Embarq's network and interexchange carriers' networks used by the interexchange carrier to exclusively provide such services to end users do not qualify as UNEs and will not be available to ~~CLECINTRADO~~ COMM as UNE
- 41.4.4. ~~CLECINTRADO~~ COMM must use any UNE purchased from Embarq for the purpose of providing eligible telecommunications services (not exclusively Mobile Wireless Service or Interexchange Services). ~~CLECINTRADO~~ COMM may use a UNE for the provision of Interexchange Services, Mobile Wireless Service, or Information Services, if ~~CLECINTRADO~~ COMM is also providing an eligible telecommunications service over the same UNE. ~~CLECINTRADO~~ COMM may not order or use a UNE for the sole purpose of selling it to another carrier for the exclusive provision of Mobile Wireless Service or Interexchange Services.
- 41.4.5. An Information Service is not an eligible telecommunications service except that ~~CLECINTRADO~~ COMM can use unbundled loops to provide xDSL services in accordance with this Agreement.

42. BONA FIDE REQUEST PROCESS

- 42.1. Embarq shall promptly consider and analyze ~~CLECINTRADO~~ COMM requests for unbundled Network Elements included in this Agreement that are not currently developed by Embarq, network information that is reasonably required to determine what unbundled Network Elements it needs to serve a particular customer or development of and changes to Embarq work processes related to ordering, provisioning or installation of unbundled Network Elements with the submission of a Bona Fide Request ("BFR") hereunder.
- 42.2. A BFR shall be submitted in writing on the Embarq Standard BFR Form and shall include a clear technical description of each request.

- 42.3. CLECINTRADO COMM may cancel a BFR at any time, but shall pay all reasonable and demonstrable costs of processing and/or implementing the BFR up to the date of cancellation.
- 42.4. Within ten (10) Days of its receipt, the Embarq shall acknowledge receipt of the BFR.
- 42.5. Except under extraordinary circumstances, within thirty (30) Days of its receipt of a BFR, the Embarq shall provide to CLECINTRADO COMM a preliminary analysis of such BFR.
- 42.6. Upon receipt of the preliminary analysis, CLECINTRADO COMM shall, within thirty (30) Days, notify Embarq, in writing, of its intent to proceed or not to proceed.
- 42.7. Embarq shall promptly proceed with the BFR upon receipt of written authorization from CLECINTRADO COMM. When it receives such authorization, Embarq shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals.
- 42.8. As soon as feasible, but not more than ninety (90) Days after its receipt of authorization to proceed with developing the BFR, Embarq shall provide to CLECINTRADO COMM a BFR Quote which will include, at a minimum, a description of each service, the availability, the applicable rates and the installation intervals.
- 42.9. Within thirty (30) Days of its receipt of the BFR Quote, CLECINTRADO COMM must either confirm, in writing, its order for the BFR pursuant to the BFR Quote or if a disagreement arises, seek resolution of the dispute under the Dispute Resolution procedures in Part B of this Agreement.
- 42.10. If a Party to a BFR believes that the other Party is not requesting, negotiating or processing the BFR in good faith, or disputes a determination, or price or cost quote, such Party may seek resolution of the dispute pursuant to the Dispute Resolution provisions in Part B of this Agreement.

43. INDIVIDUAL CASE BASIS PRICING

- 43.1. Individual Case Basis (ICB) pricing will be provided by Embarq upon request from the CLECINTRADO COMM for customer specific rates or terms for network services and features for UNEs that are not otherwise provided for in this Agreement.
- 43.2. Embarq will process ICB Pricing requests upon receipt from the CLECINTRADO COMM. Embarq will provide CLECINTRADO COMM a price quote within thirty (30) Business Days from the receipt of the request. Price quote intervals may vary depending upon the complexity of the request but shall not exceed thirty (30) Business Days from the receipt of the request.

44. NETWORK INTERFACE DEVICE

- 44.1. Embarq will offer unbundled access to the network interface device element (NID). The NID is defined as any means of interconnection of end-user customer premises wiring to an incumbent LEC's distribution plant, such as a cross connect device used for that purpose. This includes all features, functions, and capabilities of the facilities used to connect the loop to end-user customer premises wiring, regardless of the specific mechanical design.
- 44.2. The function of the NID is to establish the network demarcation point between a LEC (ILEC/CLECINTRADO COMM) and its subscriber. The NID provides a protective ground connection, protection against lightning and other high voltage surges and is capable of terminating cables such as twisted pair cable.
- 44.3. CLECINTRADO COMM may connect its NID to Embarq's NID; may connect an unbundled loop to CLECINTRADO COMM's NID; or may connect CLECINTRADO COMM's own Loop to Embarq's NID, except that CLECINTRADO COMM may not disconnect Embarq's loop and leave it disconnected from Embarq's NID. Embarq will provide one NID termination with each loop. If additional NID terminations are required, CLECINTRADO COMM may request them pursuant to the process detailed in the Bona Fide Request Section herein.
- 44.4. Embarq will provide CLECINTRADO COMM with information that will enable their technician to locate end user inside wiring at NIDs terminating multiple subscribers. Embarq will dispatch a technician and tag the wiring at the CLECINTRADO COMM's request. In such cases the charges specified in Table One will apply.
- 44.5. Embarq will not provide specialized (Embarq non-standard) NIDS.
- 44.6. The Embarq NID shall provide a clean, accessible point of connection for the inside wiring and for the distribution media and/or cross connect to CLECINTRADO COMM's NID and shall maintain a connection to ground that meets applicable industry standards. Each Party shall ground its NID independently of the other party's NID.
- 44.7. When requested, Embarq will provide NIDs separately from loops for a separate price as shown in Table One. A NID will be provided with each unbundled loop and is included in the loop pricing shown in Table One.

45. LOOP

- 45.1. Embarq will provide CLECINTRADO COMM access to Local Loops, including Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops. The following section includes the terms and conditions for Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops. Terms and conditions for making any network modifications resulting from CLECINTRADO COMM's request for Local Loops are contained in

Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~~~54.~~

- 45.2. At CLECINTRADO COMM's request, and if Technically Feasible, Embarq will test and report trouble on conditioned loops for all of the line's features, functions, and capabilities, and will not restrict its testing to voice-transmission only. Testing shall include Basic Testing and Cooperative Testing. Optional Cooperative Testing and Joint Testing are performed only at CLECINTRADO COMM's request. To the extent CLECINTRADO COMM requests testing that would require Embarq to purchase new equipment, establish new procedures, or make systems modifications, CLECINTRADO COMM will compensate Embarq for costs incurred to provide such testing. Request for additional testing must be submitted pursuant to the BFR Process in Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~~~42.~~
- 45.2.1. Basic Testing shall include simple metallic measurements only. Basic Testing does not include cooperative or joint testing efforts that require Embarq's technician to work jointly with CLECINTRADO COMM's staff ("Cooperative Testing" or "Joint Testing").
- 45.2.2. Cooperative testing is provided on service order activity only and will be provided by Embarq at CLECINTRADO COMM's expense. Embarq technicians will try to contact CLECINTRADO COMM's representative at the conclusion of installation. If the CLECINTRADO COMM does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLECINTRADO COMM's representative, and bill the CLECINTRADO COMM in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLECINTRADO COMM will be charged for the test and any additional technician time involved.
- 45.2.3. Joint Testing is provided on maintenance activity only and will be provided by Embarq at CLECINTRADO COMM's expense, when requested. Embarq technicians will try to contact CLECINTRADO COMM's representative to initiate Joint Testing after completing the requested activity. If the CLECINTRADO COMM does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLECINTRADO COMM's representative, and bill the CLECINTRADO COMM in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLECINTRADO COMM will be charged for the test and any additional technician time involved. Loops involving multiplexing prohibit the reading of a short.
- 45.2.4. Embarq will charge CLECINTRADO COMM at the rates set out on Table One, when the location of the trouble on a CLECINTRADO COMM-reported ticket is determined to be in CLECINTRADO COMM.

| COMM's network or on the CLECINTRADO COMM end user's side of the Demarcation Point.

45.3. Analog Loop Capabilities

- 45.3.1. Analog loops facilitate the transmission of voice grade signals in the 300-3000 Hz range and terminate in a 2-wire or 4-wire electrical interface at the CLECINTRADO COMM's end user's premises. CLECINTRADO COMM shall not install equipment on analog Loops that exceeds the specified bandwidth.
- 45.3.2. Embarq will provide analog Loops as Copper Loops, Hybrid Loops, and where required, FTTH Loops and FTTC Loops, based on available facilities.

45.4. Digital Loops

- 45.4.1. Embarq will provide digital Loops on the basis of the service that will be provisioned over the Loop. Digital Loops are Copper Loops over which CLECINTRADO COMM may deploy advanced services. Deployment of advanced services over digital loops by CLECINTRADO COMM will be consistent with the terms and conditions contained in Section 45.8. On digital Loops, Embarq will only provide electrical continuity and line balance.
- 45.4.2. Embarq shall employ industry accepted standards and practices to maximize binder group efficiency through analyzing the interference potential of each loop in a binder group, assigning an aggregate interference limit to the binder group, and then adding loops to the binder group until that limit is met. Disputes regarding the standards and practices employed in this regard shall be resolved through the Dispute Resolution Process set forth in Part B of this Agreement.
- 45.4.3. Reverse ADSL Loops. If a CLECINTRADO COMM's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the subscriber, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to ADSL transmission only and not part of Embarq's regular feeder or distribution plant.

45.5. Non-Standard Digital Loops

- 45.5.1. If CLECINTRADO COMM requests a digital Loop, for which the effective loop length exceeds the xDSL standard of 18 kft (subject to gauge design used in an area), Embarq will only provide a Non-Standard Digital Loop. Additional non-recurring charges for conditioning will apply. Non-Standard Digital Loops will not be subject to performance

measurements or technical specifications, however, all of the SMC requirements set forth in Section 45.4 are applicable.

45.6. DS1 Loops

- 45.6.1. Subject to the cap in Section 45.6.2, Embarq will provide CLECINTRADO COMM nondiscriminatory access to a DS1 Loop on an unbundled basis to any building not served by a Wire Center with at least 60,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS1 loop unbundling will be required in that wire center. DS1 loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.
- 45.6.2. CLECINTRADO COMM may obtain a maximum of ten unbundled DS1 loops to any single building in which DS1 loops are available as unbundled loops.
- 45.6.3. Where Embarq is not required to provide unbundled DS1 loops pursuant to Sections 45.6.1 and 45.6.2, CLECINTRADO COMM may not obtain new DS1 loops as UNEs.
- 45.6.4. Any DS1 loops that CLECINTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.6.1 and 45.6.2, are subject to the following:
 - (a) Such DS1 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert the DS1 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Loops to comparable access services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - (b) Any service provided to CLECINTRADO COMM by Embarq after 03/10/06 over DS1 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundled such facilities
 - (c) Any service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 over such DS1 Loops that CLECINTRADO COMM placed in service prior to 03/11/05 shall

be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.

45.6.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the DS1 Loop threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS1 loops for the identified wire centers after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a wire center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS1 loops leased from Embarq within an identified Wire Center on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

(a) CLECINTRADO COMM must submit the necessary orders to convert such DS1 Loops to an alternative service arrangement within six (6) months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned the UNEs to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders before the end of the six (6) month period, Embarq will convert the DS1 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

45.7. DS3 Loops

45.7.1. Subject to the cap described in Section 45.7.2, Embarq shall provide CLECINTRADO COMM with nondiscriminatory access to a DS3 loop on an unbundled basis to any building not served by a Wire Center with at least 38,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS3 loop unbundling will be required in that Wire Center. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.

45.7.2. CLECINTRADO COMM may obtain a maximum of a single unbundled DS3 loop to any single building in which DS3 loops are available as unbundled loops.

- 45.7.3. Where Embarq is not required to provide unbundled DS3 loops pursuant to Sections 45.7.1 and 45.7.2, CLECINTRADO COMM may not obtain new DS3 loops as UNEs.
- 45.7.4. Any DS3 loop UNEs that CLECINTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.7.1 and 45.7.2, are subject to the following:
- (a) Such DS3 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert the DS3 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - (b) Any service provided to CLECINTRADO COMM by Embarq after 03/10/06 over DS3 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such facilities.
 - (c) Any service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 over such DS3 Loops that CLECINTRADO COMM placed in service prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.
- 45.7.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS3 loops for the identified wire centers after 90 Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a wire center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS3 loops leased from Embarq on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.
- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS3 Loops to an alternative service arrangement within six months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned

the UNEs to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders by the end of the six (6) month period, Embarq will convert the DS3 Loops to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

45.8. Adherence to National Industry Standards

- 45.8.1. In providing advanced service loop technology, Embarq shall allow CLECINTRADO COMM to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.
- 45.8.2. Until long term industry standards and practices can be established, a particular technology shall be presumed acceptable for deployment under certain circumstances. Deployment that is consistent with at least one of the following circumstances presumes that such loop technology will not significantly degrade the performance of other advanced services or impair traditional analog circuit-switched voice band services:
 - (a) Complies with existing industry standards, including an industry-standard PSD mask, as well as modulation schemes and electrical characteristics;
 - (b) Is approved by an industry standards body, the FCC, or any state commission or;
 - (c) Has been successfully deployed by any CLECINTRADO COMM without significantly degrading the performance of other services.
- 45.8.3. Where CLECINTRADO COMM seeks to establish that deployment of a technology falls within the presumption of acceptability under Section 45.8.2, the burden is on CLECINTRADO COMM to demonstrate to the Commission that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services.
- 45.8.4. If a deployed technology significantly degrades other advanced services, the affected Party will notify the interfering party and give them a reasonable opportunity to correct the problem. The interfering Party will immediately stop any new deployment until the problem is resolved to mitigate disruption of other carrier services. If the affected parties are unable to resolve the problem, they will present factual evidence to the Commission for review and determination. If the Commission determines that the deployed technology is the cause of the interference,

the deploying party will remedy the problem by reducing the number of existing customers utilizing the technology or by migrating them to another technology that does not disturb.

- 45.8.5. When the only degraded service itself is a known disturber and the newly deployed technology is presumed acceptable pursuant to Section 45.8.2, the degraded service shall not prevail against the newly deployed technology.
- 45.8.6. If Embarq denies a request by CLECINTRADO COMM to deploy a technology, it will provide detailed, specific information providing the reasons for the rejection.
- 45.8.7. Parties agree to abide by national standards as developed by ANSI, i.e., Committee T1E1.4 group defining standards for loop technology. At the time the deployed technology is standardized by ANSI or the recognized standards body, the CLECINTRADO COMM will upgrade its equipment to the adopted standard within sixty (60) Days of the standard being adopted.
- 45.8.8. CLECINTRADO COMM shall meet the power spectral density requirement given in the respective technical references listed below:
 - (a) For Basic Rate ISDN: Telcordia TR-NWT-000393 Generic Requirements for ISDN Basic Access Digital Subscriber Lines.
 - (b) For HDSL installations: Telcordia TA-NWT-001210 Generic Requirements for High-Bit-Rate Digital Subscriber Lines. Some fractional T1 derived products operating at 768 kbps may use the same standard.
 - (c) For ADSL: ANSI T1.413-1998 (Issue 2 and subsequent revisions) Asymmetrical Digital Subscriber Line (ADSL) Metallic Interface.
 - (d) As an alternative to Section 45.8.8, CLECINTRADO COMM may meet the requirements given in ANSI document T1E1.4/2000-002R2 dated May 1, 2000. "Working Draft of Spectrum Management Standard" and subsequent revisions of this document.
- 45.9. Information to be Provided for Deployment of Advanced Services
 - 45.9.1. Upon request, Embarq shall provide to CLECINTRADO COMM:
 - (a) information with respect to the spectrum management procedures and policies that Embarq uses in determining which services can be deployed;
 - (b) information with respect to the rejection of CLECINTRADO COMM's provision of advanced services, together with the specific reason for the rejection; and

- (c) information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops.

45.9.2. In connection with the provision of advanced services, CLECINTRADO COMM shall provide to Embarq the following information on the type of technology that CLECINTRADO COMM seeks to deploy where CLECINTRADO COMM asserts that the technology it seeks to deploy fits within a generic Power Spectral Density (PSD) mask:

- (a) information in writing (via the service order) regarding the Spectrum Management Class (SMC), as defined in the T1E1.4/2000-002R2 Draft, of the desired loop so that the loop and/or binder group may be engineered to meet the appropriate spectrum compatibility requirements;
- (b) the SMC (*i.e.*, PSD mask) of the service it seeks to deploy, at the time of ordering and if CLECINTRADO COMM requires a change in the SMC of a particular loop, CLECINTRADO COMM shall notify Embarq in writing of the requested change in SMC (via a service order);
- (c) to the extent not previously provided CLECINTRADO COMM must disclose to Embarq every SMC that the CLECINTRADO COMM has implemented on Embarq's facilities to permit effective Spectrum Management.

45.10. Hybrid Loops. Embarq will provide CLECINTRADO COMM access to Hybrid Loops for the provision of narrowband services as provided below. Embarq is not required to provide unbundled access to the packet switched features, functions, and capabilities of its Hybrid Loops.

45.10.1. When CLECINTRADO COMM requests access to a Hybrid Loop for the provision of narrowband services, Embarq will

- (a) Provide non-discriminatory unbundled access to the entire Hybrid Loop capable of providing voice-grade service (*i.e.*, equivalent to DS0 capacity) using time division multiplexing, or
- (b) Provide non-discriminatory unbundled access to a spare Copper Loop serving that end-user.

45.11. Fiber Loops

45.11.1. Dark Fiber Loops

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq that has not

been activated through connections to optronics that light it, and thereby render it capable of carrying communications.

- (b) Embarq is not required to provide CLECINTRADO COMM with access to Drk Fiber Loop on an unbundled basis.
- (c) Any Dark Fiber Loop that CLECINTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.11 shall be subject to the following:
 - (i) Such Dark Fiber Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert such Dark Fiber Loops to an alternative service arrangement within such thirty (30) Day period, Embarq will have the right to disconnect such Dark Fiber Loops.
 - (ii) Any service provided by Embarq to CLECINTRADO COMM over Dark Fiber Loops between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber Loops immediately prior to that period, and any service provided by Embarq to CLECINTRADO COMM over Dark Fiber Loops after 09/05/06 and prior to such conversion or disconnection shall be billed at applicable rates for comparable access services based on the capacity of the electronics deployed by the CLECINTRADO COMM in connection with such Dark Fiber Loops.

45.12. FTTH and FTTC Fiber Loops

- 45.12.1. New builds. Embarq will not provide non-discriminatory access to FTTH Loop or a FTTC Loop on an unbundled basis when Embarq has deployed a FTTH or FTTC Loop to an end-user customer premise that previously has not been served by any loop facility.
- 45.12.2. Overbuilds. Embarq will not provide non-discriminatory access to FTTH Loop or FTTC Loop on an unbundled basis when Embarq has deployed a FTTH Loop or FTTC Loop parallel to, or in replacement of, an existing loop facility, except that:
 - (a) Embarq will maintain the existing Copper Loop connected to a particular customer premises after deploying FTTH Loop or FTTC Loop and provide non-discriminatory access to the Copper Loop on an unbundled basis unless Embarq has retired the Copper Loop as set forth below.
 - (b) If Embarq deploys FTTH Loop or FTTC Loop and maintains the existing Copper Loop, Embarq will restore the Copper Loop to

serviceable condition upon request and at CLECINTRADO COMM's expense.

- (c) If Embarq deploys FTTH Loop or FTTC Loop and retires the existing Copper Loop, Embarq will provide non-discriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the FTTH Loop or FTTC Loop.
- (d) Prior to retiring Copper Loop or copper subloop that has been replaced with FTTH Loop or FTTC Loop Embarq will comply with the notice requirements set forth in 251(c)(5) of the Act, §§ 51.325 through 51.335 of the Code of Federal Regulations and applicable Commission requirements, if any.

45.13. Tag and Label. At CLECINTRADO COMM's request, Embarq will tag and label unbundled loops at the Network Interface Device (NID). Tag and label may be ordered simultaneously with the ordering of the Loop or as a separate service subsequent to the ordering of the Loop.

45.13.1. Embarq will include the following information on the label: order number, due date, CLECINTRADO COMM name, and the circuit number.

45.13.2. CLECINTRADO COMM must specify on the order form whether each Loop should be tagged and labeled.

45.13.3. The rates for Loop tag and label and related services are set forth on Table One. A trip charge may be billed in addition to the Tag and Label charges.

46. SUBLOOPS

46.1. Embarq will offer unbundled access to copper subloops and subloops for access to multiunit premises wiring. Embarq will consider all requests for access to subloops through the ICB process due to the wide variety of interconnections available and the lack of standards. A written response will be provided to CLECINTRADO COMM covering the interconnection time intervals, prices and other information based on the ICB process as set forth in this Agreement.

46.2. Embarq is not required to provide CLECINTRADO COMM access to dark fiber subloops.

46.3. Copper Subloops. Embarq will make available access to copper subloops on an unbundled basis. A copper subloop is a portion of a Copper Loop, or Hybrid Loop, and is comprised entirely of copper wire or copper cable that acts as a transmission facility between any accessible terminal in Embarq's outside plant, including inside wire owned or controlled by Embarq, and the end-user customer premises. A copper subloop can also include intermediate devices, such as repeaters, used to establish the transmission path. Copper subloops can be used by CLECINTRADO COMM to provide voice-grade services as well as digital

subscriber line services. Access to copper subloops is subject to the collocation provisions of this Agreement. Copper subloop consists of the distribution portion of the Copper Loop. Embarq is not obligated to offer feeder loop plant as a stand-alone UNE.

46.3.1. An accessible terminal is any point on the loop where technicians can access a copper wire within the cable without removing a splice case. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, and the feeder/distribution interface.

46.4. Multiunit premises wiring. Embarq will make available to CLECINTRADO COMM access to subloops for access to multiunit premises wiring on an unbundled basis. The subloop for access to multiunit premises wiring is defined as any portion of the loop that it is technically feasible to access at a terminal in the incumbent LEC's outside plant at or near a multiunit premises, including inside wire. Inside wire is wire owned or controlled by Embarq at a multiunit customer premises between the minimum point of entry and the point of demarcation.

46.4.1. An accessible terminal is any point in Embarq's network where a technician can access the wire within the cable (*e.g.*, via screw posts, terminals, patch panels) without removing a splice case to reach the wire within to access the wiring in the multiunit premises. Such points include, but are not limited to, a pole or pedestal, the NID, the minimum point of entry, the single point of interconnection, and the feeder/distribution interface.

46.4.2. Upon request for interconnection at a multiunit premises where Embarq owns, controls, or leases wiring, Embarq will provide a single point of interconnection that is suitable for use by multiple carriers. If the Parties do not agree on appropriate terms, conditions and rates for the single point of interconnection to multiunit premises wiring either Party may invoke the Dispute Resolution provisions of this Agreement.

46.5. Embarq will not provide or maintain inside wire in situations where it determines there are health or safety concerns in doing so.

46.6. Deployment of advanced services by CLECINTRADO COMM over subloops will be in accordance with the terms included in Section 45.8 and Section 45.9.

46.7. Reverse ADSL Loops. If a CLECINTRADO COMM's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the subscriber, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to

ADSL transmission only and not part of Embarq's regular feeder or distribution plant.

47. OPERATIONS SUPPORT SYSTEMS (OSS)

- 47.1. Embarq will offer unbundled access to Embarq's operations support systems to the extent technically feasible in a non-discriminatory manner at Parity. OSS consists of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by Embarq's databases and information. The OSS element includes access to all loop qualification information contained in Embarq's databases or other records, including information on whether a particular loop is capable of providing advanced services.

48. LOOP MAKE-UP INFORMATION

- 48.1. Embarq shall make available Loop Make-Up Information in a non-discriminatory manner at Parity with the data and access it gives itself and other CLECINTRADO COMMs, including affiliates. The charges for Loop Make-Up Information are set forth in Table One to this Agreement.
- 48.2. Information provided to the CLECINTRADO COMM will not be filtered or digested in a manner that would affect the CLECINTRADO COMM's ability to qualify the loop for advanced services.
- 48.3. Embarq shall provide Loop Make-Up Information based on the individual telephone number or address of an end-user in a particular wire center or NXX code. Loop Make-Up Information requests will be rejected if the service address is not found within existing serving address information, if the telephone number provided is not a working number or if the POI identified is not a POI where the requesting CLECINTRADO COMM connects to the Embarq LTD network.
- 48.4. Errors identified in validation of the Loop Make-Up Information inquiry order will be returned to the CLECINTRADO COMM.
- 48.5. Embarq may provide the requested Loop Make-Up Information to the CLECINTRADO COMMs in whatever manner Embarq would provide to their own internal personnel, without jeopardizing the integrity of proprietary information (*i.e.*, fax, intranet inquiry, document delivery, etc.). If the data is provided via fax, CLECINTRADO COMM must provide a unique fax number used solely for the receipt of Loop Make-Up Information.
- 48.6. If CLECINTRADO COMM does not order Loop Make-Up Information prior to placing an order for a loop for the purpose of provisioning of an advanced service and the advanced service cannot be successfully implemented on that loop, CLECINTRADO COMM agrees that:
- 48.6.1. CLECINTRADO COMM will be charged a Trouble Isolation Charge to determine the cause of the failure;

- 48.6.2. If Embarq undertakes Loop Make-Up Information activity to determine the reason for such failure, CLECINTRADO COMM will be charged a Loop Make-Up Information Charge; and
- 48.6.3. If Embarq undertakes Conditioning activity for a particular loop to provide for the successful installation of advanced services, CLECINTRADO COMM will pay applicable conditioning charges as set forth in Table One pursuant to Section 54.3 of this Agreement.

49. LOCAL CIRCUIT SWITCHING

- 49.1. Embarq is not required to provide access to local circuit switching on an unbundled basis.
- 49.2. Any local circuit switching element that CLECINTRADO COMM previously obtained from Embarq on an unbundled basis, including local circuit switching previously provided as part of UNE-P, shall be subject to the following:
 - 49.2.1. Such local circuit switching must be converted to an alternative arrangement within thirty (30) Days after the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert and complete the transition of such local circuit switching element to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert such local circuit switching to comparable Wholesale Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - 49.2.2. Any local circuit switching, including local circuit switching provided by Embarq to CLECINTRADO COMM as part of UNE-P between 03/11/05 and 03/10/06 shall be subject to billing by Embarq at the transition rates established by the FCC, and any local circuit switching, including local circuit switching provided by Embarq to CLECINTRADO COMM as part of UNE-P after 03/10/06 shall be subject to billing at the rates charged by Embarq to CLECINTRADO COMMS for such service under separate commercial agreements.

50. DEDICATED TRANSPORT

- 50.1. Embarq shall provide CLECINTRADO COMM with nondiscriminatory access to dedicated transport on an unbundled basis, as set forth in this Agreement. A "route" is a transmission path between one of Embarq's Wire Centers or switches and another of Embarq's Wire Centers or switches. A route between two points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") may pass through one or more intermediate wire centers or switches (e.g., Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective

of whether they pass through the same intermediate Wire Centers or switches, if any.

50.1.1. Embarq is not obligated to provide a requesting carrier with unbundled access to dedicated transport that does not connect a pair of Embarq Wire Centers (*i.e.*, entrance facilities). Further, Embarq is not obligated to provide DSO or OC-N and above Dedicated Transport facilities as a UNE.

50.2. Dedicated DS1 transport shall be made available to ~~CLEC~~INTRADO COMM on an unbundled basis as set forth below. Dedicated DS1 transport consists of Embarq interoffice transmission facilities that have a total digital signal speed of 1.544 megabytes per second and are dedicated to a particular customer or carrier.

50.2.1. Embarq shall unbundle DS1 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in Part A, both wire centers defining the route are Tier 1 Wire Centers. As such, Embarq will unbundle DS1 transport if a Wire Center at either end of a requested route is *not* a Tier 1 Wire Center, or if *neither* is a Tier 1 Wire Center.

50.2.2. ~~CLEC~~INTRADO COMM may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.

50.2.3. Where Embarq is not required to provide unbundled DS1 transport pursuant Sections 50.2.1 and 50.2.2, ~~CLEC~~INTRADO COMM may not obtain new DS1 transport as unbundled Network Elements.

50.2.4. Any DS1 dedicated transport that ~~CLEC~~INTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 50.2.1 and 50.2.2, shall be subject to the following:

(a) Such DS1 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLEC~~INTRADO COMM fails to submit the necessary orders to convert and complete the transition of such DS1 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of ~~CLEC~~INTRADO COMM.

(b) Any DS1 dedicated transport service provided to ~~CLEC~~INTRADO COMM by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided

however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundled such transport.

- (c) Any DS1 dedicated transport service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 that CLECINTRADO COMM ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.

50.2.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS1 Dedicated Transport circuit threshold for a route, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS1 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS1 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS1 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders within the six month period, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.3. Dedicated DS3 transport shall be made available to CLECINTRADO COMM on an unbundled basis as set forth below. Dedicated DS3 transport consists of Embarq interoffice transmission facilities that have a total digital signal speed of 44.736 megabytes per second and are dedicated to a particular customer or carrier.

- 50.3.1. Embarq shall unbundle DS3 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in this Agreement, both Wire Centers defining the route are either Tier 1 or Tier 2 wire centers. As such, Embarq will unbundle

DS3 transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.

- 50.3.2. ~~CLECINTRADO~~ COMM may obtain a maximum of twelve unbundled DS3 dedicated transport circuits on each route where DS3 dedicated transport is available on an unbundled basis.
- 50.3.3. Where Embarq is not required to provide unbundled DS3 transport pursuant to Sections 50.3.1 and 50.3.2, ~~CLECINTRADO~~ COMM may not obtain new DS3 transport as unbundled Network Elements.
- 50.3.4. Any DS3 dedicated transport UNE that ~~CLECINTRADO~~ COMM previously leased from Embarq as of 03/11/05 but which Embarq is not obligated to unbundle pursuant to Sections 50.3.1 and 50.3.2, shall be subject to the following:
 - (a) Such DS3 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLECINTRADO~~ COMM fails to convert and complete the transition of such DS3 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Dedicated Transport to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of ~~CLECINTRADO~~ COMM.
 - (b) Any DS3 dedicated transport service provided to ~~CLECINTRADO~~ COMM by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such transport.
 - (c) Any DS3 dedicated transport service provided to ~~CLECINTRADO~~ COMM by Embarq between 03/11/05 and 03/10/06 that ~~CLECINTRADO~~ COMM ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.
- 50.3.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS3 Dedicated Transport circuit threshold for a route, Embarq will provide ~~CLECINTRADO~~ COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. ~~CLECINTRADO~~ COMM shall not be able to order new DS3 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any

carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS3 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS3 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders before the end of six (6) month period, Embarq will convert the DS3 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.4. Technical Requirements for DS1 and DS3 Dedicated Transport

50.4.1. Where technologically feasible and available, Embarq shall offer Dedicated Transport consistent with the underlying technology as follows:

- (a) When Embarq provides Dedicated Transport, the entire designated transmission circuit (*e.g.*, DS1, DS3) shall be dedicated to CLECINTRADO COMM designated traffic.
- (b) Where Embarq has technology available, Embarq shall provide Dedicated Transport using currently available technologies including, but not limited to, DS1 and DS3 transport systems, SONET (or SDS) Bi-directional Line Switched Rings, SONET (or SDH) Unidirectional Path Switched Rings, and SONEtT (or SDS) point-to-point transport systems (including linear add-drop systems), at all available transmission bit rates.

50.5. Dedicated Dark Fiber Transport

50.5.1. General Rules and Definition

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq, that has not been activated through connections to optronics that light it, and thereby render it capable of carrying communications.
- (b) Embarq will unbundle Dark Fiber for Dedicated Transport as set forth in this Agreement and as follows:

- (i) Embarq shall unbundle dark fiber transport between any pair of Embarq Wire Centers except where both wire centers defining the route are either Tier 1 or Tier 2 Wire Centers. Embarq will unbundle dark fiber transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.
- (ii) Where Embarq is not required to provide unbundled dark fiber transport, CLECINTRADO COMM may not obtain new dark fiber transport as a UNE.
- (iii) Any Dark Fiber transport that CLECINTRADO COMM previously leased from Embarq, but which Embarq is no longer obligated to unbundle pursuant to Section 50.5 shall be subject to the following:
 - (A) Such Dark Fiber transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert such Dark Fiber transport to an alternative arrangement within such thirty (30) Day period, Embarq will have the right to terminate and disconnect the Dark Fiber transport.
 - (B) Any Dark Fiber transport service provided by Embarq to CLECINTRADO COMM between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber transport immediately prior to that period, and any Dark Fiber transport service provided by Embarq to CLECINTRADO COMM after 09/05/06 and prior to such conversion or termination shall be billed at applicable rates for comparable access services, based on the capacity of the electronics deployed in connection with such Dark Fiber transit.
- (c) If Embarq identifies routes in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new Dark Fiber Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any Dark

Fiber Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (i) CLECINTRADO COMM must submit the necessary orders to convert such dark fiber dedicated transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders, Embarq will convert the Dark Fiber Dedicated Transport to comparable Access Services, if available, or disconnect the Dark Fiber facilities. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.5.2. Fiber Availability

- (a) Spare fibers in a sheath are not considered available if Embarq has plans to put the fiber in use within the current year or the following year.
- (b) Embarq will also maintain fibers to facilitate maintenance, rearrangements and changes. Embarq will generally reserve eight percent (8%) of fibers in a sheath for maintenance, subject to a minimum of four (4) fibers and a maximum of twelve (12) fibers.
- (c) Dark fiber requests will be handled on a first come, first served basis, based on the date the Dark Fiber Application (DFA) is received.

50.5.3. Interconnection Arrangements

- (a) Rules for gaining access to unbundled network elements apply to Dark Fiber. Virtual and physical collocation arrangements may be used by CLECINTRADO COMM to locate the optical electronic equipment necessary to "light" leased Dark Fiber.
- (b) The CLECINTRADO COMM that requests Dark Fiber must be able to connect to the Embarq fiber by means of fiber patch panel.
- (c) If fiber patch panels (FPPs) are not located within close enough proximity for a fiber patch cord, CLECINTRADO COMM must

submit an ICB request for the purchase and installation of intraoffice cabling.

- (d) Establishment of applicable fiber optic transmission equipment or intermediate repeaters needed to power the unbundled Dark Fiber in order to carry Telecommunications Services is the responsibility of the CLECINTRADO COMM.

50.5.4. Dark Fiber Application and Ordering Procedure

- (a) CLECINTRADO COMM will submit a Dark Fiber Application (DFA) and application fee to request that Embarq determine the availability of Dark Fiber between the CLECINTRADO COMM-specified locations. See Table One for application fee amount.
- (b) Within twenty (20) Business Days of receipt of DFA, Embarq will provide CLECINTRADO COMM with a response regarding fiber availability and price.
 - (i) If Dark Fiber is not available, Embarq will notify CLECINTRADO COMM of the DFA rejection.
 - (ii) CLECINTRADO COMM will follow the Dispute Resolution Process provided in this Agreement if CLECINTRADO COMM wishes to contest the rejection.
- (c) If Dark Fiber is available, CLECINTRADO COMM will notify Embarq of acceptance/rejection of Dark Fiber quote, via a firm order, within ten (10) Business Days of receipt of quote. Embarq will reserve the requested Dark Fiber for the CLECINTRADO COMM during these ten (10) Business Days. If, however, CLECINTRADO COMM does not submit a firm order by the tenth (10th) business day, the fiber will no longer be reserved.
- (d) After ten (10) Business Days of receipt of the price quote, if CLECINTRADO COMM has not accepted, CLECINTRADO COMM must submit another DFA and application fee.
- (e) The CLECINTRADO COMM will submit a firm order for Dark Fiber via an access service request (ASR).
- (f) By submitting the Dark Fiber firm order, the CLECINTRADO COMM agrees to pay quoted monthly recurring and non-recurring charges. See Table One for monthly recurring and non-recurring charges.
- (g) Due Date. Embarq will provision Dark Fiber twenty (20) Business Days after it receives firm order from CLECINTRADO COMM. Billing of the monthly recurring and non-recurring

charges will begin upon completion of Dark Fiber order. Embarq will allow CLECINTRADO COMM to extend due date for firm order completion up to sixty (60) Business Days from the date Embarq receives firm order from CLECINTRADO COMM. This extended due date must be specified on the firm order.

(i) Billing of the monthly recurring and non-recurring charges will begin on the due date of the Dark Fiber order completion unless:

(A) CLECINTRADO COMM cancels firm order before the established due date. If this occurs, CLECINTRADO COMM agrees to reimburse Embarq for all costs incurred to date; or

(B) a third party submits firm order for same Dark Fiber. If this occurs, CLECINTRADO COMM must begin compensating Embarq for monthly recurring and non-recurring charges in order to reserve fiber, once Embarq is able to provide Dark Fiber to CLECINTRADO COMM.

50.5.5. Maintenance and Testing

- (a) Embarq is only responsible for maintaining the facilities that it owns.
- (b) Embarq will conduct an end-to-end test of Dark Fiber after receipt of the firm order.
- (c) For meet point arrangements, Embarq will conduct cooperative testing with another carrier at CLECINTRADO COMM's request. Additional rates and charges will apply.
- (d) Embarq does not guarantee that the transmission characteristics of the Dark Fiber will remain unchanged over time.
- (e) Embarq is not responsible for determining whether the transmission characteristics of the Dark Fiber will accommodate the CLECINTRADO COMM requirements.

50.5.6. Rules for Take Back

- (a) Embarq reserves the right to take back Dark Fiber to meet its carrier of last resort obligations.
- (b) Embarq will provide CLECINTRADO COMM twelve (12) months written notice prior to taking back fiber.

- (c) If multiple CLECINTRADO COMMs have leased fiber within a single sheath, Embarq will take back the fiber that was the last to be leased.
- (d) Embarq will provide the CLECINTRADO COMM with alternative transport arrangements when Embarq takes back working fiber.
- (e) The Dispute Resolution Procedures found in this Agreement will be followed if CLECINTRADO COMM wishes to contest Embarq's decision to take back its leased fiber.

51. COMMINGLING

- 51.1. For the purpose of this Section, wholesale services includes both services CLECINTRADO COMM procures for resale pursuant to 251(c)(4) and exchange access service purchased from Embarq's access Tariffs.
- 51.2. CLECINTRADO COMM may Commingle an unbundled network element or combination of UNEs with wholesale services purchased from Embarq, subject to Section ~~53.5.353.5.353.5.4~~. Upon request, Embarq will perform the work necessary to Commingle such UNE or UNE combinations with wholesale services purchased from Embarq subject to Section **Error! Reference source not found.**~~Error! Reference source not found.~~42. CLECINTRADO COMM will compensate Embarq the costs of work performed to Commingle UNEs or UNE combinations with wholesale services. Each component of the commingled facility, either UNE or wholesale service, will be billed at the UNE or wholesale service rate for that component, plus applicable non-recurring charges. Embarq will not ratchet price individual components; that is, Embarq will not reflect a combination of UNE and wholesale rates for the same component. Wholesale service rates will be per the appropriate Tariff, including any applicable resale discounts pursuant to this Agreement.

52. LINE SPLITTING

- 52.1. Line Splitting
 - 52.1.1. Line Splitting is an arrangement between two carriers where one carrier provides the voice services and another carrier provides advanced services over an unbundled loop.
 - 52.1.2. Whenever CLECINTRADO COMM purchases the unbundled loop, CLECINTRADO COMM shall control the entire loop spectrum.
 - 52.1.3. Embarq shall institute procedures to allow CLECINTRADO COMM or another carrier to order HFS data capabilities on a UNE loop.
- 52.2. When either CLECINTRADO COMM or the other carrier orders Line Splitting using CLECINTRADO COMM's OCN, CLECINTRADO COMM will be billed

the charges for the Line Splitting service. When the other carrier orders Line Splitting using its own OCN, Embarq will bill the other carrier for the Line Splitting charges.

53. UNE COMBINATIONS

53.1. CLECINTRADO COMM may order UNEs either individually or in the combinations, including EEL as specifically set forth in this Section of the Agreement.

53.2. General Terms and Conditions

53.2.1. Embarq will allow CLECINTRADO COMM to order each UNE individually in order to permit CLECINTRADO COMM to combine UNEs with other UNEs obtained from Embarq as provided for in this Agreement, or with network components provided by itself or by third parties to provide Telecommunications Services to its end users, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled network elements or to interconnect with Embarq's network or in combination with any other Network Elements that are currently combined in Embarq's Network. Upon request, Embarq will perform the functions necessary to combine UNEs, even if those elements are not ordinarily combined in Embarq's network, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled Network Elements or to interconnect with Embarq's network. CLECINTRADO COMM will compensate Embarq the costs of work performed to combine the requested UNEs. Any request by CLECINTRADO COMM for Embarq to provide combined UNEs that are not otherwise specifically provided for under this Agreement will be made in accordance with the BFR process described in Section Error! Reference source not found.⁴² and made available to CLECINTRADO COMM upon implementation by Embarq of the necessary operational modifications.

53.3. The provisioning of combinations, including EEL, is limited to existing facilities and Embarq is not obligated to construct additional facilities to accommodate any request by CLECINTRADO COMM.

53.4. Specific Combinations and Pricing

53.4.1. In order to facilitate the provisioning of EELs, Embarq shall support the ordering and provisioning of this specific combination as set forth below.

53.5. Embarq Offers the Following Combinations of Network Elements

53.5.1. EEL is the combination of the NID, Loop, and Dedicated Transport network elements.

- (a) Embarq will offer the combination of unbundled loops with wholesale services and unbundled Dedicated Transport, where Embarq is required to provide unbundled Dedicated Transport and Local Loops, to provide EELs at the applicable recurring and non-recurring charges as specified in Table One for Loops, Dedicated Transport, and where applicable, Multiplexing. Recurring and nonrecurring charges, including but not limited to cross connect charges and Service Order Charges will apply. Embarq will cross-connect unbundled 2- or 4-wire analog or 2-wire digital Loops to unbundled voice grade DS1 or DS3 Dedicated Transport facilities for CLECINTRADO COMM's provision of circuit switched telephone exchange service to CLECINTRADO COMM's end users.
- (b) Multiplexing shall be provided as necessary as part of Dedicated Transport.

53.5.2. In order to obtain the EEL combinations below, a requesting CLECINTRADO COMM must provide certification that it satisfies the service eligibility criteria for each circuit as set forth below. For existing EELs, CLECINTRADO COMM must recertify compliance with the EELs criteria within thirty (30) Days of the Effective Date of this Agreement. CLECINTRADO COMM must continue to be in compliance with the service eligibility criteria for as long as CLECINTRADO COMM continues to receive the services in this Section. Embarq will offer the following EEL Combinations:

- (a) Unbundled DS1 Loop in combination with UNE DS1 Dedicated Transport.
- (b) Unbundled DS1 Loop commingled with dedicated DS1 transport wholesale service.
- (c) Unbundled DS1 Loop in combination with UNE DS3 Dedicated Transport.
- (d) Unbundled DS1 Loop commingled with dedicated DS3 transport wholesale service.
- (e) Unbundled DS3 Loop in combination with UNE DS3 Dedicated Transport.
- (f) Unbundled DS3 Loop commingled with dedicated DS3 transport wholesale service.
- (g) Unbundled DS1 Dedicated Transport commingled with DS1 channel termination.

- (h) Unbundled DS3 Dedicated Transport commingled with DS1 channel termination service.
- (i) Unbundled DS3 Dedicated Transport commingled with DS3 channel termination service.

53.5.3. EEL Eligibility Criteria

- (a) CLECINTRADO COMM must have state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, CLECINTRADO COMM must have complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in the area served;
- (b) The following criteria must be satisfied for each combined circuit, including each DS1 circuit, each DS1 EEL, and each DS1-equivalent circuit on a DS3 EEL:
 - (i) Each circuit to be provided to each CLECINTRADO COMM customer must be assigned one local number prior to the provision of service over the circuit;
 - (ii) Each DS1-equivalent circuit on a DS3 EEL must have its own local number assignment, so that each DS3 has up to twenty-eight (28) local voice numbers assigned to it;
 - (iii) Each circuit to be provided to each customer must provide 911 or E911 capability prior to the provision of service over the circuit;
 - (iv) Each circuit to be provided to each customer must terminate into a collocation that meets one of the following requirements:
 - (A) a collocation established pursuant to §251(c)(6) of the Act and located at Embarq's premises within the same LATA as the CLECINTRADO COMM's customer's premises, when Embarq is not the collocater; or
 - (B) a collocation located at a third party's premises within the same LATA as the CLECINTRADO COMM's customer's premises, when Embarq is the collocater.
 - (v) For each twenty-four (24) DS1 EELs or other facilities having equivalent capacity, CLECINTRADO COMM must maintain at least one active DS1 local service interconnection

trunk and CLECINTRADO COMM is required to transmit the calling party's number in connection with calls exchanged over each trunk. Where CLECINTRADO COMM does not establish an interconnection arrangement with Embarq for the meaningful exchange of Local Traffic that flows in both directions, such interconnection arrangement shall not satisfy this criteria, and

- (vi) Each circuit to be provided to each customer will be served by a switch capable of switching local voice traffic.
- (c) Embarq has the right, upon thirty (30) Days notice, to audit CLECINTRADO COMM's compliance with the service eligibility criteria defined by the FCC and as set forth above. Embarq will hire and pay for an independent auditor to perform the audit. CLECINTRADO COMM will reimburse Embarq if the audit report concludes that CLECINTRADO COMM failed to materially comply with the service eligibility criteria. Embarq may request one audit in a calendar year. In the instance of non-compliance, CLECINTRADO COMM shall true-up any difference in payments, convert the non-compliant circuit to the appropriate service and make accurate payments going forward. These audit rights are in addition to Embarq's audit rights in Part B of this Agreement.

54. MODIFICATIONS TO EMBARQ'S EXISTING NETWORK

54.1. Modifications to Unbundled Loop

54.1.1. Embarq will make routine network modifications to unbundled loop facilities used by CLECINTRADO COMM where the requested loop facility has already been constructed. Embarq will perform routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLECINTRADO COMM will compensate Embarq for the costs of such routine network modifications to unbundled loop facilities to the extent the costs are not recovered in the unbundled loop rates in accordance with Table One or Embarq will provide a price quote via the ICB process.

- (a) In the case of unbundled loop facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer and attaching

electronic and other equipment that Embarq ordinarily attaches to a DS1 Loop to activate such loop for its own customer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of new loop facilities or the installation of new aerial or buried cable for CLECINTRADO COMM.

54.2. Modifications to Dedicated Transport

54.2.1. Embarq will make routine network modifications to unbundled dedicated transport facilities used by CLECINTRADO COMM where the requested Dedicated Transport facilities have already been constructed. Embarq will perform the routine network modifications to unbundled Dedicated Transport facilities in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLECINTRADO COMM will compensate Embarq for the costs of such routine network modifications to unbundled Dedicated Transport facilities to the extent the costs are not recovered in the unbundled Dedicated Transport rates. Embarq will provide routine network modifications at the rates on Table One or Embarq will provide a price quote vis the ICB process.

- (a) In the case of unbundled Dedicated Transport facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications also include activities needed to enable CLECINTRADO COMM to light a Dark Fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for CLECINTRADO COMM.

54.3. Loop Conditioning

54.3.1. Conditioned loops are loops from which excessive bridge taps, load coils, low-pass filters, range extenders, and similar devices have been removed to enable the delivery of high-speed switched wireline telecommunications capability, including DSL. Embarq will condition loops at CLECINTRADO COMM's request and will assess charges for loop conditioning in accordance with the prices listed in Table One.

Embarq recommends that ~~CLECINTRADO COMM~~ utilize the Loop Make-Up process in Section ~~Error! Reference source not found.~~⁴⁸ prior to submitting orders for loops intended for advanced services.

- 54.4. Embarq is not obligated to build TDM capability into new packet-based networks or into existing packet-based networks that never had TDM capability. This includes packet-based networks that incorporate a packet to TDM format translation to connect to end user customer provided equipment.

PART F – INTERCONNECTION

55. LOCAL INTERCONNECTION TRUNK ARRANGEMENT

55.1. The Parties shall reciprocally terminate Local Traffic and IntraLATA/InterLATA toll calls originating on the other Party's network as follows:

55.1.1. The Parties shall make available to each other two-way trunks for the reciprocal exchange of combined Local Traffic, and non-equal access IntraLATA toll traffic. Neither Party is obligated under this Agreement to order reciprocal trunks or build facilities in the establishment of interconnection arrangements for the delivery of Internet traffic. The Party serving the Internet service provider shall order trunks or facilities from the appropriate tariff of the other Party for such purposes and will be obligated to pay the full cost of such facility.

(a) The Parties agree to use two-way trunks (one-way trunks directionalized in each direction). Upon mutual agreement, the Parties will transition specified trunks from directionalized two-way trunks to bi-directional trunks, subject to any engineering, billing or other constraints, and subject to compensation for the cost of undertaking the conversion of such trunks.

55.1.2. Separate two-way trunks will be made available for the exchange of equal-access InterLATA or IntraLATA interexchange traffic.

55.1.3. Separate one-way trunks will be utilized for connecting ~~CLEC~~INTRADO COMM's switch to each 911/E911 tandem.

55.1.4. One-way trunks will be utilized if Parties deploy E9-1-1 inter-tandem trunking configurations. These trunk configurations shall be dependent upon the Embarq E9-1-1 SR capabilities. E9-1-1 inter-tandem trunking shall allow the transfer of E9-1-1 calls between PSAPs subtending on each Party's respective E9-1-1 network.

55.1.5. Appropriate dial plans to support inter-tandem transfer will be maintained by the parties. Each party shall notify the other of changes, additions, or deletions to their respective inter-tandem dial plans.

55.2. Direct Interconnection Requirements

55.2.1. Point of Interconnection. ~~CLEC~~INTRADO COMM must establish a minimum of one POI within each LATA, at any technically feasible point, on Embarq's network. In addition, ~~CLEC~~INTRADO COMM shall establish additional POIs under the following circumstances:

(a) To the extent Embarq's network contains multiple tandems in the LATA, ~~CLEC~~INTRADO COMM must establish a POI at each tandem where it wishes to exchange (*i.e.*, receive or terminate) traffic with Embarq.

- (b) CLECINTRADO COMM must establish a POI at an Embarq end office when total traffic volumes exchanged between that particular Embarq end office and CLECINTRADO COMM exceeds a DS1 equivalent.
 - (c) CLECINTRADO COMM must establish a POI at any Embarq end office that subtends a non-Embarq tandem.
- 55.2.2. CLECINTRADO COMM will be responsible for engineering and maintaining its network on its side of the POI. Embarq will be responsible for engineering and maintaining its network on its side of the POI. Each Party is financially responsible for transport on its side of the POI.
- 55.2.3. Each Party is financially responsible for transporting its originated traffic to the POI.
- 55.2.4. When the Parties choose to interconnect at a mid-span meet, CLECINTRADO COMM and Embarq will jointly provision the facilities that connect the two networks. Embarq will be the “controlling carrier” for purposes of MECOD guidelines, as described in the joint implementation plan. Embarq will provide fifty percent (50%) of the facilities or to its exchange boundary, whichever is less. The construction of new facilities for a mid-span meet is only applicable when traffic is roughly balanced. Notwithstanding any provision in this Agreement to the contrary, when the Parties interconnect using a mid-span meet, each Party will be financially responsible for the facilities on its side of the mid-span meet and will not bill the other Party for any portion of those facilities.
- 55.2.5. If third party (*i.e.*, Competitive Access Provider or “CAP”) leased facilities are used for interconnection, the POI will be defined as the Embarq office in which the third party’s leased circuit terminates.
- 55.2.6. If CLECINTRADO COMM elects to lease any portion of the transport facility from Embarq or if CLECINTRADO COMM chooses to interconnect with Embarq using a meet-point arrangement (*i.e.*, facilities jointly provisioned by Embarq and another LEC), CLECINTRADO COMM will order those facilities that are wholly within Embarq’s serving territory from Embarq’s access tariff.
- 55.3. Technical Requirements for Interconnection
 - 55.3.1. Interconnection at the Embarq Tandem
 - (a) Interconnection to Embarq Tandem Switch(es) will provide CLECINTRADO COMM local interconnection for local service purposes to the Embarq end offices and NXXs which subtend that tandem(s), where local trunking is provided, and access to the toll network.

- (b) Interconnection to an Embarq Tandem for transit purposes will provide access to telecommunications carriers which are connected to that Tandem Switch.
- (c) Where an Embarq Tandem Switch also provides End-Office Switch functions, interconnection to an Embarq tandem serving that exchange will also provide CLECINTRADO COMM access to Embarq's end offices.
- (d) the CLECINTRADO COMM is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

55.3.2. Interconnection at the Embarq End Office

- (a) Interconnection to Embarq End Office Switch will provide CLECINTRADO COMM local interconnection for local service purposes to the Embarq NXX codes served by that end office and any Embarq NXXs served by remotes that subtend those End Offices.
- (b) the CLECINTRADO COMM is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

56. INTERCARRIER COMPENSATION

[Note: If it is an Opt-in state and CLECINTRADO COMM accepts offer, the only applicable Section is Section ~~Error! Reference source not found.~~Error! Reference source not found.56.3. All other provisions may be deleted, including Section 56.1 through and including Section ~~Error! Reference source not found.~~Error! Reference source not found.56.4.1.

56.1. Compensation for Local Traffic Transport and Termination [**DELETE THIS SECTION 56.1 WHERE FCC RATES APPLY TO ALL TRAFFIC (i.e. CLECINTRADO COMM has accepted offer). This Section 56.1 remains if either (1) It's a non-opt-in state; or (2) CLECINTRADO COMM reject our offer)**]

56.1.1. The transport and termination charges for Local Traffic flowing through a POI shall be as follows:

- (a) In a mid-span meet arrangement, when calls from CLECINTRADO COMM are terminating on Embarq's network through the Embarq Tandem Switch, CLECINTRADO COMM will pay Embarq a charge for Tandem Switching, common transport to the end office, and end-office termination.

- (b) When the POI is at the Embarq Tandem Switch, CLECINTRADO COMM shall pay a charge for Tandem Switching, common transport to the end office and end-office termination.
- (c) Charges billed to Embarq by CLECINTRADO COMM for the transport and termination of Local Traffic will be equal to those that Embarq assesses the CLECINTRADO COMM for the same services. Where CLECINTRADO COMM is interconnected at an Embarq tandem and Embarq delivers its traffic to CLECINTRADO COMM directly from an end office, Embarq shall pay CLECINTRADO COMM end office termination. Where CLECINTRADO COMM is interconnected at an Embarq tandem and Embarq delivers its traffic to CLECINTRADO COMM from the tandem and the CLECINTRADO COMM switch serves a geographical area greater than or equal to the area served by the Embarq tandem, Embarq shall pay CLECINTRADO COMM for Tandem Switching, common transport, and end-office termination. If the CLECINTRADO COMM switch serves a geographical area less than the area served by the Embarq tandem, Embarq shall pay CLECINTRADO COMM end-office termination.
- (d) To validate the geographic area CLECINTRADO COMM must provide documentation supporting the following:
 - (i) that CLECINTRADO COMM's switch serves a geographic area that is roughly the same size as the area served by the Embarq Tandem Switch;
 - (ii) that CLECINTRADO COMM has obtained NPA/NXX codes to serve the exchanges within the geographic area; and,
 - (iii) that CLECINTRADO COMM is serving the area using its own switch with its own facilities or a combination of its own facilities and leased facilities connected to its collocation arrangements.
- (e) Where direct end office trunks are established, for CLECINTRADO COMM-originated calls, CLECINTRADO COMM shall pay Embarq end-office termination. For Embarq originated traffic terminating to CLECINTRADO COMM at that end office, compensation payable by Embarq shall be the same as that detailed in Section 56.1.1 above.

56.2. The rates to be charged for the exchange of Local Traffic are set forth in Table One and shall be applied consistent with the provisions of Part F of this Agreement. ISP-Bound Traffic will be exchanged on a Bill and Keep basis. The Parties agree to "Bill and Keep" for mutual reciprocal compensation for the

termination of ISP-Bound Traffic on the network of one Party which originates on the network of the other Party.

- 56.2.1. The Parties agree that by executing this Agreement and carrying out the intercarrier compensation rates, terms and conditions herein, neither Party waives any of its rights, and expressly reserves all of its rights, under the *Order on Remand and Report and Order*, FCC 01-131, CC Dockets No. 96-98 and 99-68, adopted April 18, 2001 (the "ISP Compensation Order"), including but not limited to Embarq's option to invoke on a date specified by Embarq the FCC's ISP interim compensation regime, after which date ISP-bound traffic will be subject to the FCC's prescribed interim compensation regime including the terminating compensation rates, and other terms and conditions. CLECINTRADO COMM agrees that on the date designated by ILEC, the Parties will begin billing Reciprocal Compensation to each other at the rates, terms and conditions specified in the FCC's ISP Compensation Order, unless the Parties are exchanging traffic (Local Traffic and/or ISP-Bound traffic) at Bill and Keep, such Bill and Keep arrangement shall continue.
- 56.3. Compensation for the termination of toll traffic and the origination of 800 traffic between the interconnecting parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations and consistent with the provisions of Part F of this Agreement. If CLECINTRADO COMM is acting as an IXC and a competitive local exchange carrier, CLECINTRADO COMM must have a unique CIC for each type of service order. Specifically, CLECINTRADO COMM must have two CICs, one that is used for ordering IXC facilities for interexchange toll traffic and one that is used to order facilities for local exchange traffic.
- 56.4. VNXX calls not Local for purposes of intercarrier compensation and CLECINTRADO COMM will pay Embarq's originating access rates. Both Parties represent and warrant that they are not exchanging Virtual NXX traffic as of the effective date of this Agreement; however, Embarq may perform traffic studies at any time. CLECINTRADO COMM agrees that it will provide data necessary to determine geographic location of CLECINTRADO COMM's customers when requested to assist with VNXX traffic study. Should the traffic study indicate that there is VNXX traffic; the Parties agree to implement a percentage of traffic that shall be deemed to occur via a VNXX arrangement that will apply on a retrospective basis to the effective date of the Agreement. Should the traffic studies thereafter indicate that the percentage should be changed by Embarq, the Parties agree to implement the correct percentage on a prospective basis without amending the agreement..
- 56.5. Voice calls that are transmitted, in whole or in part, via the public Internet or a private IP network (VoIP) shall be compensated in the same manner as voice traffic (*e.g.*, reciprocal compensation, interstate access and intrastate access).

- 56.6. A call placed on a non-local basis (e.g., a toll call or 8yy call) to an ISP shall not be treated as ISP-Bound Traffic for compensation purposes. The Parties agree that, to the extent such "non-Local" ISP calls are placed, that the rates, terms and conditions for IntraLATA and/or InterLATA calling shall apply, including but not limited to rating and routing according to the terminating parties' Exchange Access intrastate and/or interstate tariffs.
- 56.7. ~~CLECINTRADO COMM~~ will identify the Percent Local Usage (PLU) factor on each interconnection order to identify its "Local Traffic," as defined herein, for reciprocal compensation purposes. Embarq may request ~~CLECINTRADO COMM~~'s traffic study documentation of the PLU at any time to verify the factor, and may compare the documentation to studies developed by Embarq. Should the documentation indicate that the factor should be changed by Embarq; the Parties agree that any changes will be retroactive to traffic for the previous two years. Should the documentation indicate it is warranted such change in the factor may be back to the effective date of the Agreement. For non-local traffic, the Parties agree to exchange traffic and compensate one another based on the rates and elements included in each party's access tariffs. ~~CLECINTRADO COMM~~ will transmit calling party number (CPN) as required by FCC rules (47 CFR 64.1601).
- 56.7.1. To the extent technically feasible, each Party will transmit calling party number (CPN) for each call being terminated on the other's network. If the percentage of calls transmitted with CPN is greater than ninety percent (90%), all calls exchanged without CPN will be billed as local or intrastate in proportion to the MOUs of calls exchanged with CPN. If the percentage of calls transmitted with CPN is less than ninety percent (90%), all calls transmitted without CPN will be billed at intrastate access rates.
- 56.8. To the extent Embarq identifies, either through its own recording capabilities or through call detail records provided by another carrier, Local Traffic that is originated by ~~CLECINTRADO COMM~~ and terminated indirectly to Embarq through an intermediary carrier (transit carrier), Embarq shall bill ~~CLECINTRADO COMM~~ terminating compensation according to Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~56. In addition, ~~CLECINTRADO COMM~~ will reimburse Embarq for any transit charges billed by the intermediary carrier for Local Traffic or ISP-bound Traffic originated by Embarq.
- 56.9. Each Party shall take steps to ensure that all traffic that it delivers to the receiving Party include a call record, and that such call records are transmitted intact to the receiving Party. Neither Party shall: (1) remove call records, (ii) alter or replace call records, (ii) alter or replace jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Using reasonable efforts and to the extent technically feasible, each Party also shall undertake steps to ensure that any service provider who hands off traffic for delivery to the other Party does not: (i) remove call records, (ii) alter or replace call records, (ii) alter or replace

jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Neither Party shall knowingly and intentionally (a) strip or alter call records to disguise the jurisdiction of the a call or (b) permit third parties to do so for traffic the Party delivers to the other Party.

56.10. Either Party may request an audit of the traffic types exchanged between the Parties. Each Party will provide upon request traffic study documentation of traffic being delivered to the other Party. Audit periods may include the period beginning with the month after the last audit or the Effective Date of the Agreement through, and including, the month prior to the audit request. Traffic study documentation can include records produced either from Embarq or CLECINTRADO COMM internal recording and monitoring systems or from third party vendors that record intercarrier traffic SS7 call records. These audit rights are in addition to the audit rights in Part A of this Agreement

56.11. E9-1-1 calls shall not be billed at reciprocal compensation rates, access rates, or transit rates.

57. SIGNALING NETWORK INTERCONNECTION

57.1. Embarq will offer interconnection to its signaling transfer points (STPs) for CLECINTRADO COMM switches which connect to Embarq's STPs via "A" links or for CLECINTRADO COMM's "B" or "D" links which are dedicated to the transport of signaling for local interconnection. Embarq's signaling service will be charged at tariff rates to CLECINTRADO COMMS that order such service.

57.2. Signaling protocol. The parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in FR 905 Telcordia Standards including ISDN User Part (ISUP) for trunk signaling and TCAP for CCS-based features in the interconnection of their networks. All Network Operations Forum (NOF) adopted standards shall be adhered to.

57.3. Standard interconnection facilities shall be Extended Superframe (ESF) with B8ZS line code. Where ESF/B8ZS is not available, CLECINTRADO COMM will use other interconnection protocols on an interim basis until the standard ESF/B8ZS is available. Embarq will provide anticipated dates of availability for those areas not currently ESF/B8ZS compatible.

57.4. Where CLECINTRADO COMM is unwilling to utilize an alternate interconnection protocol, CLECINTRADO COMM will provide Embarq an initial forecast of 64 Kbps clear channel capability ("64K CCC") trunk quantities within thirty (30) Days of the Effective Date consistent with the forecasting agreements between the parties. Upon receipt of this forecast, the parties will begin joint planning for the engineering, procurement, and installation of the segregated 64K CCC Local Interconnection Trunk Groups, and the associated

ESF facilities, for the sole purpose of transmitting 64K CCC data calls between CLECINTRADO COMM and Embarq. Where additional equipment is required, such equipment would be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job for IXC, CLECINTRADO COMM, or Embarq internal customer demand for 64K CCC trunks.

57.5. Signaling Systems

57.5.1. Signaling Link Transport

- (a) Signaling Link Transport is a set of two or four dedicated 56 Kbps transmission paths between CLECINTRADO COMM-designated Signaling Points of Interconnection (SPOI) that provides appropriate physical diversity and a cross connect at an Embarq STP site.
- (b) Technical Requirements. Signaling Link transport shall consist of full duplex mode 56 Kbps transmission paths.

57.5.2. Signaling Transfer Points (STPs)

STPs provide functionality that enables the exchange of SS7 messages among and between switching elements, databases and third party signaling transfer points.

- 57.6. Technical Requirements. STPs provide interconnection to the functions of signaling networks or to third party SS7 networks connected to the Embarq SS7 network. These functions include:

- 57.6.1. Embarq local switching or Tandem Switching;

- 57.6.2. Embarq Service Control Points (SCPs)/Databases if arranged for under separate agreements;

- 57.6.3. Third-party local or Tandem Switching systems subject to any additional conditions or terms of the Third Party and

- 57.6.4. Third party provider STPs subject to any additional conditions or terms of the Third Party.

- 57.7. Interface Requirements. Embarq shall provide the following STP options to connect CLECINTRADO COMM or CLECINTRADO COMM-designated local switching systems or STPs to the Embarq SS7 network:

- 57.7.1. An A-link interface from CLECINTRADO COMM local switching systems; and

- 57.7.2. B- or D-link interface from CLECINTRADO COMM STPs.

- 57.7.3. Each type of interface shall be provided by one or more sets (layers) of signaling links, as follows:

- (a) An A-link layer shall consist of two (2) links,
 - (b) A B- or D-link layer shall consist of four (4) links,
- 57.8. Signaling Point of Interconnection (SPOI) for each link shall be located at a cross-connect element, such as a DSX-1, in the Central Office (CO) where the Embarq STP is located. Interface to Embarq's STP shall be the 56kb rate. The 56kb rate can be part of a larger facility, and CLECINTRADO COMM shall pay multiplexing/demultiplexing and channel termination, plus mileage of any leased facility.

58. TRUNK FORECASTING

- 58.1. CLECINTRADO COMM shall provide forecasts for traffic utilization over trunk groups. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as facilities and/or equipment are available. Embarq shall make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate orders when facilities are not available. Company forecast information must be provided by CLECINTRADO COMM to Embarq twice a year. The initial trunk forecast meeting should take place soon after the first implementation meeting. A forecast should be provided at or prior to the first implementation meeting. The semi-annual forecasts shall project trunk gain/loss on a monthly basis for the forecast period, and shall include:
- 58.1.1. Semi-annual forecasted trunk quantities (which include baseline data that reflect actual Tandem and end office Local Interconnection and meet point trunks and Tandem-subtending Local Interconnection end office equivalent trunk requirements) for no more than two years (current plus one year);
 - 58.1.2. The use of Common Language Location Identifier (CLLI-MSG), which are described in Telcordia documents BR 795-100-100 and BR 795-400-100;
 - 58.1.3. Description of major network projects that affect the other Party will be provided in the semi-annual forecasts. Major network projects include but are not limited to trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities by CLECINTRADO COMM that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.
 - 58.1.4. Parties shall meet to review and reconcile the forecasts if forecasts vary significantly.
- 58.2. CLECINTRADO COMM shall provide an updated trunk forecast when ordering or requesting additional trunks from Embarq anytime after the initial trunk implementation.
- 58.3. Each Party shall provide a specified point of contact for planning forecasting and trunk servicing purposes.

- 58.4. Trunking can be established to Tandems or end offices or a combination of both via either one-way or two-way trunks. Trunking will be at the DS0, DS1, DS3/OC3 level, or higher, as agreed upon by CLECINTRADO COMM and Embarq.
- 58.5. The parties agree to abide by the following if a forecast cannot be agreed to: local interconnection trunk groups will be provisioned to the higher forecast. A blocking standard of one percent (1%) during the average busy hour shall be maintained. Should the Parties not agree upon the forecast, and the Parties engineer facilities at the higher forecast, the Parties agree to abide by the following:
- 58.5.1. In the event that CLECINTRADO COMM over-forecasts its trunking requirements by twenty percent (20%) or more, and Embarq acts upon this forecast to its detriment, Embarq may recoup any actual and reasonable expense it incurs.
- 58.5.2. The calculation of the twenty percent (20%) over-forecast will be based on the number of DS1 equivalents for the total traffic volume to Embarq.
- 58.5.3. Expenses will only be recouped for non-recoverable facilities that cannot otherwise be used at any time within twelve (12) months after the initial installation for another purpose including but not limited to: other traffic growth between the Parties, internal use, or use with another party.
- 58.6. Grade of Service. An overall blocking standard of one percent (1%) during the average busy hour, as defined by each Party's standards, for final trunk groups between a CLECINTRADO COMM end office and an Embarq access Tandem carrying meet point traffic shall be maintained. All other Tandem trunk groups are to be engineered with a blocking standard of one percent (1%). Direct end office trunk groups are to be engineered with a blocking standard of one percent (1%).
- 58.7. Trunk Servicing. Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an ASR, RASR or other industry standard format as specified by Embarq for trunk ordering.

59. NETWORK MANAGEMENT

- 59.1. Protective Protocols. Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic toward each other's network, when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload. CLECINTRADO COMM and Embarq will immediately notify each other of any protective control action planned or executed.
- 59.2. Expansive Protocols. Where the capability exists, originating or terminating traffic reroutes may be implemented by either party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes

will not be used to circumvent normal trunk servicing. Expansive controls will only be used when mutually agreed to by the parties.

- 59.3. Mass Calling. ~~CLECINTRADO COMM~~ and Embarq shall cooperate and share pre-planning information, where available, regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, to prevent or mitigate the impact of these events on the public switched network.

60. INDIRECT TRAFFIC

60.1. Interconnection

- 60.1.1. The Parties may send each other Indirect Traffic.
- 60.1.2. For purposes of exchanging Indirect Traffic there is no physical or direct point of interconnection between the Parties, therefore neither Party is required to construct new facilities or make mid-span meet arrangements available to the other Party for Indirect Traffic.
- 60.1.3. Indirect interconnection with ~~Sprint~~Embarq shall only be allowed to the extent ~~CLECINTRADO COMM~~ is interconnected at the tandem switch which ~~Sprint~~Embarq's end office subtends.
- 60.1.4. Interconnection to ~~CLECINTRADO COMM~~ will provide ~~Sprint~~Embarq with access to ~~CLECINTRADO COMM~~'s end-users and to other companies which are likewise connected to ~~CLECINTRADO COMM~~ for local and toll service purposes.
- 60.1.5. Notwithstanding any other provision to the contrary, once the Indirect Traffic volume between ~~CLECINTRADO COMM~~ and a ~~Sprint~~Embarq end office exceeds a DS1 equivalent of traffic, ~~Sprint~~Embarq will no longer allow indirect interconnection and ~~CLECINTRADO COMM~~ must establish a direct interconnection with ~~Sprint~~Embarq's end office for the mutual exchange of traffic. Within sixty (60) days of when the indirect traffic exceeds a DS1, ~~CLECINTRADO COMM~~ shall establish a direct interconnection with ~~Sprint~~Embarq's end office.

60.2. Exchange Of Traffic

- 60.2.1. Each Party acknowledges that it is the originating Party's responsibility to enter into transiting arrangements with the third party providing the transit services.
- 60.2.2. Each terminating Party is responsible for billing the originating company for traffic terminated on its respective network. For this Indirect Traffic, the originating Party will provide the originating billing information to the terminating Party, if technically feasible. If the originating Party cannot provide the originating billing information to the terminating Party, then the terminating Party must obtain the originating billing information from the third-party transit company. Any direct costs incurred by the

terminating Party to obtain the records from a third party will be billed back to the originating Party.

60.2.3. It is each Party's responsibility to enter into appropriate contractual arrangements with the third-party transit company in order to obtain the originating billing information from the transit company.

60.2.4. Until Indirect traffic exceeds a DS1, each Party is responsible for the payment of transit charges for its originating traffic assessed by the transiting party. After Indirect traffic exceeds a DS1, if ~~CLECINTRADO~~ COMM has not established a direct end office trunking 60 days after Embarq notifies ~~CLECINTRADO~~ COMM in accordance with section 20, ~~CLECINTRADO~~ COMM will reimburse Embarq for any transit charges billed by an intermediary carrier for Local Traffic or ISP-Bound Traffic originated by Embarq.

60.3. Compensation for Indirect Traffic

60.3.1. Non-Local and Non-ISP-Bound Indirect Traffic

60.3.1.1. Compensation for the termination of non-Local traffic, non-ISP-Bound Traffic and the origination of 800 traffic between the interconnecting Parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations.

60.3.1.2. Toll traffic, switched access, and special access traffic, if separately chargeable, shall be charged the appropriate rate out of the terminating LEC's tariff or via other appropriate meet point access arrangements. Where exact transport mileage is not available, an average, arrived at by mutual agreement of the Parties, will be used.

60.3.2. Local Traffic and ISP-Bound Traffic. The rates set forth on Table One shall apply, in accordance with Part F of this Agreement.

61. USAGE MEASUREMENT

61.1. Each Party shall calculate terminating interconnection minutes of use based on standard AMA recordings made within each Party's network, these recordings being necessary for each Party to generate bills to the other Party. In the event either Party cannot measure minutes terminating on its network where technically feasible, the other Party shall provide the measuring mechanism or the Parties shall otherwise agree on an alternate arrangement.

61.2. Measurement of minutes of use over Local Interconnection trunk groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection trunk group will be totaled for the entire monthly bill period and then rounded to the next whole minute.

61.3. Prior to the commencement of billing for interconnection, each Party shall provide to the other, the PLU of the traffic terminated to each other over the Local Interconnection trunk groups.

61.3.1. The Parties agree to review the accuracy of the PLU on a regular basis. If the initial PLU is determined to be inaccurate by more than twenty percent (20%), the Parties agree to implement the new PLU retroactively to the Effective Date of the contract.

62. RESPONSIBILITIES OF THE PARTIES

62.1. Embarq and CLECINTRADO COMM will review engineering requirements consistent with the Implementation Plan described in Part B, Part C, Part F and as otherwise set forth in this Agreement.

62.2. CLECINTRADO COMM and Embarq shall share responsibility for all Control Office functions for Local Interconnection Trunks and Trunk Groups, and both parties shall share the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

62.3. CLECINTRADO COMM and Embarq shall:

62.3.1. Provide trained personnel with adequate and compatible test equipment to work with each other's technicians.

62.3.2. Notify each other when there is any change affecting the service requested, including the due date.

62.3.3. Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure its interconnection trunks/trunk groups are installed per the interconnection order, meet agreed-upon acceptance test requirements, and are placed in service by the due date.

62.3.4. Perform sectionalization to determine if a trouble is located in its facility or its portion of the interconnection trunks prior to referring the trouble to each other.

62.3.5. Advise each other's Control Office if there is an equipment failure which may affect the interconnection trunks.

62.3.6. Provide each other with a trouble reporting/repair contact number that is readily accessible and available twenty-four (24) hours/seven (7) days a week. Any changes to this contact arrangement must be immediately provided to the other party.

62.3.7. Provide to each other test-line numbers and access to test lines.

62.3.8. Cooperatively plan and implement coordinated repair procedures for the meet point and Local Interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.

PART G – LOCAL NUMBER PORTABILITY

63. INTRODUCTION

- 63.1. Upon implementation of LNP, both Parties agree to conform and provide such LNP pursuant to FCC regulations and compliance with the Industry Forum Guidelines. To the extent consistent with the FCC and Industry Guidelines as amended from time to time, the requirements for LNP shall include the following:
- 63.2. End users must be able to change local service providers and retain the same telephone number(s) within the serving rate center utilizing the portability method as defined by the FCC.
- 63.3. The LNP network architecture shall not subject Parties to any degradation of service in any relevant measure, including transmission quality, switching and transport costs, increased call set-up time and post-dial delay.
 - 63.3.1. Parties agree that when an NXX is defined as portable, it shall also be defined as portable in all LNP capable switches serving the rate center.
 - 63.3.2. When an end user ports to another service provider and has previously secured a reservation of line numbers from the donor provider under contract or tariff for possible activation at some future point, these reserved but inactive numbers shall port along with the active numbers being ported by the end user.
 - 63.3.3. NXX Availability. Not all NXXs in each CO may be available for porting.
 - 63.3.4. LERG Reassignment. Portability for an entire NXX shall be provided by utilizing reassignment of the NXX to CLECINTRADO COMM through the LERG.
 - 63.3.5. Coordination of service order work outside normal business hours (8:00 a.m. to 5:00 p.m.) shall be at requesting Party's expense. Premium rates will apply for service order work performed outside normal business hours, weekends, and holidays.
 - 63.3.6. Mass Calling Events. Parties will notify each other at least seven (7) Days in advance where ported numbers are utilized. Parties will only port mass calling numbers using switch translations and a choke network for call routing. Porting on mass calling numbers will be handled outside the normal porting process and comply with any applicable federal regulatory requirements or industry guidelines developed for mass calling numbers.

64. TESTING

- 64.1. An Interconnection Agreement (or Memorandum of Understanding, or Porting Agreement) detailing conditions for LNP must be in effect between the Parties prior to testing.
- 64.2. Testing and operational issues will be addressed in the implementation plans as described in Part B, Section 33 of the agreement.
- 64.3. ~~CLECINTRADO COMM~~ must be NPAC certified and have met Embarq testing parameters prior to activating LNP. After initial LNP implementation by a ~~CLECINTRADO COMM~~/CMRS provider testing and porting will be done at ~~CLECINTRADO COMM~~'s expense.
- 64.4. Parties will cooperate to ensure effective maintenance testing through activities such as routine testing practices, network trouble isolation processes and review of operational elements for translations, routing and network fault isolation.
- 64.5. Parties shall cooperate in testing performed to ensure interconnectivity between systems. All LNP providers shall notify each connected provider of any system updates that may affect the ~~CLECINTRADO COMM~~ or Embarq network. Each LNP provider shall, at each other's request, jointly perform tests to validate the operation of the network. Additional testing requirements may apply as specified by this Agreement or in the Implementation Plan.

65. ENGINEERING AND MAINTENANCE

- 65.1. Each LNP provider will monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.
- 65.2. It will be the responsibility of the Parties to ensure that the network is stable and maintenance and performance levels are maintained in accordance with state commission requirements. It will be the responsibility of the Parties to perform fault isolation in their network before involving other providers.
- 65.3. Additional engineering and maintenance requirements shall apply as specified in this Agreement or the Implementation Plan.

66. E911/911

- 66.1. When a subscriber ports to another service provider, the donor provider shall unlock the information in the 911/ALI database. The porting provider is responsible for updating the 911 tandem switch routing tables and 911/ALI database to correctly route, and provide accurate information to the PSAP call centers.

- 66.2. Prior to implementation of LNP, the Parties agree to develop, implement, and maintain efficient methods to maintain 911 database integrity when a subscriber ports to another service provider. The Parties agree that the customer shall not be dropped from the 911 database during the transition.

67. BILLING FOR PORTED NUMBERS

- 67.1. When an IXC terminates an InterLATA or IntraLATA toll call to either party's local exchange customer whose telephone number has been ported from one party to the other, the parties agree that the party to whom the number has been ported shall be entitled to revenue from the IXC for those access elements it actually provides including, but not limited to end office switching, local transport, RIC, and CCL. The party from whom the number has been ported shall be entitled to receive revenue from the IXC for those access elements it actually provides including, but not limited to any entrance facility fees, access tandem fees and appropriate local transport charges.
- 67.2. Non-Payment. Customers lose the right to the ported telephone number upon suspension of service. Embarq will not port telephone numbers of customers whose service has been suspended.

PART H – LINE SHARING

68. LINE SHARING

68.1. General Terms

- 68.1.1. Under this Agreement, Embarq will not provide access to the HFPL for line sharing by CLECINTRADO COMM except pursuant to the following terms and conditions.
- 68.1.2. For HFPLs in service prior to 10/02/03, Embarq will continue to bill HFPL at the rate that was effective for that arrangement on 10/02/03 as long as that HFPL remains in service to the particular CLECINTRADO COMM end-user premises.
- 68.1.3. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLECINTRADO COMM end-user premises during the period 10/01/04 and 10/01/05, the rate billed for HFPL will be fifty percent (50%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.4. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLECINTRADO COMM end-user premises during the period 10/02/05 and 10/01/06, the rate billed for HFPL will be seventy-five (75%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.5. After 10/01/06, CLECINTRADO COMM must order a stand-alone loop or negotiate a line splitting arrangement with another Telecommunications Carrier.
- 68.2. Embarq Line Sharing provided HFPL to CLECINTRADO COMM only those instances when Embarq is the provider of analog circuit-switched voice band service on that same Copper Loop to the same End User.
- 68.3. In the event that the end user being served by CLECINTRADO COMM via HFPL terminates its Embarq-provided retail voice service, or when Embarq provided retail voice service is disconnected due to “denial for non-pay,” Embarq shall provide reasonable notice to CLECINTRADO COMM prior to disconnect. CLECINTRADO COMM shall have the option of purchasing an entire stand-alone UNE digital loop if it wishes to continue to provide advanced services to that end user. If CLECINTRADO COMM notifies Embarq that it chooses this option, CLECINTRADO COMM and Embarq shall cooperate to transition DSL service from the HFPL to the stand-alone loop without any interruption of service pursuant to the provisions set forth below. If CLECINTRADO COMM declines to purchase the entire stand alone UNE digital loop, Embarq may terminate the HFPL.
- 68.4. Embarq will use reasonable efforts to accommodate the continued use by CLECINTRADO COMM as a stand-alone UNE digital loop of the Copper Loop

facilities over which CLECINTRADO COMM is provisioning advanced services at the time that the Embarq-provided retail voice service terminates; if:

68.4.1. adequate facilities are available to allow the provisioning of voice service over such other facilities, and

68.4.2. CLECINTRADO COMM agrees to pay any additional ordering charges associated with the conversion from the provisioning of HFPL to a stand alone unbundled digital loop as specified in Table One (excluding conditioning charges).

68.5. Any additional maintenance of service conducted at CLECINTRADO COMM's request by Embarq on behalf of the CLECINTRADO COMM solely for the benefit of the CLECINTRADO COMM's services will be paid for by CLECINTRADO COMM at prices negotiated by Embarq and CLECINTRADO COMM.

68.6. Deployment and Interference

68.6.1. In providing services utilizing the HFPL, Embarq shall allow CLECINTRADO COMM to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.

68.6.2. For any technology, CLECINTRADO COMM represents that its use of any Embarq network element, or of its own equipment or facilities in conjunction with any Embarq network element, will not materially interfere with or impair service over any facilities of Embarq, its affiliated companies or connecting and concurring carriers, cause damage to Embarq's plant, impair the privacy of any communications carried over Embarq's facilities or create hazards to employees or the public. Upon reasonable written notice and after a reasonable opportunity to cure, Embarq may discontinue service if CLECINTRADO COMM violates this provision. The termination of service will be limited to CLECINTRADO COMM's use of the element(s) causing the violation. Embarq will not disconnect the elements causing the violation if, after receipt of written notice and opportunity to cure, CLECINTRADO COMM demonstrates that their use of the network element is not the cause of the network harm.

PART I – NON-251 SERVICES

69. CALL-RELATED DATABASES

69.1. Embarq will offer access to call-related databases (non-251 services), including, but not limited to, Toll Free Calling database, Number Portability database, and Calling Name (CNAM) database. Embarq reserves the right to decline to offer access to certain AIN software that qualifies for proprietary treatment. The rates for access to these call-related databases are set forth on Table One.

69.1.1. The CNAM database is a transaction-oriented database accessible via the CCS network. CNAM provides the calling parties' name to be delivered and displayed to the terminating caller with 'Caller ID with Name'. Use of Embarq's CNAM Database by CLECINTRADO COMM and CLECINTRADO COMM's customers is limited to obtaining CNAM responses and using the information contained in those responses only on a call by call basis and only to support service related to a call in progress. CLECINTRADO COMM will not capture, cache, or store any information contained in a CNAM response.

69.1.2. The Toll Free Number Database provides functionality necessary for toll free (*e.g.*, 800 and 888) number services by providing routing information and additional vertical features (*i.e.*, time of day routing by location, by carrier and routing to multiple geographic locations) during call setup in response to queries from CLECINTRADO COMM's switch. Use of Embarq's Toll Free Database by CLECINTRADO COMM and its customers is limited to obtaining information, on a call-by-call basis, for proper routing of calls in the provision of toll free exchange access service or local toll free service.

69.1.3. Local Number Portability Local Routing Query Service. TCAP messages originated by CLECINTRADO COMM's SSPs and received by Embarq's database will be provided a response upon completion of a database lookup to determine the LRN. This information will be populated in industry standard format and returned to CLECINTRADO COMM so that it can then terminate the call in progress to the telephone number now residing in the switch designated by the LRN.

(a) CLECINTRADO COMM agrees to obtain, prior to the initiation of any LNP query, a NPAC/SMS User Agreement with Neustar. CLECINTRADO COMM will maintain the NPAC/SMS User Agreement with Neustar, or its successor, as long as it continues to make LNP queries to the Embarq database. Failure to obtain and maintain the NPAC/SMS User Agreement is considered a breach of this Agreement and is cause for immediate termination of service. Embarq shall not be liable for any direct or consequential damages due to termination because of lack of a NPAC/SMS User Agreement.

- (b) Embarq's LNP Database service offering does not include the cost of any charges or assessments by Number Portability Administrative Centers, whether under the NPAC/SMS User Agreement with Lockheed, or otherwise, or any charges assessed directly against ~~CLECINTRADO COMM~~ as the result of the FCC LNP Orders or otherwise by any third-party. These costs include the costs assessed against telecommunications carriers to pay for NPAC functions as permitted by the FCC and applicable legal or regulatory bodies. Embarq shall have no liability to ~~CLECINTRADO COMM~~ or the NPAC for any of these fees or charges applicable to ~~CLECINTRADO COMM~~, even though it may pay such charges for other Embarq companies.

70. TRANSIT TRAFFIC

- 70.1. Transit Service (non-251 service) means the delivery of Transit Traffic, i.e. Local Traffic or ISP-Bound Traffic originated by ~~CLECINTRADO COMM~~ terminated to a third party LEC, ILEC, or CMRS provider or originated by a third party and terminated to ~~CLECINTRADO COMM~~ using Embarq's tandem switch over the local/intraLATA interconnection trunks.
- 70.2. To the extent network and contractual arrangements exist with all necessary parties throughout the term of this Agreement, and where indirectly interconnected parties have an interconnection to the same Embarq tandem, Embarq will provide Transit Services for ~~CLECINTRADO COMM~~'s connection of its end user to a local end user of: (1) ~~CLECINTRADO COMM~~s, (2) an ILEC other than Embarq, and (3) other CMRS carriers.
- 70.3. Embarq may require separate trunking for the delivery of such Transit Traffic in order to accurately measure and bill it.
- 70.4. Terms and Conditions
 - 70.4.1. Each Party acknowledges that a third-party LEC may block transit traffic. To the extent the originated Party's traffic is blocked by a third party, Embarq shall have no obligation to resolve the dispute. ~~CLECINTRADO COMM~~ acknowledges that Embarq does not have any responsibility to pay any third-party Telecommunications Carrier charges for termination of any identifiable Transit Traffic from the originating Party. Each Party acknowledges that it is the originating Party's responsibility to enter into arrangements with each third party LEC, ~~CLECINTRADO COMM~~, or CMRS provider for the exchange of transit traffic to that third party.
 - 70.4.2. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between ~~CLECINTRADO COMM~~ and a third party exceeds a DS1 equivalent of traffic, Embarq will no longer provide transit service and ~~CLECINTRADO COMM~~ must establish a direct interconnection with the third party for the exchange of such traffic.

Within sixty (60) Days of when traffic exceeds this threshold, CLECINTRADO COMM shall establish a direct interconnection with such third party. After sixty (60) Days, if CLECINTRADO COMM has not established a direct interconnection and if CLECINTRADO COMM is exercising its best efforts to implement a direct connection with such third party, Embarq shall continue to transit the traffic. If Embarq disagrees that CLECINTRADO COMM is using its best efforts to implement a direct connection, Embarq may seek relief pursuant to the Dispute Resolution provisions.

70.5. Payment Terms and Conditions

- 70.5.1. The originating Party shall pay to Embarq a transit service charge as set forth in Table One.
- 70.5.2. CLECINTRADO COMM shall pay a transit rate as set forth in Table One of this Part when CLECINTRADO COMM uses an Embarq access tandem to terminate a local or ISP-bound call to a third party LEC, CLECINTRADO COMM or CMRS provider. CLECINTRADO COMM may be required to compensate Embarq for transit charges for traffic originated by an ILEC, transited by Embarq and terminated to CLECINTRADO COMM.

70.6. Billing Records and Exchange of Data

- 70.6.1. Parties will use their best efforts to convert all networks transporting transit traffic to deliver each call to the other Party's network with SS7 Common Channel Interoffice Signaling (CCIS) and other appropriate TCAP messages in order to facilitate full interoperability and billing functions. The Parties agree to send all message indicators, including originating telephone number, local routing number and CIC.
 - 70.6.2. Upon request by the terminating Party and to the extent possible, Embarq agrees to provide the terminating Party information on traffic originated by a third party CLECINTRADO COMMs or CMRS provider. To the extent Embarq incurs additional cost in providing this billing information, CLECINTRADO COMM agrees to reimburse Embarq for its direct costs of providing this information.
 - 70.6.3. To the extent that the industry adopts a standard record format for recording originating and/or terminating transit calls, both Parties agree to comply with the industry-adopted format to exchange records.
- 70.7. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between CLECINTRADO COMM and a third party exceeds the equivalent of three (3) DS1s of traffic, Embarq may, but shall not be obligated to require CLECINTRADO COMM to establish a direct connection with the parties to whom they are sending traffic. Embarq also reserves the right to require CLECINTRADO COMM to establish a direct connection to the third party if, in Embarq's sole discretion, the tandem is at or approaching capacity limitations.

These limitations may include but are not limited to a lack of trunk port capacity or processor capacity based on the then existing tandem and network configuration. Within sixty (60) Days after Embarq notifies CLECINTRADO COMM of the requirement to direct connect, CLECINTRADO COMM shall establish a direct interconnection with such third party. After sixty (60) Days, if CLECINTRADO COMM has not established a direct interconnection, Embarq may thereafter charge CLECINTRADO COMM for such transit service at Intrastate Access rates, or discontinue providing transit service to CLECINTRADO COMM, at the sole discretion of Embarq, provided however, that Embarq shall exercise such discretion in a non-discriminatory manner.

PART J – GENERAL BUSINESS REQUIREMENTS**71. PROCEDURES****71.1. Contact with End Users**

- 71.1.1. Each Party at all times shall be the primary contact and account control for all interactions with its end users, except as specified by that Party. Subscribers include active end users as well as those for whom service orders are pending.
- 71.1.2. Each Party shall ensure that any of its personnel who may receive end user inquiries, or otherwise have opportunity for end user contact from the other Party's end user regarding the other Party's services: (i) provide appropriate referrals to subscribers who inquire about the other Party's services or products; (ii) do not in any way disparage or discriminate against the other Party, or its products or services; and (iii) do not provide information about its products or services during that same inquiry or end user contact.
- 71.1.3. Embarq shall not use CLECINTRADO COMM's request for end user information, order submission, or any other aspect of CLECINTRADO COMM's processes or services to aid Embarq's marketing or sales efforts.

71.2. Expedite and Escalation Procedures

- 71.2.1. Embarq and CLECINTRADO COMM shall develop mutually acceptable escalation and expedite procedures which may be invoked at any point in the Service Ordering, Provisioning, Maintenance, and Subscriber Usage Data transfer processes to facilitate rapid and timely resolution of disputes. In addition, Embarq and CLECINTRADO COMM will establish intercompany contacts lists for purposes of handling end user and other matters which require attention/resolution outside of normal business procedures within thirty (30) Days after CLECINTRADO COMM's request. Each party shall notify the other party of any changes to its escalation contact list as soon as practicable before such changes are effective.
- 71.2.2. No later than thirty (30) Days after CLECINTRADO COMM's request Embarq shall provide CLECINTRADO COMM with contingency plans for those cases in which normal Service Ordering, Provisioning, Maintenance, Billing, and other procedures for Embarq's unbundled Network Elements, features, functions, and resale services are inoperable.

- 71.3. Subscriber of Record. Embarq shall recognize CLECINTRADO COMM as the Subscriber of Record for all Network Elements or services for resale ordered by

CLECINTRADO COMM and shall send all notices, invoices, and information which pertain to such ordered services directly to CLECINTRADO COMM. CLECINTRADO COMM will provide Embarq with addresses to which Embarq shall send all such notices, invoices, and information.

71.4. Service Offerings

71.4.1. Embarq shall provide CLECINTRADO COMM with access to new services, features and functions concurrent with Embarq's notice to CLECINTRADO COMM of such changes, if such service, feature or function is installed and available in the network or as soon thereafter as it is installed and available in the network, so that CLECINTRADO COMM may conduct market testing.

71.4.2. Essential Services. For purposes of service restoral, Embarq shall designate a CLECINTRADO COMM access line as an Essential Service Line (ESL) at Parity with Embarq's treatment of its own end users and applicable state law or regulation, if any.

71.4.3. Blocking Services. Upon request from CLECINTRADO COMM, employing Embarq-approved LSR documentation, Embarq shall provide blocking of 700, 900, and 976 services, or other services of similar type as may now exist or be developed in the future, and shall provide Billed Number Screening (BNS), including required LIDB updates, or equivalent service for blocking completion of bill-to-third party and collect calls, on a line, PBX, or individual service basis. Blocking shall be provided to the extent (a) it is an available option for the Telecommunications Service resold by CLECINTRADO COMM, or (b) it is technically feasible when requested by CLECINTRADO COMM as a function of unbundled Network Elements.

71.4.4. Training Support. Embarq shall provide training, on a non-discriminatory basis, for all Embarq employees who may communicate, either by telephone or face-to-face, with CLECINTRADO COMM end users. Such training shall include compliance with the branding requirements of this Agreement including without limitation provisions of forms, and unbranded "Not at Home" notices.

72. ORDERING AND PROVISIONING

72.1. Ordering and Provisioning Parity. Embarq shall provide necessary ordering and provisioning business process support as well as those technical and systems interfaces as may be required to enable CLECINTRADO COMM to provide the same level and quality of service for all resale services, functions, features, capabilities and unbundled Network Elements at Parity.

72.2. National Exchange Access Center (NEAC)

- 72.2.1. Embarq shall provide a NEAC or equivalent which shall serve as CLECINTRADO COMM's point of contact for all activities involved in the ordering and provisioning of Embarq's unbundled Network Elements, features, functions, and resale services.
- 72.2.2. The NEAC shall provide to CLECINTRADO COMM a nationwide telephone number (available from 6:00 a.m. to 8:00 p.m. Eastern Standard Time, Monday through Friday, and 8:00 am through 5:00 P.M. Eastern Standard Time on Saturday) answered by competent, knowledgeable personnel trained to answer questions and resolve problems in connection with the ordering and provisioning of unbundled Network Elements (except those associated with local trunking interconnection), features, functions, capabilities, and resale services.
- 72.2.3. Embarq shall provide, as requested by CLECINTRADO COMM, through the NEAC, provisioning and premises visit installation support in the form of coordinated scheduling, status, and dispatch capabilities during Embarq's standard business hours and at other times as agreed upon by the parties to meet end user demand.
- 72.3. Street Index Guide (SIG). Within thirty (30) Days of CLECINTRADO COMM's written request, Embarq shall provide to CLECINTRADO COMM the SIG data in the National Emergency Number Association Two (NENA2) format. A CDROM containing the SIG data will be shipped to the CLECINTRADO COMM's designated contact on a monthly basis until the request is cancelled.
- 72.4. CLASS and Custom Features. Where generally available in Embarq's serving area, CLECINTRADO COMM, at the tariff rate, may order the entire set of CLASS, CENTREX and Custom features and functions, or a subset of any one of such features.
- 72.5. Number Administration/Number Reservation
 - 72.5.1. Embarq shall provide testing and loading of CLECINTRADO COMM's NXX on the same basis as Embarq provides itself or its affiliates. Further, Embarq shall provide CLECINTRADO COMM with access to abbreviated dialing codes, and the ability to obtain telephone numbers, including vanity numbers, while a subscriber is on the phone with CLECINTRADO COMM. When CLECINTRADO COMM uses numbers from an Embarq NXX, Embarq shall provide the same range of number choices to CLECINTRADO COMM, including choice of exchange number, as Embarq provides its own subscribers. Reservation and aging of Embarq NXX's shall remain Embarq's responsibility.
 - 72.5.2. In conjunction with an order for service, Embarq shall accept CLECINTRADO COMM orders for vanity numbers and blocks of numbers for use with complex services including, but not limited to, DID, CENTREX, and Hunting arrangements, as requested by CLECINTRADO COMM.

72.5.3. For simple services number reservations and aging of Embarq's numbers, Embarq shall provide real-time confirmation of the number reservation when the Electronic Interface has been implemented. For number reservations associated with complex services, Embarq shall provide confirmation of the number reservation within twenty-four (24) hours of CELECINTRADO COMM's request. Consistent with the manner in which Embarq provides numbers to its own subscribers, no telephone number assignment is guaranteed until service has been installed.

72.6. Service Order Process Requirements

72.6.1. Service Migrations and New Subscriber Additions

- (a) For resale services, other than for a CELECINTRADO COMM order to convert "as is" a CELECINTRADO COMM subscriber, Embarq shall not disconnect any subscriber service or existing features at any time during the migration of that subscriber to CELECINTRADO COMM service without prior CELECINTRADO COMM agreement.
- (b) For services provided through UNEs, Embarq shall recognize CELECINTRADO COMM as an agent, in accordance with OBF developed processes, for the subscriber in coordinating the disconnection of services provided by another CELECINTRADO COMM or Embarq. In addition, Embarq and CELECINTRADO COMM will work cooperatively to minimize service interruptions during the conversion.
- (c) Unless otherwise directed by CELECINTRADO COMM and when technically capable, when CELECINTRADO COMM orders resale Telecommunications Services all trunk or telephone numbers currently associated with existing services shall be retained without loss of feature capability and without loss of associated ancillary services including, but not limited to, Directory Assistance and 911/E911 capability.
- (d) For subscriber conversions requiring coordinated cut-over activities, on a per order basis, Embarq, to the extent resources are readily available, and CELECINTRADO COMM will agree on a scheduled conversion time, which will be a designated time period within a designated date.
- (e) Any request made by CELECINTRADO COMM to coordinate conversions after normal working hours, or on Saturdays or Sundays or Embarq holidays shall be performed at CELECINTRADO COMM's expense.

- (f) A general Letter of Agency (LOA) initiated by CLECINTRADO COMM or Embarq will be required to process a PLC or PIC change order. Providing the LOA, or a copy of the LOA, signed by the end user will not be required to process a PLC or PIC change ordered by CLECINTRADO COMM or Embarq. CLECINTRADO COMM and Embarq agree that PLC and PIC change orders will be supported with appropriate documentation and verification as required by FCC and Commission rules. In the event of a subscriber complaint of an unauthorized PLC record change where the Party that ordered such change is unable to produce appropriate documentation and verification as required by FCC and Commission rules (or, if there are no rules applicable to PLC record changes, then such rules as are applicable to changes in long distance carriers of record), such Party shall be liable to pay and shall pay all nonrecurring and/or other charges associated with reestablishing the subscriber's local service with the original local carrier.

72.6.2. Intercept Treatment and Transfer Service Announcements. Embarq shall provide unbranded intercept treatment and transfer of service announcements to CLECINTRADO COMM's subscribers. Embarq shall provide such treatment and transfer of service announcement in accordance with local tariffs and as provided to similarly situated Embarq subscribers for all service disconnects, suspensions, or transfers.

72.6.3. Due Date

- (a) Embarq shall supply CLECINTRADO COMM with due date intervals to be used by CLECINTRADO COMM personnel to determine service installation dates.
- (b) Embarq shall use reasonable efforts to complete orders by the CLECINTRADO COMM requested DDD within agreed upon intervals.
- (c) Subscriber Premises Inspections and Installations
 - (i) CLECINTRADO COMM shall perform or contract for all CLECINTRADO COMM's needs assessments, including equipment and installation requirements required beyond the Demarcation/NID, located at the subscriber premises.
 - (ii) Embarq shall provide CLECINTRADO COMM with the ability to schedule subscriber premises installations at the same morning and evening commitment level of service offered Embarq's own customers. The parties shall mutually agree on an interim process to provide this functionality during the implementation planning process.

(d) Firm Order Confirmation (FOC)

- (i) Embarq shall provide to CLECINTRADO COMM, a Firm Order Confirmation (FOC) for each CLECINTRADO COMM order. The FOC shall contain the appropriate data elements as defined by the OBF standards.
- (ii) For a revised FOC, Embarq shall provide standard detail as defined by the OBF standards.
- (iii) Embarq shall provide to CLECINTRADO COMM the date that service is scheduled to be installed.

72.6.4. Order Rejections

- (a) Embarq shall reject and return to CLECINTRADO COMM any order that Embarq cannot provision, due to technical reasons, missing information, or jeopardy conditions resulting from CLECINTRADO COMM ordering service at less than the standard order interval. When an order is rejected, Embarq shall, in its reject notification, specifically describe all of the reasons for which the order was rejected. Embarq shall reject any orders on account of the customer Desired Due Date conflicts with published Embarq order provisioning interval requirements.

72.6.5. Service Order Changes

- (a) In no event will Embarq change a CLECINTRADO COMM initiated service order without a new service order directing said change. If an installation or other CLECINTRADO COMM ordered work requires a change from the original CLECINTRADO COMM service order in any manner, CLECINTRADO COMM shall initiate a revised service order. If requested by CLECINTRADO COMM, Embarq shall then provide CLECINTRADO COMM an estimate of additional labor hours and/or materials.
- (b) When a service order is completed, the cost of the work performed will be reported promptly to CLECINTRADO COMM.
- (c) If a CLECINTRADO COMM subscriber requests a service change at the time of installation or other work being performed by Embarq on behalf of CLECINTRADO COMM, Embarq, while at the subscriber premises, shall direct the CLECINTRADO COMM subscriber to contact CLECINTRADO COMM, and CLECINTRADO COMM will initiate a new service order.

72.7. Network Testing. Embarq shall perform all its standard pre-service testing prior to the completion of the service order.

- 72.8. Service Suspensions/Restorations. Upon CLECINTRADO COMM's request through an Industry Standard, OBF, Suspend/Restore Order, or mutually agreed upon interim procedure, Embarq shall suspend or restore the functionality of any Network Element, feature, function, or resale service to which suspend/restore is applicable. Embarq shall provide restoration priority on a per network element basis in a manner that conforms with any applicable regulatory Rules and Regulations or government requirements.
- 72.9. Order Completion Notification. Upon completion of the requests submitted by CLECINTRADO COMM, Embarq shall provide to CLECINTRADO COMM a completion notification in an industry standard, OBF, or in a mutually agreed format. The completion notification shall include detail of the work performed, to the extent this is defined within OBF guidelines, and in an interim method until such standards are defined.
- 72.10. Specific Unbundling Requirements. CLECINTRADO COMM may order and Embarq shall provision unbundled Network Elements. However, it is CLECINTRADO COMM's responsibility to combine the individual network elements should it desire to do so.
- 72.11. Systems Interfaces and Information Exchanges
- 72.11.1. General Requirements
- (a) Embarq shall provide to CLECINTRADO COMM Electronic Interface(s) for transferring and receiving information and executing transactions for all business functions directly or indirectly related to Service Ordering and Provisioning of Network Elements, features, functions and Telecommunications Services, to the extent available.
 - (b) Until the Electronic Interface is available, Embarq agrees that the NEAC or similar function will accept CLECINTRADO COMM orders. Orders will be transmitted to the NEAC via an interface or method agreed upon by CLECINTRADO COMM and Embarq.
 - (c) If the method of connectivity is File Transfer Protocol (FTP), the response(s) will be loaded to the server every hour and it is the responsibility of CLECINTRADO COMM to retrieve their response(s) from the server.
 - (d) It is the responsibility of CLECINTRADO COMM to provide Embarq with the LOA (Letter of Authorization) when another party is involved and is working on their behalf.
- 72.11.2. For any prospective CLECINTRADO COMM subscriber, Embarq shall provide CLECINTRADO COMM with access to that subscriber's CPNI without requiring CLECINTRADO COMM to produce a signed LOA, subject to applicable rules, orders, and decisions, and based on

CLECINTRADO COMM's blanket representation that subscriber has authorized CLECINTRADO COMM to obtain such CPNI.

- (a) The preordering Electronic Interface includes the provisioning of CPNI from Embarq to CLECINTRADO COMM. The Parties agree to request end user CPNI only when the end user has specifically given permission to receive CPNI. The Parties agree that they will conform to FCC and/or state regulations regarding the provisioning of CPNI between the parties, and regarding the use of that information by the requesting party.
- (b) The requesting Party will document end user permission obtained to receive CPNI, whether or not the end user has agreed to change local service providers. With respect to end users whose CPNI has been received by CLECINTRADO COMM, Embarq may request documentation from CLECINTRADO COMM to substantiate that CLECINTRADO COMM has requested and received permission from all such end users. If CLECINTRADO COMM is not able to provide adequate documentation reflecting such permission from at least ninety-five (95%) of such end users, Embarq reserves the right to immediately disconnect the preordering Electronic Interface.
- (c) The Parties agree to execute carrier changes as specified by the FCC in 47 CFR 64.1120. Documentation reflecting the request for a carrier change and verification in the form set forth in 47 CFR 64.1120 may be requested by the Party whose CPNI has been accessed in connection with such requested carrier change to investigate possible slamming incidents, and for other reasons agreed to by the Parties. A Party's failure to obtain and maintain adequate documentation of the request for a carrier change and verification of the same in the form set forth in 47 CFR 64.1120 before changing service from the other Party, or failure to produce documentation of such request and verification upon request of the other Party shall be considered a breach of the Agreement. A Party can cure the breach by submitting to the other Party a copy of such documentation within three (3) Business Days of notification of the breach.
- (d) If CLECINTRADO COMM is not able to provide the LOA for ninety-five percent (95%) of the end users requested by Embarq, or if Embarq determines that an LOA is inadequate, CLECINTRADO COMM will be considered in breach of the agreement. CLECINTRADO COMM can cure the breach by submitting to Embarq evidence of an LOA for each inadequate or omitted LOA within three (3) Business Days of notification of the breach.

- (e) Should CLECINTRADO COMM not be able to cure the breach in the timeframe noted above, Embarq will discontinue processing new service orders until, in Embarq's determination, CLECINTRADO COMM has corrected the problem that caused the breach.
- (f) Embarq will resume processing new service orders upon Embarq's timely review and acceptance of evidence provided by CLECINTRADO COMM to correct the problem that caused the breach.
- (g) If CLECINTRADO COMM and Embarq do not agree that CLECINTRADO COMM has appropriate documentation or verification of a requested carrier change by a specific end user, or that Embarq has erred in not accepting proof of such carrier change request, the Parties may immediately request dispute resolution in accordance with Part B. Embarq will not disconnect the preordering Electronic Interface during the Alternate Dispute Resolution process.

72.12. CLECINTRADO COMM may use Embarq's ordering process (IRES) to:

72.12.1. to assign telephone number(s) (if the subscriber does not already have a telephone number or requests a change of telephone number) at Parity.

- (a) to schedule dispatch and installation appointments at Parity.
- (b) to access Embarq subscriber information systems which will allow CLECINTRADO COMM to determine if a service call is needed to install the line or service at Parity.
- (c) to access Embarq information systems which will allow CLECINTRADO COMM to provide service availability dates at Parity.
- (d) transmit status information on service orders, including acknowledgement, firm order confirmation, and completion at Parity.

72.13. Standards

72.13.1. General Requirements. CLECINTRADO COMM and Embarq shall agree upon the appropriate ordering and provisioning codes to be used for UNEs. These codes shall apply to all aspects of the unbundling of that element and shall be known as data elements as defined by the Telecommunications Industry Forum Electronic Data Interchange Service Order Subcommittee (TCIF-EDI-SOSC).

73. PROVISION OF USAGE DATA

73.1. This Section sets forth the terms and conditions for Embarq's provision of Recorded Usage Data (as defined in this Part) to ~~CLECINTRADO COMM~~ and for information exchange regarding long distance and access billing. The parties agree to record call information for interconnection in accordance with this Section. To the extent technically feasible, each party shall record all call detail information associated with completed calls originated by or terminated to the other Party's local exchange subscriber, and long distance calls transited through one Party's network to the terminating provider. Embarq shall record for ~~CLECINTRADO COMM~~ the messages that Embarq records for and bills to its end users and records for billing of interexchange carriers. These records shall be provided at a party's request and shall be formatted pursuant to Telcordia's EMI standards and the terms and conditions of this Agreement. These records shall be transmitted to the other party on non-holiday Business Days in EMI format via CDN, or provided on a cartridge. Embarq and ~~CLECINTRADO COMM~~ agree that they shall retain, at each party's sole expense, copies of all EMI records transmitted to the other party for at least forty-five (45) Days after transmission to the other party.

73.2. General Procedures

73.2.1. Embarq shall comply with various industry and OBF standards referred to throughout this Agreement.

73.2.2. Embarq shall comply with OBF standards when recording and transmitting Usage Data.

73.2.3. Embarq shall record all usage originating from ~~CLECINTRADO COMM~~ end users using resold services ordered by ~~CLECINTRADO COMM~~, where Embarq records those same services for Embarq end users. Recorded Usage Data includes, but is not limited to, the following categories of information:

- (a) Use of CLASS/LASS/Custom Features that Embarq records and bills for its end users on a per usage basis.
- (b) Calls to Information Providers (IP) reached via Embarq facilities will be provided in accordance with Section ~~73.2.773.2.772.2.7~~
- (c) Calls to Directory Assistance where Embarq provides such service to a ~~CLECINTRADO COMM~~ end user.
- (d) Calls completed via Embarq-provided Operator Services where Embarq provides such service to ~~CLECINTRADO COMM~~'s local service end user and where Embarq records such usage for its end users using Industry Standard Telcordia EMI billing records.
- (e) Access records related to long distance calling.

(f) For Embarq-provided Centrex Service, station level detail.

- 73.2.4. Retention of Records. Embarq shall maintain a machine readable back-up copy of the message detail provided to CLECINTRADO COMM for a minimum of forty-five (45) Days. During the forty-five (45) day period, Embarq shall provide any data back-up to CLECINTRADO COMM upon the request of CLECINTRADO COMM. If the forty-five (45) day period has expired, Embarq may provide the data back-up at CLECINTRADO COMM's expense.
- 73.2.5. Embarq shall provide to CLECINTRADO COMM Recorded Usage Data for CLECINTRADO COMM end users. Embarq shall not submit other CLECINTRADO COMM local usage data as part of the CLECINTRADO COMM Recorded Usage Data.
- 73.2.6. Embarq shall not bill directly to CLECINTRADO COMM subscribers any recurring or non-recurring charges for CLECINTRADO COMM's services to the end user except where explicitly permitted to do so within a written agreement between Embarq and CLECINTRADO COMM.
- 73.2.7. Embarq will record 976/N11 calls and transmit them to the IP for billing. Embarq will not bill these calls to either the CLECINTRADO COMM or the CLECINTRADO COMM's end user.
- 73.2.8. Embarq shall provide Recorded Usage Data to CLECINTRADO COMM billing locations as agreed to by the Parties.
- 73.2.9. Embarq shall provide a single point of contact to respond to CLECINTRADO COMM call usage, data error, and record transmission inquiries.
- 73.2.10. Embarq shall provide CLECINTRADO COMM with a single point of contact and remote identifiers (IDs) for each sending location.
- 73.2.11. CLECINTRADO COMM shall provide a single point of contact responsible for receiving usage transmitted by Embarq and receiving usage tapes from a courier service in the event of a facility outage.
- 73.2.12. Embarq shall bill and CLECINTRADO COMM shall pay the charges for Recorded Usage Data. Billing and payment shall be in accordance with the applicable terms and conditions set forth herein.

73.3. Charges

- 73.3.1. Access services, including revenues associated therewith, provided in connection with the resale of services hereunder shall be the responsibility of Embarq and Embarq shall directly bill and receive payment on its own behalf from an IXC for access related to interexchange calls generated by resold or rebranded customers.

73.3.2. Embarq will be responsible for returning EMI records to IXC's with the proper EMI Return Code along with the Operating Company Number (OCN) of the associated ANI, (*i.e.*, Billing Number).

73.3.3. Embarq will deliver a monthly statement for Wholesale Services in the medium (e.g.: NDM, paper, or CD-ROM) requested by CLECINTRADO COMM as follows:

- (a) Invoices will be provided in a standard Carrier Access Billing format or other such format as Embarq may determine;
- (b) Where local usage charges apply and message detail is created to support available services, the originating local usage at the call detail level in standard EMI industry format will be exchanged daily or at other mutually agreed upon intervals, and CLECINTRADO COMM will pay Embarq for providing such call detail;
- (c) The Parties will work cooperatively to exchange information to facilitate the billing of in and out collect and inter/intra-region alternately billed messages;
- (d) Embarq agrees to provide information on the end-user's selection of special features where Embarq maintains such information (e.g.: billing method, special language) when CLECINTRADO COMM places the order for service;
- (e) Monthly recurring charges for Telecommunications Services sold pursuant to this Agreement shall be billed monthly in advance.
- (f) Embarq shall bill for message provisioning and, if applicable data tape charges, related to the provision of usage records. Embarq shall also bill CLECINTRADO COMM for additional copies of the monthly invoice.

73.3.4. For billing purposes, and except as otherwise specifically agreed to in writing, the Telecommunications Services provided hereunder are furnished for a minimum term of one month. Each month is presumed to have thirty (30) Days.

73.4. Central Clearinghouse and Settlement

73.4.1. Embarq and CLECINTRADO COMM shall agree upon Clearinghouse and Incollect/Outcollect procedures.

73.4.2. Embarq shall settle with CLECINTRADO COMM for both intra-region and inter-region billing exchanges of calling card, bill-to-third party, and collect calls under separately negotiated settlement arrangements.

73.5. Lost Data

- 73.5.1. Loss of Recorded Usage Data. CLECINTRADO COMM Recorded Usage Data determined to have been lost, damaged or destroyed as a result of an error or omission by Embarq in its performance of the recording function shall be recovered by Embarq at no charge to CLECINTRADO COMM. In the event the data cannot be recovered by Embarq, Embarq shall estimate the messages and associated revenue, with assistance from CLECINTRADO COMM, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by Embarq and CLECINTRADO COMM. This estimate shall be used to adjust amounts CLECINTRADO COMM owes Embarq for services Embarq provides in conjunction with the provision of Recorded Usage Data.
- 73.5.2. Partial Loss. Embarq shall review its daily controls to determine if data has been lost. When there has been a partial loss, actual message and minute volumes shall be reported, if possible through recovery as discussed in Section ~~73.573.572.5~~ above. Where actual data are not available, a full day shall be estimated for the recording entity, as outlined in the following paragraphs. The amount of the partial loss is then determined by subtracting the data actually recorded for such day from the estimated total for such day.
- 73.5.3. Complete Loss. When Embarq is unable to recover data as discussed in Section ~~73.573.572.5~~ above estimated message and minute volumes for each loss consisting of an entire AMA tape or entire data volume due to its loss prior to or during processing, lost after receipt, degaussed before processing, receipt of a blank or unreadable tape, or lost for other causes, shall be reported.
- 73.5.4. Estimated Volumes. From message and minute volume reports for the entity experiencing the loss, Embarq shall secure message/minute counts for the four (4) corresponding days of the weeks preceding that in which the loss occurred and compute an average of these volumes. Embarq shall apply the appropriate average revenue per message ("arpm") agreed to by CLECINTRADO COMM and Embarq to the estimated message volume for messages for which usage charges apply to the subscriber to arrive at the estimated lost revenue.
- 73.5.5. If the day of loss is not a holiday but one (1) (or more) of the preceding corresponding days is a holiday, use additional preceding weeks in order to procure volumes for two (2) non-holidays in the previous two (2) weeks that correspond to the day of the week that is the day of the loss.
- 73.5.6. If the loss occurs on a weekday that is a holiday (except Christmas and Mother's day), Embarq shall use volumes from the two (2) preceding Sundays.
- 73.5.7. If the loss occurs on Mother's day or Christmas day, Embarq shall use volumes from that day in the preceding year multiplied by a growth

factor derived from an average of CLECINTRADO COMM's most recent three (3) month message volume growth. If a previous year's message volumes are not available, a settlement shall be negotiated.

73.6. Testing, Changes and Controls

73.6.1. The Recorded Usage Data, EMI format, content, and transmission process shall be tested as agreed upon by CLECINTRADO COMM and Embarq.

73.6.2. Control procedures for all usage transferred between Embarq and CLECINTRADO COMM shall be available for periodic review. This review may be included as part of an Audit of Embarq by CLECINTRADO COMM or as part of the normal production interface management function. Breakdowns which impact the flow of usage between Embarq and CLECINTRADO COMM must be identified and jointly resolved as they occur. The resolution may include changes to control procedures, so similar problems would be avoided in the future. Any changes to control procedures would need to be mutually agreed upon by CLECINTRADO COMM and Embarq.

73.6.3. Embarq Software Changes

- (a) When Embarq plans to introduce any software changes which impact the format or content structure of the usage data feed to CLECINTRADO COMM, designated Embarq personnel shall notify CLECINTRADO COMM no less than ninety (90) Days before such changes are implemented.
- (b) Embarq shall communicate the projected changes to CLECINTRADO COMM's single point of contact so that potential impacts on CLECINTRADO COMM processing can be determined.
- (c) CLECINTRADO COMM personnel shall review the impact of the change on the entire control structure. CLECINTRADO COMM shall negotiate any perceived problems with Embarq and shall arrange to have the data tested utilizing the modified software if required.
- (d) If it is necessary for Embarq to request changes in the schedule, content or format of usage data transmitted to CLECINTRADO COMM, Embarq shall notify CLECINTRADO COMM.

73.6.4. CLECINTRADO COMM Requested Changes:

- (a) CLECINTRADO COMM may submit a purchase order to negotiate and pay for changes in the content and format of the usage data transmitted by Embarq.

- (b) When the negotiated changes are to be implemented, CLECINTRADO COMM and/or Embarq shall arrange for testing of the modified data.

73.7. Information Exchange and Interfaces

- 73.7.1. Product/Service Specific. Embarq shall provide a Telcordia standard 42-50-01 miscellaneous charge record to support the Special Features Star Services if these features are part of Embarq's offering and are provided for Embarq's subscribers on a per usage basis.

73.8. Rejected Recorded Usage Data

- 73.8.1.1. Upon agreement between CLECINTRADO COMM and Embarq, messages that cannot be rated and/or billed by CLECINTRADO COMM may be returned to Embarq via CDN or other medium as agreed by the Parties. Returned messages shall be sent directly to Embarq in their original EMI format utilizing standard EMI return codes.
- 73.8.1.2. Embarq may correct and resubmit to CLECINTRADO COMM any messages returned to Embarq. Embarq will not be liable for any records determined by Embarq to be billable to a CLECINTRADO COMM end user. CLECINTRADO COMM will not return a message that has been corrected and resubmitted by Embarq. Embarq will only assume liability for errors and unguideables caused by Embarq.

74. GENERAL NETWORK REQUIREMENTS

- 74.1. Embarq shall provide repair, maintenance and testing for all resold Telecommunications Services and such UNEs that Embarq is able to test, in accordance with the terms and conditions of this Agreement.
- 74.2. During the term of this Agreement, Embarq shall provide necessary maintenance business process support as well as those technical and systems interfaces at Parity. Embarq shall provide CLECINTRADO COMM with maintenance support at Parity.
- 74.3. Embarq shall provide on a regional basis, a point of contact for CLECINTRADO COMM to report vital telephone maintenance issues and trouble reports twenty four (24) hours and seven (7) days a week.
- 74.4. Embarq shall provide CLECINTRADO COMM maintenance dispatch personnel on the same schedule that it provides its own subscribers.
- 74.5. Embarq shall cooperate with CLECINTRADO COMM to meet maintenance standards for all Telecommunications Services and unbundled network elements ordered under this Agreement. Such maintenance standards shall include, without limitation, standards for testing, network management, call gapping, and notification of upgrades as they become available.

- 74.6. All Embarq employees or contractors who perform repair service for CLECINTRADO COMM end users shall follow Embarq standard procedures in all their communications with CLECINTRADO COMM end users. These procedures and protocols shall ensure that:
- 74.6.1. Embarq employees or contractors shall perform repair service that is equal in quality to that provided to Embarq end users; and
 - 74.6.2. Trouble calls from CLECINTRADO COMM shall receive response time priority that is equal to that of Embarq end users and shall be handled on a "first come first served" basis regardless of whether the end user is a CLECINTRADO COMM end user or an Embarq end user.
- 74.7. Embarq shall provide CLECINTRADO COMM with scheduled maintenance for resold lines, including, without limitation, required and recommended maintenance intervals and procedures, for all Telecommunications Services and network elements provided to CLECINTRADO COMM under this Agreement equal in quality to that currently provided by Embarq in the maintenance of its own network. CLECINTRADO COMM shall perform its own testing for UNEs.
- 74.8. Embarq shall give maximum advanced notice to CLECINTRADO COMM of all non-scheduled maintenance or other planned network activities to be performed by Embarq on any network element, including any hardware, equipment, software, or system, providing service functionality of which CLECINTRADO COMM has advised Embarq may potentially impact CLECINTRADO COMM end users.
- 74.9. Notice of Network Event. Each party has the duty to alert the other of any network events that can result or have resulted in service interruption, blocked calls, or negative changes in network performance.
- 74.10. On all misdirected calls from CLECINTRADO COMM end users requesting repair, Embarq shall provide such CLECINTRADO COMM end user with the correct CLECINTRADO COMM repair telephone number as such number is provided to Embarq by CLECINTRADO COMM. Once the Electronic Interface is established between Embarq and CLECINTRADO COMM, Embarq agrees that CLECINTRADO COMM may report troubles directly to a single Embarq repair/maintenance center for both residential and small business end users, unless otherwise agreed to by CLECINTRADO COMM.
- 74.11. Upon establishment of an Electronic Interface, Embarq shall notify CLECINTRADO COMM via such electronic interface upon completion of trouble report. The report shall not be considered closed until such notification is made. CLECINTRADO COMM will contact its end user to determine if repairs were completed and confirm the trouble no longer exists.
- 74.12. Embarq shall perform all testing for resold Telecommunications Services.

- 74.13. Embarq shall provide test results to CLECINTRADO COMM, if appropriate, for trouble clearance. In all instances, Embarq shall provide CLECINTRADO COMM with the disposition of the trouble.
- 74.14. If Embarq initiates trouble handling procedures, it will bear all costs associated with that activity. If CLECINTRADO COMM requests the trouble dispatch, and either there is no trouble found, or the trouble is determined to be beyond the end user demarcation point, then CLECINTRADO COMM will bear the cost.

75. MISCELLANEOUS SERVICES AND FUNCTIONS

75.1. General

- 75.1.1. The services described in Section 74 only apply shall only be available to the CLECINTRADO COMM under this Agreement (i) when Embarq is providing the service to itself, (ii) in areas where Embarq is providing such service to Embarq's end-user subscribers, and (iii) subject to the limitations specified herein. To the extent that Embarq does not provide the services described in this Section 74 to itself, or the requested service is not available to Embarq's end-user subscribers in such areas, CLECINTRADO COMM must secure any desired services under a separate commercial agreement with Embarq or another provider. .

75.2. Basic 911 and E911 Service

- 75.2.1. Basic 911 and E911 provides a caller access to the appropriate emergency service bureau by dialing a 3-digit universal telephone number (911).
- 75.2.2. Basic 911 and E911 functions shall only be provided to CLECINTRADO COMM for resale, and shall be at Parity with the support and services that Embarq provides to its subscribers for such similar functionality.
- (a) Where it may be appropriate for Embarq to update the ALI database, Embarq shall update such database with CLECINTRADO COMM data in an interval at Parity with that experienced by Embarq end users.
 - (b) Embarq shall transmit to CLECINTRADO COMM daily all changes, alterations, modifications, and updates to the emergency public agency telephone numbers linked to all NPA NXXs. This transmission shall be electronic and be a separate feed from the subscriber listing feed.
- 75.2.3. In government jurisdictions where Embarq has obligations under existing agreements as the primary provider of the 911 System to the county (Host Embarq), CLECINTRADO COMM shall participate in the provision of the 911 System in accordance with applicable tariffs, or if no tariff is applicable, then pursuant to a separate commercial agreement

with Embarq.

75.2.4. If a third party is the primary provider of the 911 System to a government agency, CLECINTRADO COMM shall negotiate separately with such third party with regard to the provision of 911 service to the agency. All relations between such third party and CLECINTRADO COMM are totally separate from this Agreement and Embarq makes no representations on behalf of the third party.

75.2.5. Basic 911 and E911 Database Requirements

- (a) The ALI database shall be managed by Embarq, but is the property of Embarq and CLECINTRADO COMM for those records provided by CLECINTRADO COMM.
- (b) To the extent allowed by the governmental agency, and where available, copies of the SIG shall be provided within three Business Days from the time requested and provided on diskette, or in a format suitable for use with desktop computers.
- (c) CLECINTRADO COMM shall be solely responsible for providing CLECINTRADO COMM database records to Embarq for inclusion in Embarq's ALI database on a timely basis.
- (d) Embarq and CLECINTRADO COMM shall arrange for the automated input and periodic updating of the E911 database information related to CLECINTRADO COMM end users. Embarq shall work cooperatively with CLECINTRADO COMM to ensure the accuracy of the data transfer by verifying it against the SIG. Embarq shall accept electronically transmitted files that conform to NENA Version #2 format.
- (e) CLECINTRADO COMM shall assign an E911 database coordinator charged with the responsibility of forwarding CLECINTRADO COMM end user ALI record information to Embarq or via a third-party entity, charged with the responsibility of ALI record transfer. CLECINTRADO COMM assumes all responsibility for the accuracy of the data that CLECINTRADO COMM provides to Embarq.
- (f) CLECINTRADO COMM shall provide information on new subscribers to Embarq within one (1) business day of the order completion. Embarq shall update the database within two (2) Business Days of receiving the data from CLECINTRADO COMM. If Embarq detects an error in the CLECINTRADO COMM provided data, the data shall be returned to CLECINTRADO COMM within two (2) Business Days from when it was provided to Embarq. CLECINTRADO COMM shall respond to requests from Embarq to make corrections to database

record errors by uploading corrected records within two (2) Business Days. Manual entry shall be allowed only in the event that the system is not functioning properly.

(g) Embarq agrees to treat all data on CECINTRADO COMM subscribers provided under this Agreement as confidential and to use data on CECINTRADO COMM subscribers only for the purpose of providing E911 services.

(h) Parties shall load and update pANI steering tables in the Embarq and Intrado Comm ALI Database to support PSAP to PSAP call transfer with ALI data for wireless and VoIP calls.

(i) Embarq shall support the use of PSAP ALI Messaging (PAM) as the protocol for steering between the Intrado Comm ALI hosts and the Embarq ALI hosts. PAM protocol shall be made available with either No Record Found Steering (NRF) and/or Function of Change R (FOC-R) call routing.

(j) Embarq will provide the appropriate number of one-way outgoing 911/E911 trunks over diversely routed facilities that will accommodate the existing E911 software generic of the Embarq SR so as to enable Embarq to transfer a 911 call to PSAPs served by Intrado Comm's E911 routing network from PSAPs subtending the Embarq SR.

75.2.6 Inter-Tandem\Inter-Selective Router (Inter-SR) Trunking

(a) Intrado Comm and Embarq may deploy bi-directional inter-SR trunking using one way trunk configurations that will allow transfers between PSAPs subtending on Embarq selective routers and PSAPs subtending on the Intrado Comm SR.

(b) Intrado Comm will be responsible for deploying and maintaining one way trunks from the Intrado Comm's E911 routing network for PSAP call transfers from Intrado Comm subtending PSAPs to Embarq subtending PSAPS.

(c) Embarq will be responsible for deploying and maintaining one way trunks from the Embarq SR for PSAP call transfers from the Embarq subtending PSAPs to Intrado Comm subtending PSAPS.

(d) The configuration of these inter-selective router trunk groups shall be designed to support the existing E911 generic of the Embarq selective router tandem. Embarq will notify Intrado Comm of any upgrades to the Embarq E911 generic in the SR that would allow for a different trunking configuration to support inter-tandem transfer. This may include, but is not limited to:

- i. Establishment and maintenance of location specific route index dial plan translations to enable PSAP-to-PSAP inter-SR call transfers.
- ii. Establishment and maintenance of trunk routing translations to enable PSAP-to-PSAP call transfers; consistent with generic capabilities of the Embarq SR.

- iii. Notification to the connecting party of impending changes to call transfer translations and/or changes to the inter-tandem trunk group at least 30 days in advance of the activation date, as well as coordination of testing coincident with activation of the changes.
- (e) Each party will have a sufficient number of inter-tandem trunks to support simultaneous inter-tandem PSAP call transfers such that a P.01 grade of service is attained.
- (f) Embarq will alert Intrado Comm of any Embarq selective routing generic software modifications applied that will enable PSAP-to-PSAP call transfer applications for PSAPs served by an Embarq selective router that was formerly identified as being technically incapable of accommodating those call transfer arrangements as defined in Section 75.2.6 (d) (i) or (ii)
- (g) Where technically capable, each party will establish and maintain appropriate Selective Routing Database updates and/or trunk routing translations as necessary to support inter tandem E9-1-1 PSAP call transfer capability requested by the controlling 911 authority..
- (h) Each party will be responsible for alarming and monitoring their respective originating E9-1-1 inter-selective routing trunks. Each party shall notify the other of any service outages on their respective inter-selective routing trunk(s), and work cooperatively to restore service in accordance with federal, state and local 911 rules.

75.3. Directory Listings Service

- 75.3.1. These requirements pertain to Embarq's Listings Service Request process that enables CELECINTRADO COMM to (a) submit CELECINTRADO COMM subscriber information for inclusion in Directory Listings databases; (b) submit CELECINTRADO COMM subscriber information for inclusion in published directories; and (c) provide CELECINTRADO COMM subscriber delivery address information to enable Embarq to fulfill directory distribution obligations.
- 75.3.2. When implemented by the Parties, Embarq shall accept orders on a real-time basis via electronic interface in accordance with OBF Directory Service Request standards within three (3) months of the effective date of this Agreement. In the interim, Embarq shall create a standard format and order process by which CELECINTRADO COMM can place an order with a single point of contact within Embarq.
- 75.3.3. Embarq will provide to CELECINTRADO COMM the following Directory Listing Migration Options:
 - (a) Migrate with no Changes. Retain all white page listings for the subscriber in both DA and DL. Transfer ownership and billing for white page listings to CELECINTRADO COMM.
 - (b) Migrate with Additions. Retain all white page listings for the subscriber in DL. Incorporate the specified additional listings

order. Transfer ownership and billing for the white page listings to CLECINTRADO COMM.

- (c) Migrate with Deletions. Retain all white page listings for the subscriber in DL. Delete the specified listings from the listing order. Transfer ownership and billing for the white page listings to CLECINTRADO COMM.
- (d) To ensure accurate order processing, Embarq or its directory publisher shall provide to CLECINTRADO COMM the following information, with updates promptly upon changes:
 - (e) A matrix of NXX to central office;
 - (f) Geographical maps if available of Embarq service area;
 - (g) A description of calling areas covered by each directory, including but not limited to maps of calling areas and matrices depicting calling privileges within and between calling areas;
 - (h) Listing format rules;
 - (i) Standard abbreviations acceptable for use in listings and addresses;
 - (j) Titles and designations; and
 - (k) A list of all available directories and their Business Office close dates

75.3.4. Embarq shall update and maintain directory listings information to reflect which of the following categories CLECINTRADO COMM subscribers fall into:

- (a) "LISTED" means the listing information is available for all directory requirements;
- (b) "NON-LISTED" means the listing information is available for all directory requirements, but the information does not appear in the published street directory;
- (c) "NON-PUBLISHED" means that a directory service may confirm, by name and address, the presence of a listing, but the telephone number is not available. The listing information is not available in either the published directory or directory assistance.

75.3.5. Based on changes submitted by CLECINTRADO COMM, Embarq shall update and maintain directory listings data for CLECINTRADO COMM subscribers who:

- (a) Disconnect Service;
- (b) Change CLECINTRADO COMM;

- (c) Install Service;
- (d) Change any service which affects DA information;
- (e) Specify Non-Solicitation; and
- (f) Change categories from Non-Published, Non-Listed, or Listed.

75.3.6. The charge for storage of CLECINTRADO COMM subscriber information in the DL systems is included in the rates where CLECINTRADO COMM is buying UNE Loops or resold services with respect to specific addresses. CLECINTRADO COMMs that are not buying UNE Loops or resold services shall pay for such storage services at the rate reflected on Table One.

75.3.7. CLECINTRADO COMM acknowledges that many directory functions including but not limited to directory proofing, and directory distribution are not performed by Embarq but rather are performed by and are under the control of the directory publisher, and Embarq shall not have any liability to CLECINTRADO COMM for any acts or omissions of the publisher. Embarq shall use reasonable efforts to assist CLECINTRADO COMM in obtaining an agreement with the directory publisher that treats CLECINTRADO COMM at Parity with the publisher's treatment of Embarq.

75.3.8. CLECINTRADO COMM acknowledges that for a CLECINTRADO COMM subscriber's name to appear in a directory, CLECINTRADO COMM must submit a Directory Service Request (DSR).

75.3.9. CLECINTRADO COMM shall provide directory listings to Embarq pursuant to the directory listing and delivery requirements in the approved OBF format, at a mutually agreed upon timeframe. Other formats and requirements shall not be used unless mutually agreed to by the parties.

75.3.10. Traditional White Pages Listings.

- (a) Embarq shall include in its master subscriber system database all white pages listing information for CLECINTRADO COMM subscribers whose information was properly submitted a DSR.
- (b) One basic White pages listing for each CLECINTRADO COMM customer is included in the rates where CLECINTRADO COMM is buying UNE Loops or resold services at a specific address and additional listings for a specific address shall be provided at the rates reflected on Table 1. If CLECINTRADO COMM requests a listing for an address where CLECINTRADO COMM is not buying UNE Loops or resold services, CLECINTRADO COMM shall pay for all requested listings for such address at the rate reflected on Table One. A basic White Pages listing is defined as a

customer name, address and either the CLECINTRADO COMM assigned number for a customer or the number for which number portability is provided, but not both numbers. Basic White Pages listings of CLECINTRADO COMM customers will be interfiled with listings of Embarq and other LEC customers.

- (c) CLECINTRADO COMM agrees to provide customer listing information for CLECINTRADO COMM's subscribers, including without limitation directory distribution information, to Embarq, at no charge. Embarq will provide CLECINTRADO COMM with the appropriate format for provision of CLECINTRADO COMM customer listing information to Embarq. The parties agree to adopt a mutually acceptable electronic format for the provision of such information as soon as practicable. In the event OBF adopts an industry-standard format for the provision of such information, the parties agree to adopt such format.
- (d) Embarq agrees to provide White Pages database maintenance services to CLECINTRADO COMM. CLECINTRADO COMM will be charged a Service Order entry fee upon submission of Service Orders into Embarq's Service Order Entry (SOE) System, which will include compensation for such database maintenance services. Service Order entry fees apply when Service Orders containing directory records are entered into Embarq's SOE System initially, and when Service Orders are entered in order to process a requested change to directory records.
- (e) CLECINTRADO COMM customer listing information will be used solely for the provision of directory services, including the sale of directory advertising to CLECINTRADO COMM customers.
- (f) In addition to a basic White Pages listing, Embarq will provide, tariffed White Pages listings (e.g.: additional, alternate, foreign and non-published listings) for CLECINTRADO COMM to offer for resale to CLECINTRADO COMM's customers.
- (g) Embarq, or its directory publisher, will provide White Pages distribution services to CLECINTRADO COMM customers, in areas where Embarq is providing such service to Embarq's end-user subscribers, at no additional charge to CLECINTRADO COMM at times of regularly scheduled distribution to all customers. Embarq represents that the quality, timeliness, and manner of such distribution services will be at Parity with those provided to Embarq and to other CLECINTRADO COMM customers.
- (h) Embarq agrees to include critical contact information pertaining to CLECINTRADO COMM in the "Information Pages" of those of

its White Pages directories containing information pages, if CLECINTRADO COMM meets criteria established by its directory publisher. Critical contact information includes CLECINTRADO COMM's business office number, repair number, billing information number, and any other information required to comply with applicable regulations, but not advertising or purely promotional material. CLECINTRADO COMM will not be charged for inclusion of its critical contact information. The format, content and appearance of CLECINTRADO COMM's critical contact information must conform to applicable Embarq directory publisher's guidelines and will be consistent with the format, content and appearance of critical contact information pertaining to all CLECINTRADO COMMs in a directory.

- (i) Embarq will accord CLECINTRADO COMM customer listing information the same level of confidentiality that Embarq accords its own proprietary customer listing information. Embarq shall ensure that access to CLECINTRADO COMM customer proprietary listing information will be limited solely to those of Embarq and Embarq's directory publisher's employees, agents and contractors that are directly involved in the preparation of listings, the production and distribution of directories, and the sale of directory advertising. Embarq will advise its own employees, agents and contractors and its directory publisher of the existence of this confidentiality obligation and will take appropriate measures to ensure their compliance with this obligation. Notwithstanding any provision herein to the contrary, the furnishing of White Pages proofs to a CLECINTRADO COMM that contains customer listings of both Embarq and CLECINTRADO COMM will not be deemed a violation of this confidentiality provision.
- (j) Embarq will provide CLECINTRADO COMM's customer listing information to any third party to the extent required by Applicable Rules.

75.4. Other Directory Services.

- 75.4.1. Embarq will exercise reasonable efforts to cause its directory publisher to enter into a separate agreement with ~~CLECINTRADO~~ COMM which will address other directory services desired by ~~CLECINTRADO~~ COMM as described in this Section ~~75.475.474.4~~. Both parties acknowledge that Embarq's directory publisher is not a party to this Agreement and that the provisions contained in this Section ~~75.475.474.4~~ are not binding upon Embarq's directory publisher.
 - 75.4.2. Embarq will request that its publisher make available to ~~CLECINTRADO~~ COMM the provision of a basic Yellow Pages listing to ~~CLECINTRADO~~ COMM customers located within the geographic scope of publisher's Yellow Pages directories and distribution of Yellow Pages directories to ~~CLECINTRADO~~ COMM customers.
 - 75.4.3. Embarq will request that its publisher make directory advertising available to ~~CLECINTRADO~~ COMM customers on a nondiscriminatory basis and subject to the same terms and conditions that such advertising is offered to Embarq and other ~~CLECINTRADO~~ COMM customers. Directory advertising will be billed to ~~CLECINTRADO~~ COMM customers by directory publisher.
 - 75.4.4. Embarq will request that its publisher use commercially reasonable efforts to ensure that directory advertising purchased by customers who switch their service to ~~CLECINTRADO~~ COMM is maintained without interruption.
 - 75.4.5. Embarq will request that its publisher make available information pages, in addition to any information page or portion of an information page containing critical contact information as described above in Section ~~0074.3.9~~, subject to applicable directory publisher guidelines, criteria, and regulatory requirements.
 - 75.4.6. The directory publisher shall maintain full authority as publisher over its publishing policies, standards and practices, including decisions regarding directory coverage area, directory issue period, compilation, headings, covers, design, content or format of directories, and directory advertising sales.
- 75.5. Directory Assistance Data.
- 75.5.1. Directory Assistance Data consists of information within residential, business, and government subscriber records that can be used to create and maintain databases for the provision of live or automated operator assisted Directory Assistance.
 - 75.5.2. Under a separate agreement, Embarq will provide ~~CLECINTRADO~~ COMM with unbundled and non-discriminatory access to the residential, business and government subscriber records for the purpose of obtaining

Directory Assistance Data that is needed to enable telephone exchange ~~CLECINTRADO COMMs~~ to swiftly and accurately respond to requests by end-users for directory information, including, but not limited to name, address and phone numbers, The separate agreement shall provide for each of the following:

- (a) Subscriber records. ~~CLECINTRADO COMM~~ shall have access to the same subscriber record information that Embarq used to create and maintain its databases for the provision of live or automated operator assisted Directory Assistance.
- (b) Data Transfer. Embarq shall provide to ~~CLECINTRADO COMM~~, at ~~CLECINTRADO COMM~~'s request, all published Subscriber List Information (including such information that resides in Embarq's master subscriber system/accounts master file for the purpose of publishing directories in any format as specified by the Act) via an electronic data transfer medium and in a mutually agreed to format, on the same terms and conditions and at the same rates that the Embarq provides Subscriber List Information to itself or to other third parties. All changes to the Subscriber List Information shall be provided to ~~CLECINTRADO COMM~~ pursuant to a mutually agreed format and schedule. Both the initial List and all subsequent Lists shall indicate for each subscriber whether the subscriber is classified as residence or business class of service.

PART K – REPORTING STANDARDS

76. GENERAL

- 76.1. Embarq shall satisfy all service standards, intervals, measurements, specifications, performance requirements, technical requirements, and performance standards and will pay any penalties for violation of the performance standards that are required by law or regulation. In addition, Embarq's performance under this agreement shall be provided to CLECINTRADO COMM at parity with the performance Embarq provides itself for like service(s).

PART L – COLLOCATION

77. SCOPE OF COLLOCATION TERMS

- 77.1. Embarq will provide Collocation to CLECINTRADO COMM in accordance with this Agreement for the purposes of Interconnection to Embarq pursuant to the Act (including 47 USC § 251(c)(2)) and for obtaining access to Embarq's UNEs pursuant to the Act (including 47 USC § 251(c)(3)). Collocation shall be provided on a nondiscriminatory basis, on a "first-come, first-served" basis, and otherwise in accordance with the requirements of the Act (including 47 USC § 251(c)(6)).
- 77.2. Prices and fees for collocation and other services under this Agreement are contained in Table Two. In the event Embarq files tariffs for pricing of collocation and other services covered by this agreement, such pricing in the tariffs will control over Table Two as of the date the tariff becomes effective. The terms and conditions of this Agreement will control over any terms and conditions in the tariff.
- 77.3. This Agreement states the general terms and conditions upon which Embarq will grant to CLECINTRADO COMM the non-exclusive right to gain access to and occupy the Collocation Space, and other associated facilities as may be necessary, for the sole and exclusive purpose of providing telecommunications service upon submission of an approved and provisioned Application for collocation service. Such service will be provided by installing, maintaining and operating CLECINTRADO COMM's equipment, which will interconnect with Telecommunications Services and facilities provided by Embarq or others in accordance with this Agreement.

78. TERMINATION OF COLLOCATION SPACE

- 78.1. CLECINTRADO COMM may terminate occupancy in a particular Collocation Space upon thirty (30) Days prior written notice to Embarq. Upon termination of such occupancy, CLECINTRADO COMM at its expense shall remove its equipment and other property from the Collocation Space. CLECINTRADO COMM shall have thirty (30) Days from the termination date to complete such removal, including the removal of all equipment and facilities of CLECINTRADO COMM's Guests; provided, however, that CLECINTRADO COMM shall continue payment of monthly fees to Embarq until such date as CLECINTRADO COMM has fully vacated the Collocation Space. CLECINTRADO COMM will surrender the Collocation Space to Embarq in the same condition as when first occupied by CLECINTRADO COMM, except for ordinary wear and tear.
- 78.2. CLECINTRADO COMM shall be responsible for the cost of removing any enclosure, together with all supporting structures (e.g., racking, conduits), of an

Adjacent Collocation arrangement at the termination of occupancy and restoring the grounds to their original condition.

- 78.3. Upon termination of CLECINTRADO COMM's right to possession of a Collocation Space, CLECINTRADO COMM shall surrender possession and vacate the Collocation Space within thirty (30) Days. Failure to surrender the Collocation Space within thirty (30) Days shall be considered abandonment and Embarq will have the right to remove the equipment and other property of CLECINTRADO COMM or the CLECINTRADO COMM's Guest at CLECINTRADO COMM's expense and with no liability for damage or injury to CLECINTRADO COMM's property.
- 78.4. Should Embarq under any Section of this Agreement remove any of CLECINTRADO COMM's equipment from its collocation space, Embarq will deliver to CLECINTRADO COMM any equipment removed by Embarq only upon payment by CLECINTRADO COMM of the cost of removal, storage and delivery, and all other amounts due Embarq under this Agreement. Should CLECINTRADO COMM fail to remove any of its equipment deemed abandoned, title thereto shall pass to Embarq under this Agreement as if by a Bill of Sale. Nothing herein shall limit Embarq from pursuing, at its option, any other remedy in law, equity, or otherwise related to CLECINTRADO COMM's occupancy in the Collocation Space, including any other remedy provided in this Agreement.
- 78.5. CLECINTRADO COMM shall surrender all keys, access cards and Embarq-provided photo identification cards to the Collocation Space and the Building to Embarq, and shall make known to Embarq the combination of all combination locks remaining on the Collocation Space.
- 78.6. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives available, Embarq shall have the right, for good cause shown, and upon thirty (30) Days prior notice, to reclaim the Collocation Space or any portion thereof, any Inner Duct, Outside Cable Duct, Cable Vault space or other Embarq-provided facility in order to fulfill its common carrier obligations, any order or rule of the state commission or the FCC, or Embarq's tariffs to provide Telecommunications Services to its end user customers. In such cases, Embarq will reimburse CLECINTRADO COMM for reasonable direct costs and expenses in connection with such reclamation.
- 78.7. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives, to require CLECINTRADO COMM to move to equivalent space in the Premises upon receipt of sixty (60) Days written notice from Embarq, in which event, Embarq shall pay all moving costs, and the Collocation License Fee provided for herein shall remain the same.

79. COLLOCATION OPTIONS

- 79.1. Embarq will offer Collocation Space to allow CLECINTRADO COMM to collocate its equipment and facilities, and without requiring the construction of a

cage or similar structure. Embarq shall make cageless collocation available in single bay increments. For equipment requiring special technical considerations, CLECINTRADO COMM must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in Telcordia GR-63-Core and shall be responsible for constructing all special technical requirements associated with such equipment pursuant to this Agreement.

- 79.2. Embarq will authorize the enclosure of CLECINTRADO COMM's equipment and facilities at CLECINTRADO COMM's option. Embarq will provide guidelines and specifications upon request. Based on CLECINTRADO COMM's request, space and cage enclosures in amounts as small as that sufficient to house and maintain a single rack or bay or equipment will be made available. At CLECINTRADO COMM's option, Embarq will permit CLECINTRADO COMM to arrange with a third party vendor to construct a Collocation Arrangement enclosure at CLECINTRADO COMM's sole expense. CLECINTRADO COMM's third party vendor will be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. The third party vendor shall bill CLECINTRADO COMM directly for all work performed for CLECINTRADO COMM and Embarq will have no liability for nor responsibility to pay such charges imposed by the third party vendor. CLECINTRADO COMM must provide the local Embarq building contact with one Access key used to enter the locked enclosure. Except in case of emergency, Embarq will not access CLECINTRADO COMM's locked enclosure prior to notifying CLECINTRADO COMM and obtaining authorization.

- 79.2.1. Embarq has the right to review CLECINTRADO COMM's plans and specifications prior to allowing construction to start. Embarq will complete its review within fifteen (15) Days of receipt of such plans. Embarq has the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications. Embarq can require CLECINTRADO COMM to remove or correct, at its cost, any structure that does not meet these plans.

- 79.3. CLECINTRADO COMM may allow other telecommunications carriers to share its caged collocation arrangement pursuant to terms and conditions agreed to by CLECINTRADO COMM ("Host") and other telecommunications carriers ("Guests"). CLECINTRADO COMM will notify Embarq in writing upon execution of any agreement between the Host and its Guest within twelve (12) Days of its execution. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall contain a certification by CLECINTRADO COMM that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement.

- 79.3.1. As Host, CLECINTRADO COMM will be the sole interface and responsible party to Embarq for the purpose of submitting applications for initial and additional equipment placements of Guest (to the extent required under other Sections of this Agreement); for assessment and

payment of rates and charges applicable to the Collocations space; and for the purposes of ensuring that the safety and security requirements of this Agreement are fully complied with by the Guest, its employees and agents. In making shared cage arrangements, Embarq will not increase the cost of site preparation or nonrecurring charges above the cost of provisioning a similar caged arrangement to a CLECINTRADO COMM.

79.3.2. Embarq will not place unreasonable restrictions on CLECINTRADO COMM's use of a cage, and as such will allow CLECINTRADO COMM to contract with other CLECINTRADO COMMs to share the cage in a sublease type arrangement. If two (2) or more CLECINTRADO COMMs that have interconnection agreements with Embarq utilize a shared collocation cage, Embarq will permit each CLECINTRADO COMM to order UNEs and provision service from the shared collocation space, regardless of which CLECINTRADO COMM was the original collocator.

79.3.3. If Host terminates a Collocation Arrangement, Host will provide Guest thirty (30) Days notice. Guest will assume all obligations and rights of Host as to that Collocation Arrangement if Guest remains in the Collocation Space, including payment of all charges.

79.4. Embarq will provide adjacent collocation arrangements ("Adjacent Arrangement") where space within the Premises is legitimately exhausted, subject to technical feasibility. Both Parties will mutually agree on the location of the designated space on the Embarq property where the adjacent structure (such as a CEV or similar structure) will be placed. If a mutual agreement cannot be reached, Embarq will decide the location, subject to zoning or other state and local regulations and future use by Embarq or other requesting Telecommunications Carriers pursuant to an application submitted under Section ~~Error! Reference source not found.~~80.

79.4.1. CLECINTRADO COMM will provide a concrete pad, the structure housing the arrangement, HVAC, lighting, and all facilities that connect the structure (*i.e.*, racking, conduits, etc.) to the Embarq point of interconnection. Should CLECINTRADO COMM elect such an option, CLECINTRADO COMM must arrange with a third party vendor to construct an Adjacent Arrangement structure in accordance with this Agreement.

79.4.2. Embarq maintains the right to review CLECINTRADO COMM's plans and specifications prior to construction of an Adjacent Arrangement(s). Embarq will complete its review within thirty (30) Days of site selection and receipt of plans. Except that such time period may be extended if any delay is due to the actions of CLECINTRADO COMM. Embarq may inspect the Adjacent Arrangement(s) following construction and

prior to commencement to ensure the design and construction comply with submitted plans. Embarq may require CLECINTRADO COMM to correct any deviations from approved plans found during such inspection(s).

79.4.3. Embarq will provide AC power, as requested, subject to being technically feasible. At its option, CLECINTRADO COMM may choose to provide its own AC power to the adjacent structure as long as the AC power source is from the same provider as Embarq's.

79.4.4. Subject to CLECINTRADO COMM being on the waiting list, in the event that space in an Embarq Premises becomes available, Embarq will provide the option to the CLECINTRADO COMM to relocate its equipment from an Adjacent Facility into the Embarq Premises. In the event CLECINTRADO COMM chooses to relocate its equipment, appropriate charges will apply, including charges to vacate the adjacent collocation arrangement and charges applicable for collocation within the Embarq Premises.

79.5. To the extent possible, Embarq will provide CLECINTRADO COMM with contiguous space for any subsequent request for physical collocation space, but makes no assurances that contiguous space will be available.

79.6. Embarq will provide virtual collocation, subject to being technically feasible, if physical collocation is not practical for technical reasons or because of space limitations and in accordance with the Act (including 47 USC § 251(c)(6) and 47 CFR § 51.321).

79.6.1. CLECINTRADO COMM may lease to Embarq, at no cost to Embarq, equipment that meets applicable FCC requirements and in accordance with this Agreement, for the sole purpose of having Embarq install and maintain the equipment in accordance with terms and conditions mutually agreed upon by the Parties.

79.6.2. Virtually collocated equipment shall be purchased by CLECINTRADO COMM. Embarq does not assume any responsibility for the design, engineering, testing or performance for the end-to-end connection of CLECINTRADO COMM's equipment, arrangement or facilities.

79.6.3. Embarq will install, maintain, and repair CLECINTRADO COMM's collocated equipment within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of Embarq, Embarq's affiliates or third parties. The following services are not covered by this Agreement:

- (a) services to resolve software or hardware problems resulting from products provided by parties other than Embarq or causes beyond the control of Embarq;

- (b) service of attached, related, collateral or ancillary equipment or software not covered by this Section;
- (c) repairing damage caused to CLECINTRADO COMM's collocated equipment by persons other than Embarq, or its authorized contractors, or
- (d) repairing damage to other property or equipment caused by operation of CLECINTRADO COMM's collocated equipment and not caused by the sole negligence of Embarq.

79.6.4. CLECINTRADO COMM warrants that Embarq shall have quiet enjoyment of the equipment. Embarq will be entitled to the benefit of any applicable manufacturer's warranties and indemnities and, to the extent assignable, such warranties and indemnities are hereby assigned by CLECINTRADO COMM for the benefit of Embarq and CLECINTRADO COMM shall take all reasonable action to enforce such warranties and indemnities where available to Embarq. CLECINTRADO COMM shall execute, upon presentation, such documents and instruments as may be required to allow Embarq manufacturer's warranty coverage for any equipment. CLECINTRADO COMM warrants that it has full authority to lease the equipment under the terms and conditions set forth herein and that there are no restrictions, legal or otherwise, which would preclude it from so doing.

- (a) In the event Embarq's right to quiet enjoyment is breached, either by CLECINTRADO COMM's failure to make or cause to be made payment to the equipment manufacturer of the full purchase price for the equipment when such payment becomes due, or otherwise, Embarq may give written notice to CLECINTRADO COMM and all of Embarq's obligations relating to the affected equipment shall terminate immediately.

79.6.5. Embarq's preparation, if any, of the Premises (e.g., Power, environmental, etc.) for the Virtual Collocation equipment will be charged to CLECINTRADO COMM at rates on Table Two or as filed in a tariff and approved by the Commission.

80. DEMARCATION POINT

80.1. Embarq will designate the point of demarcation, unless otherwise mutually agreed to by the Parties, in or adjacent to its Collocation Space. At CLECINTRADO COMM's request, Embarq will identify the location(s) of other possible demarcation points available to CLECINTRADO COMM, and CLECINTRADO COMM will designate from these location(s) the point(s) of demarcation between its collocated equipment and Embarq's equipment. Embarq will use its best efforts to identify the closest demarcation point to CLECINTRADO COMM's equipment that is available.

- 80.2. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point.
- 80.3. At CLECINTRADO COMM's option and expense, a point of termination (POT) bay, frame or digital cross-connect may be placed in or adjacent to the Collocation Space that may, at CLECINTRADO COMM's option, serve as the demarcation point. If CLECINTRADO COMM elects not to provide a POT frame, Embarq will agree to handoff the interconnection cables to CLECINTRADO COMM at its equipment, at CLECINTRADO COMM's designated demarcation point. When CLECINTRADO COMM elects to install its own POT frame/cabinet, Embarq must still provide and install the required DC power panel.

81. APPLICATION PROCESS

- 81.1. Upon CLECINTRADO COMM's selection of a Premises in which it desires to collocate its Equipment, Embarq will provide a then current collocation application form (the "Application") to CLECINTRADO COMM. CLECINTRADO COMM will submit an Application when initially requesting Collocation Space, or modifying the use of the Collocation Space. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in CLECINTRADO COMM's Collocation Space(s), the amount of square footage required (or, in the case of Cageless Collocation, bay space) for the current year plus the next calendar year from the date of application, as well as the associated power requirements, floor loading, and heat release of each piece.
- 81.1.1. CLECINTRADO COMM will complete the Application, and return it, along with the appropriate Application Fee, to Embarq. The Application shall include complete details of the collocation and interconnection requested, including, but not limited to, specific floor space, power, and environmental conditioning requirements. Embarq will not process an Application until both the Application and the applicable Application fee are received.
- 81.1.2. In the event CLECINTRADO COMM desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Embarq, CLECINTRADO COMM will complete a subsequent Application detailing all information regarding the modification to the Collocation Space together with payment of the appropriate Application Augment Fee. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions.
- 81.1.3. Where CLECINTRADO COMM modifies the use of the Collocation Space or adds equipment that requires no additional engineering or

preparation work on the part of Embarq, Embarq will not impose additional charges or additional intervals that would delay CLECINTRADO COMM's operation. CLECINTRADO COMM will notify Embarq of the modifications or additional equipment prior to installation.

- 81.1.4. If Collocation Space is unavailable or CLECINTRADO COMM withdraws its request, the Application fee, less the costs incurred by Embarq (e.g., engineering record search and administrative activities required to process the Application) will be refunded.
- 81.2. If CLECINTRADO COMM wishes Embarq to consider multiple methods for collocation on a single Application, CLECINTRADO COMM will need to include in each Application a prioritized list of its preferred methods of collocating, e.g., caged, shared, or other, as well as adequate information, (e.g., specific layout requirements, cage size, number of bays, requirements relative to adjacent bays, etc.) for Embarq to process the Application for each of the preferred methods. If CLECINTRADO COMM provides adequate information and its preferences with its Application, Embarq may not require an additional Application, nor would CLECINTRADO COMM be required to restart the quotation interval should its first choice not be available in a requested Premises. Only one collocation arrangement will be provisioned per Application. Embarq will not select for CLECINTRADO COMM the type of collocation to be ordered.
- 81.3. Within ten (10) Days after receiving CLECINTRADO COMM's Application for collocation, Embarq will inform CLECINTRADO COMM whether the Application meets each of Embarq's established collocation standards. Should CLECINTRADO COMM submit a revised Application curing any deficiencies in an Application for collocation within ten Days after being informed of them, CLECINTRADO COMM shall retain its original position within any collocation queue that Embarq maintains. If Embarq informs CLECINTRADO COMM that there is a deficiency in an Application, Embarq will provide sufficient detail so that CLECINTRADO COMM has a reasonable opportunity to cure each deficiency.
- 81.4. All revisions to an initial request for a Physical Collocation Arrangement submitted by CLECINTRADO COMM must be in writing. A new interval for the Physical Collocation Arrangement will be established which shall not exceed two months beyond the originally established date. CLECINTRADO COMM will be required to pay any applicable Application fees.
- 81.5. Embarq shall provide confirmation of space availability within ten (10) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications submitted. Space availability response will be increased by five (5) Days for every five (5) additional Applications received.
 - 81.5.1. Embarq will notify CLECINTRADO COMM in writing as to whether its request for Collocation Space has been granted or denied due to lack

of space. The notification will also include a possible future space relief date, if applicable.

81.5.2. In order to increase the amount of space available for collocation, Embarq will, upon request, remove obsolete unused equipment, from its Premises to increase the amount of space available for collocation.

81.6. After notifying the CLECINTRADO COMM that Embarq has no available space for Physical Collocation in the requested Central Office (“Denial of Application”), Embarq will allow the CLECINTRADO COMM, upon request, to tour the entire Central Office within ten (10) Days, or other mutually agreeable timeframe, of such Denial of Application. In order to schedule said tour the request for a tour of the Central Office must be received by Embarq within five (5) Days of the Denial of Application.

81.6.1. If CLECINTRADO COMM contests Embarq’s notice that there is not sufficient space for Physical Collocation in the Central Office, the parties agree to seek expedited resolution of the dispute at the Commission pursuant to § 251(c)(6) of the Act. If the Commission determines that space is not available, Embarq will not be required to conduct a review of floor space availability in the same central office more frequently than once every six months.

81.6.2. On a first come, first serve basis, Embarq will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate.

81.6.3. Embarq will simultaneously notify the telecommunications carriers on the waiting list when space becomes available if there is enough space to accommodate additional collocation. Subsequent to the granting of a Petition for Waiver, if CLECINTRADO COMM has been denied Physical Collocation space at an Embarq Premises and challenges Embarq on space availability at said Premises, CLECINTRADO COMM will be given priority for space assignment if, as a result of the challenge, space is found to be available. CLECINTRADO COMM will reaffirm its collocation request within thirty (30) Days of such notification; otherwise, it will be dropped to the bottom of the list. Upon request, Embarq will advise CLECINTRADO COMM as to its position on the list.

81.6.4. If CLECINTRADO COMM’s Application for Physical Collocation is denied due to lack of space, Embarq will place CLECINTRADO COMM on the waiting list for collocation in particular Premises according to the date CLECINTRADO COMM submitted its Application and not the date of denial for lack of space.

81.6.5. Embarq will maintain on its Website a notification document that will indicate all Premises that are without available space. Embarq will

update such document within ten (10) Days of the date at which a Premises runs out of physical collocation space.

- 81.7. Embarq will provide a price quote within thirty (30) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications. Price quote response will be increased by five (5) Days for every five (5) additional Applications received. The quotation will include the applicable nonrecurring and recurring rates.
- 81.8. CLECINTRADO COMM has thirty (30) Days from receipt of the quotation to accept the quotation in writing. The quotation expires after thirty (30) Days. After thirty (30) Days, a new Application and Application fee are required. Collocation Space is not reserved until the quotation is accepted. Embarq need not meet the deadlines for provisioning Physical Collocation if, after receipt of any price quotation provided by Embarq, CLECINTRADO COMM does not notify Embarq that physical collocation should proceed.
- 81.9. CLECINTRADO COMM will indicate its intent to proceed with equipment installation in an Embarq Premises by accepting the price quote, which constitutes a Bona Fide Firm Order ("BFFO"). If CLECINTRADO COMM makes changes to its Application in light of Embarq's written Application Response, Embarq may be required to re-evaluate and respond to the change(s). In this event, CLECINTRADO COMM's Application will be treated as a Revision.
- 81.10. Space preparation for the Collocation Space will not begin until Embarq receives the BFFO and all applicable fees, including all non-recurring charges required by Embarq at the time of the BFFO.

82. SPACE RESERVATION

- 82.1. The parties may reserve physical collocation space for their own specific uses for the remainder of the current year, plus twelve (12) months in accordance with Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~~~80~~. Neither Embarq, nor any of its affiliates, will reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use.

83. PROVISIONING INTERVALS

- 83.1. Embarq will complete construction of Caged Physical (including Shared Caged), Cageless Physical, and Virtual Collocation arrangements within ninety (90) Days of receipt of a BFFO. If Embarq is unable to complete construction as provided herein, the parties may agree to a mutually acceptable interval or Embarq may petition the Commission for waiver.

84. CONSTRUCTION AND COMMENCEMENT OF BILLING

- 84.1. Embarq shall permit CLECINTRADO COMM or its designated subcontractor to perform the construction of physical collocation space, provided however, that

any such CLECINTRADO COMM subcontractor shall be subject to Embarrq's security standards. Embarrq reserves the right to reject any CLECINTRADO COMM subcontractor upon the same criteria that Embarrq would use on its own subcontractors. CLECINTRADO COMM will notify Embarrq in writing when construction of physical collocation space is complete.

- 84.2. Embarrq shall have the right to inspect CLECINTRADO COMM's completed installation of equipment and facilities prior to CLECINTRADO COMM turning up such equipment and facilities. CLECINTRADO COMM shall provide written notification to Embarrq when CLECINTRADO COMM has completed its installation of equipment and facilities in the Collocation space, and Embarrq shall, within five (5) Business Days of receipt of such notice, either (i) inspect such Collocation space or (ii) notify CLECINTRADO COMM that Embarrq is not exercising its right to inspect such Collocation space at that time and that CLECINTRADO COMM may turn up its equipment and facilities. Failure of Embarrq to either inspect the Collocation space or notify CLECINTRADO COMM of its election not to inspect such space within the foregoing five (5) Business Day period shall be deemed an election by Embarrq not to inspect such Collocation space. CLECINTRADO COMM shall have the right to be present at such inspection, and if CLECINTRADO COMM is found to be in non-compliance with the terms and conditions of this Agreement that relate to the installation and use of CLECINTRADO COMM's Collocated equipment and facilities, CLECINTRADO COMM shall modify its installation to achieve compliance prior to turning up its equipment and facilities.
- 84.3. To the extent Embarrq performs the construction of the Physical Collocation Arrangement, Embarrq shall construct the Collocated Space in compliance with a mutually agreed to collocation request. Any deviation to CLECINTRADO COMM's order must thereafter be approved by CLECINTRADO COMM. The Parties acknowledge that CLECINTRADO COMM approved deviations may require additional construction time and may incur additional CLECINTRADO COMM expenses. CLECINTRADO COMM shall pay the incremental cost incurred by Embarrq as the result of any Revision to the Collocation request. CLECINTRADO COMM will pay all applicable fees, including any nonrecurring charges required by Embarrq, prior to Embarrq commencing construction of the collocation space.
- 84.4. CLECINTRADO COMM will be responsible for all extraordinary costs, as determined in accordance with the Act, incurred by Embarrq to prepare the Collocation space for the installation of CLECINTRADO COMM's equipment and for extraordinary costs to maintain the Collocation space for CLECINTRADO COMM's equipment on a going-forward basis. Extraordinary costs may include costs for such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, increasing the DC power system infrastructure capacity, increasing the capacity of the standby AC system (if available) or the existing commercial power facility, conversion of non-Collocation space, compliance with federal and state requirements, or other modifications required by local ordinances. Embarrq will

charge for these extraordinary costs on a time-sensitive or time-and-materials basis and will allocate the costs fairly among itself, CLECINTRADO COMM and other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to CLECINTRADO COMM prior to commencing such work. Extraordinary costs will only be billed to CLECINTRADO COMM if such costs have been authorized by CLECINTRADO COMM. Embarq must advise CLECINTRADO COMM if extraordinary costs will be incurred.

- 84.5. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents.
- 84.6. Embarq will notify CLECINTRADO COMM when construction of a Collocation Space is complete. The Parties will complete an acceptance walk through of each provisioned Collocation Space. Embarq will commence to correct any deviations to CLECINTRADO COMM's original or jointly amended requirements within five (5) Days after the walk through. If CLECINTRADO COMM does not conduct an acceptance walk through within fifteen (15) Days of the notification that the Collocation Space construction is complete, CLECINTRADO COMM will be deemed to have accepted the Collocation Space and billing will commence.
- 84.7. CLECINTRADO COMM must submit a written request to cancel its order for Physical, Caged, Shared Cage, Adjacent Space, or Virtual Collocation. CLECINTRADO COMM will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.

85. EQUIPMENT

- 85.1. CLECINTRADO COMM may only locate equipment necessary for interconnection to Embarq or accessing Embarq's unbundled network elements in accordance with Applicable Rules, including but not limited to 47 USC 251(C)(3), 47 USC 251(C)(2), and 47 CFR 51.323(b-c).
- 85.2. CLECINTRADO COMM's equipment and facilities shall not be placed or operated in such a manner that creates hazards or causes physical harm to any individual or the public. CLECINTRADO COMM is responsible for the shipping delivery of all equipment or materials associated with the collocation arrangement, and CLECINTRADO COMM shall instruct equipment vendors to ship equipment or materials directly to the CLECINTRADO COMM or their Embarq approved contractor on the CLECINTRADO COMM's behalf. No CLECINTRADO COMM equipment or supplies may be delivered (other than by CLECINTRADO COMM or their Embarq approved contractor) to a Premises containing the Collocation Space, nor shall such equipment or supplies be stored or staged outside of the licensed Collocation Space.

- 85.3. All equipment to be collocated must meet Level 1 safety requirements as set forth in Telcordia Network Equipment and Building Specifications (“NEBS”), but Embarq will not impose safety requirements on CLECINTRADO COMM that are more stringent than the safety requirements it imposes on its own equipment. If Embarq denies collocation of CLECINTRADO COMM's equipment, citing safety standards, Embarq must provide to CLECINTRADO COMM within five (5) Business Days of the denial a list of all equipment that Embarq locates within the Premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that Embarq contends the competitor's equipment fails to meet. In the event that Embarq believes that the collocated equipment is not necessary for interconnection or access to unbundled network elements or determines that CLECINTRADO COMM's equipment does not meet NEBS Level 1 safety requirements, CLECINTRADO COMM will be given ten (10) Days to comply with the requirements or remove the equipment from the collocation space. If the parties do not resolve the dispute, the Parties may file a complaint at the Commission seeking a formal resolution of the dispute. While the dispute is pending, CLECINTRADO COMM will not install said equipment.
- 85.4. CLECINTRADO COMM must notify Embarq in writing that collocation equipment installation is complete and is operational with Embarq's network. If CLECINTRADO COMM fails to place operational telecommunications equipment in the collocated space and either interconnect to Embarq or install UNEs to its collocation arrangement (per 47 USC 251 §251(c)(6)) within one-hundred-eighty (180) Days of CLECINTRADO COMM's acceptance of Embarq's price quote, or other time period mutually agreed to by the CLECINTRADO COMM and Embarq, Embarq may terminate the applicable Collocation Space upon written notice. CLECINTRADO COMM will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.
- 85.5. If CLECINTRADO COMM has provisioned services to any customers without being in compliance with 85.485.484.4 above, CLECINTRADO COMM will be billed access rates for all services for the period beginning with the installation of the services until the collocation arrangement is decommissioned or until it is brought into compliance.

86. AUGMENTS AND ADDITIONS

- 86.1. When CLECINTRADO COMM modifies the Collocation Arrangement or adds equipment that requires no additional space preparation work on the part of Embarq, Embarq may not impose additional charges or additional intervals that would delay the CLECINTRADO COMM's operation. CLECINTRADO COMM will notify Embarq of the modifications or additional equipment prior to installation.
- 86.2. In the event CLECINTRADO COMM desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or

preparation work by Embarq, CLECINTRADO COMM will complete a subsequent Application detailing all information regarding the modification to the Collocation Space. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions. A major or minor Augments fee will apply. Major Augments include adding or removing power cables, entrance cables, cross-connect cables and switchboard cables. Minor Augments include changes to DC power fuses and extensions of occasional use AC power circuits used temporarily for outlets and light.

- 86.3. CLECINTRADO COMM must submit an Application and applicable Application fee to obtain a price quote. CLECINTRADO COMM must provide an accurate front equipment view (a.k.a. rack elevation drawing) specifying bay(s) for the CLECINTRADO COMM's point of termination. The price quote will contain the charges and the construction interval for that application. The construction interval for augments will not exceed ninety (90) Days from BFFO. If special or major construction is required, Embarq will work cooperatively with CLECINTRADO COMM to negotiate mutually agreeable construction intervals for augments.

87. USE OF COMMON AREAS

- 87.1. CLECINTRADO COMM, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by Embarq from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas for vehicles of persons while working for or on behalf of CLECINTRADO COMM at the Collocation Space; provided, however, that Embarq shall have the right to reserve parking spaces for Embarq's exclusive use or use by other occupants of the Building. Embarq does not guarantee that there is or will be sufficient parking spaces in parking areas to meet CLECINTRADO COMM's needs. Embarq does not guarantee that restroom facilities or water will be available. All common areas shall remain under the exclusive control and management of Embarq, and Embarq shall have the right to change the level, location and arrangement of parking areas and other common areas, as Embarq may deem necessary. Use of all common areas shall be subject to such reasonable rules and regulations as Embarq may from time to time impose, consistent with CLECINTRADO COMM's right to access its Collocation Space.
- 87.2. Embarq, where water is available for its own use, shall furnish running water from regular Building outlets for drinking, lavatory and toilet purposes drawn through fixtures installed by Embarq, for the non-exclusive use of CLECINTRADO COMM, Embarq and any other building occupant. CLECINTRADO COMM shall not waste or permit the waste of water.
- 87.3. Embarq shall furnish Building and Premises security in accordance with its normal business practices. Other than the locks on the entrances to the

Collocation Space, Embarq shall provide no security specific to CLECINTRADO COMM's Collocation Space. Embarq shall not be liable to CLECINTRADO COMM or any other party for loss of or damage to the Collocation Space or CLECINTRADO COMM equipment unless Embarq has failed to provide Building and Premises security in accordance with its normal business practices.

- 87.4. Embarq shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which CLECINTRADO COMM has access pursuant to the terms of this Agreement twenty-four (24) hours a day, seven (7) days a week. Freight elevator service when used by CLECINTRADO COMM's contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Embarq.

88. CO-CARRIER CROSS CONNECTION

- 88.1. Co-carrier cross-connects ("CCXCs") are connections between CLECINTRADO COMM and another collocated Telecommunications Carrier other than Embarq, and are only available when both collocation arrangements (either caged, cageless, and/or virtual) being interconnected are within the same Embarq Premises, provided that the collocated equipment is also used for interconnection with Embarq and/or for access to Embarq's unbundled Network Elements. Embarq shall provide such CCXCs from CLECINTRADO COMM's collocation arrangement to the collocation arrangement of another Telecommunications Carrier in the same Embarq premises under the terms and conditions of this Agreement. CCXC is provided at the same transmission level from CLECINTRADO COMM to another Telecommunications Carrier.

88.1.1. Embarq will provide such CCXCs for non-adjacent collocation arrangements at the expense of CLECINTRADO COMM per CLECINTRADO COMM's request. Embarq will provide connections between CLECINTRADO COMM's own non-adjacent virtual and/or physical collocation arrangements within the same central office at the expense of CLECINTRADO COMM and provisioned per CLECINTRADO COMM's order.

88.1.2. Embarq, at its sole discretion, shall permit CLECINTRADO COMM to self-provision CCXCs to interconnect its network with that of another adjacently collocated Telecommunications Carrier in the same Embarq Premises without application.

88.1.3. In those cases where CLECINTRADO COMM's Virtual and/or Physical Collocation space is adjacent in the Central Office, CLECINTRADO COMM may have the option, at Embarq's sole discretion, of using CLECINTRADO COMM's own technicians to deploy direct connections ("DCs") using either electrical or optical facilities between the collocation spaces and constructing its own dedicated cable support structure according to Embarq's technical and safety standards.

- 88.2. The term “Adjacent” in this Section ~~Error! Reference source not found.~~⁸⁷ refers to collocation arrangements in the same Premises that have a common border; and is not referring to the form of Physical Collocation as described in 47 CFR 51.323(k)(3).

89. RATES

- 89.1. The rates for collocation are listed on Table Two.
- 89.2. If CLECINTRADO COMM is the first collocater in the Embarq premises, CLECINTRADO COMM will not be responsible for the entire cost of site preparation and security. However, ancillary charges for unique collocater requests for collocation options directly attributable to the requesting collocater will not be prorated. Examples include power arrangements, remote switch module related options and POT bay-related options.
- 89.3. The rates and charges in this Agreement do not include costs for any Americans with Disability Act (ADA) construction generated or caused by the physical collocation space request. If required, ADA construction will be provided on an ICB. If Embarq is required to upgrade a Premises, or portion of the Premises to comply with the ADA which arises as a direct result of CLECINTRADO COMM's Collocation Arrangement, Embarq will prorate the total forward-looking economic cost of the upgrade, and allocate the charge to each CLECINTRADO COMM collocated within the Premises, based on the total space utilized by each collocated CLECINTRADO COMM. Should Embarq benefit in any way whatsoever from the ADA upgrades, it shall share in the proration of costs. Should Embarq be the sole beneficiary of an upgrade (e.g., an upgrade would have had to be made regardless of whether or not a CLECINTRADO COMM was collocated in the Premises), Embarq shall absorb all of the costs related to such an upgrade.
- 89.4. Facility Modifications
- 89.4.1. To the extent that a modification is made for the specific benefit of any particular party, costs of modification are to be proportionately born by those who directly benefit including the ILEC. The cost is allocated using the proportion of the new space occupied to the total new space made available.
- 89.4.2. If a non-requesting party benefits from the modification, e.g., using the opportunity to bring their equipment or arrangement into compliance with certain standards, or making adjustments leading to improvement, then the party will be deemed to be sharing. This party will be responsible for its share of the modification costs.
- 89.4.3. None of the costs will be allocated to a third party that gains incidental benefit, but did not cause the modification or modify their facilities.

- 89.4.4. If a current user of space subsequently initiates new uses of the modified facility by other parties to avoid modification costs or if new entrants use the facility, they will share in the modification costs. The modifying party(s) may recover a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. If measurable depreciation has occurred as a result of the modification, the subsequent party may pay a lower cost.
- 89.4.5. Parties requesting or joining in a modification also will be responsible for resulting costs to maintain the facility on an ongoing basis.

90. EMBARQ SERVICES AND OBLIGATIONS

- 90.1. Embarq shall furnish air conditioning and/or other environmental controls for the area in which the Collocation Space is located in a manner consistent with those provided elsewhere in the building. Embarq shall furnish air conditioning and/or other environmental controls for the Collocation Space based on information provided by CLECINTRADO COMM to Embarq in its Application which CLECINTRADO COMM hereby represents to Embarq is sufficient to allow the CLECINTRADO COMM equipment to function without risk of harm or damage to the Collocation Space, the building or any equipment or facilities of Embarq or any other occupant of the building. These environmental conditions shall adhere to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed upon standards.
- 90.1.1. If CLECINTRADO COMM locates equipment or facilities in the Collocation Space which Embarq determines, in the exercise of its sole discretion, affect the temperature or other environmental conditions otherwise maintained by Embarq in the building, Embarq reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Collocation Space, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by CLECINTRADO COMM's equipment or facilities shall be paid by CLECINTRADO COMM to Embarq. If supplementary air conditioning units or other environmental control devices are required for more than one CLECINTRADO COMM each CLECINTRADO COMM will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation.
- 90.2. If Embarq, in the exercise of its reasonable business judgment, determines that the electricity provided to CLECINTRADO COMM pursuant to this Section is insufficient to support the activity being carried on by the CLECINTRADO COMM in the Collocation Space, Embarq may require the installation of additional electrical circuits to provide CLECINTRADO COMM with additional electricity and CLECINTRADO COMM shall reimburse Embarq for any expenses incurred in making such additional electrical circuits available to

CLECINTRADO COMM's Collocation Space. CLECINTRADO COMM shall also pay for additional electricity provided via these circuits.

- 90.2.1. CLECINTRADO COMM covenants and agrees that Embarq shall not be liable or responsible to CLECINTRADO COMM for any loss, damage or expense which CLECINTRADO COMM may sustain or incur if either the quality or character of electrical service is changed or is no longer suitable for CLECINTRADO COMM's requirements.
- 90.2.2. CLECINTRADO COMM agrees to request in writing, via a complete and accurate Application, all electrical needs to power its equipment. The Application shall contain the total power needs, the date needed, and the exact location where termination of the electrical power shall occur. Actual power usage of the CLECINTRADO COMM's equipment shall not exceed the requested capacity.
- 90.2.3. Central office power supplied by Embarq into the CLECINTRADO COMM equipment area shall be supplied in the form of power feeders (cables) on cable racking into the designated CLECINTRADO COMM equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of CLECINTRADO COMM equipment. The termination location shall be as agreed by the parties.
- 90.2.4. Embarq shall provide power as requested by CLECINTRADO COMM to meet CLECINTRADO COMM's need for placement of equipment, interconnection, or provision of service.
- 90.2.5. Embarq power equipment supporting CLECINTRADO COMM's equipment shall:
 - (a) Comply with applicable industry standards (e.g., Telcordia, NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout or at minimum, at Parity with that provided for similar Embarq equipment;
 - (b) Have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for CLECINTRADO COMM equipment, or, at minimum, at parity with that provided for similar Embarq equipment;
 - (c) Provide, upon CLECINTRADO COMM's request and at CLECINTRADO COMM's expense, the capability for real time access to power performance monitoring and alarm data that impacts (or potentially may impact) CLECINTRADO COMM traffic;
 - (d) Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of

CLECINTRADO COMM equipment plus or minus two (2) feet to the left or right of CLECINTRADO COMM's final request; and

- (f) Provide feeder cable capacity and quantity to support the ultimate equipment layout for CLECINTRADO COMM's equipment in accordance with CLECINTRADO COMM's collocation request.

90.2.6. Embarq shall provide cabling that adheres to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;

90.2.7. Embarq shall provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines.

90.2.8. Embarq will provide CLECINTRADO COMM with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to CLECINTRADO COMM equipment located in Embarq facility. Embarq shall provide CLECINTRADO COMM immediate notification by telephone of any emergency power activity that would impact CLECINTRADO COMM's equipment.

90.3. Embarq shall provide fire protection systems in Embarq buildings and on Embarq premises as required by Federal and State regulatory rules and in full compliance with local ordinances. Embarq shall furnish fire or smoke detection systems designed to comply with the National Fire Protection Association (NFPA) Standards on Automatic Fire Detectors.

90.3.1. Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Embarq as required by applicable fire codes.

90.3.2. Embarq and Embarq's insurance carriers will perform regular inspections of fire protection systems, and CLECINTRADO COMM hereby agrees to provide Embarq and Embarq's insurance carriers access to the Collocation Space for purposes of such inspections, via pass key or otherwise. Embarq agrees to provide CLECINTRADO COMM with notice of its intent to access CLECINTRADO COMM's Collocation Space where, in Embarq's sole discretion, such notice is practicable; provided, however, that no failure of Embarq to give such notice will affect Embarq's right of access or impose any liability on Embarq. Embarq will, at its expense, maintain and repair the fire and smoke detection systems unless maintenance or repair is required due to the act or omission of CLECINTRADO COMM, its employees, agents or invitees, in which case CLECINTRADO COMM shall reimburse Embarq for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, the CLECINTRADO COMM shall, if at fault, and at Embarq's option, replace Halon or other

fire extinguishing material discharged as a result of CLECINTRADO COMM's act or omission. CLECINTRADO COMM shall have no duty to inspect fire protection systems outside the Collocation Space; provided, however, if CLECINTRADO COMM is aware of damage to the fire protection systems it shall promptly notify Embarq.

90.3.3. CLECINTRADO COMM is aware the Collocation Space will contain a fire detection system and may contain a fire suppression system. In the event of discharge, Embarq is relieved of all liability for damage to equipment or personal injury except in cases where such damage to equipment or personal injury is due to the willful misconduct of Embarq, its officers, agents or employees.

90.4. Embarq shall, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishment or decorating to the Collocation Space, building and Premises, in a manner consistent with Embarq's normal business practices.

90.4.1. Embarq shall not be obligated to inspect the Collocation Space, make any repairs or perform any maintenance unless first notified of the need in writing by CLECINTRADO COMM. If Embarq shall fail to commence the repairs or maintenance within twenty (20) Days after written notification, provided that the delay are not caused by CLECINTRADO COMM, CLECINTRADO COMM's sole right and remedy shall be, after further notice to Embarq, to make such repairs or perform such maintenance and to deduct that cost and expenses from the physical collocation fees payable; provided, however, that the amount of such deduction shall not exceed the reasonable value of such repairs or maintenance.

90.4.2. Embarq shall, where practical, provide CLECINTRADO COMM with twenty-four (24) hours prior notice before making repairs and/or performing maintenance on the Collocation Space; provided, however, that Embarq shall have no obligation to provide such notice if Embarq determines, in the exercise of its sole discretion, that such repair or maintenance must be done sooner in order to preserve the safety of the Building or the Collocation Space, or if required to do so by any court or governmental authority. Work shall be completed during normal working hours or at other times identified by Embarq. CLECINTRADO COMM shall pay Embarq for overtime and for any other expenses incurred if such work is done during other than normal working hours at CLECINTRADO COMM's request. CLECINTRADO COMM shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.

90.4.3. The cost of all repairs and maintenance performed by or on behalf of Embarq to the Collocation Space which are, in Embarq's reasonable judgment, beyond normal repair and maintenance, or are made necessary

as a result of misuse or neglect by CLECINTRADO COMM or CLECINTRADO COMM's employees, invitees or agents, shall be paid by CLECINTRADO COMM to Embarq within ten (10) Days after being billed for the repairs and maintenance by Embarq.

90.5. Embarq shall provide CLECINTRADO COMM with notice via email three (3) Business Days prior to those instances where Embarq or its subcontractors perform work which is known to be a service affecting activity. Embarq will inform CLECINTRADO COMM by e-mail of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Embarq learns that such outage has occurred.

90.6. Embarq reserves the right to stop any service when Embarq deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Embarq agrees to use its best efforts not to interfere with CLECINTRADO COMM's use of Collocation Space. Embarq does not warrant that any service will be free from interruptions caused by labor controversies, accidents, inability to obtain fuel, water or supplies, governmental regulations, or other causes beyond the reasonable control of Embarq.

90.6.1. No such interruption of service shall be deemed an eviction or disturbance of CLECINTRADO COMM's use of the Collocation Space or any part thereof, or render Embarq liable to CLECINTRADO COMM for damages, by abatement of CLECINTRADO COMM Fees or otherwise, except as set forth in the Tariff, or relieve CLECINTRADO COMM from performance of its obligations under this Agreement. CLECINTRADO COMM hereby waives and releases all other claims against Embarq for damages for interruption or stoppage of service.

90.7. For physical collocation, subject to reasonable building rules and any applicable Security Arrangements, CLECINTRADO COMM shall have the right of entry twenty-four (24) hours per day seven (7) days a week to the building, common areas, Collocation Space and common cable space.

90.7.1. Embarq reserves the right to close and keep locked all entrance and exit doors of the Premises during hours Embarq may deem advisable for the adequate protection of the Premises. Use of the Premises at any time it is unattended by appropriate Embarq personnel, or on Sundays and state and federal or other holidays recognized by Embarq, or, if CLECINTRADO COMM's Collocation Space is not fully segregated from areas of the Premises containing Embarq equipment, shall be subject to such reasonable rules and regulations as Embarq may from time to time prescribe for its own employees and third party contractors.

90.7.2. Embarq reserves the right to require all persons entering or leaving the Premises during such hours as Embarq may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to leave or enter,

and to exclude or expel any solicitor or person at any time from the Collocation Space or the Premises. Embarq is not responsible and shall not be liable for any damage resulting from the admission or refusal to admit any unauthorized person or from the admission of any authorized person to the Premises.

90.8. Embarq shall have access to CLECINTRADO COMM's Physical Collocation Space at all times, via pass key or otherwise, to allow Embarq to react to emergencies, to maintain the space (not including CLECINTRADO COMM's equipment), and to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Embarq, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. If a secure enclosure defining the location of the CLECINTRADO COMM's Collocation Space has been established, and if conditions permit, Embarq will provide CLECINTRADO COMM with notice (except in emergencies) of its intent to access the Collocation Space, thereby providing CLECINTRADO COMM the option to be present at the time of access. CLECINTRADO COMM shall not attach, or permit to be attached, additional locks or similar devices to any door or window, nor change existing locks or the mechanism thereof.

90.8.1. Embarq may enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Embarq deems necessary. CLECINTRADO COMM hereby waives any claim for damage, injury, interference with CLECINTRADO COMM's business, any loss of occupancy or quiet enjoyment of the Collocation Space, and any other loss occasioned by the exercise of Embarq's access rights, except in the event such damages result solely from the willful misconduct of Embarq.

90.8.2. Embarq may use any means Embarq may deem proper to open Collocation Space doors or enclosures in an emergency. Entry into the Collocation Space obtained by Embarq by any such means shall not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of CLECINTRADO COMM from the Collocation Space or any portion thereof.

91. CLECINTRADO COMM'S OBLIGATIONS

91.1. CLECINTRADO COMM shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. CLECINTRADO COMM shall promptly notify Embarq of any damage to the Collocation Space or of the need to perform any repair or maintenance of the Collocation Space, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical, and other mechanical facilities in the Collocation Space). CLECINTRADO COMM shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.

- 91.2. CLECINTRADO COMM agrees to abide by all of Embarq's security practices for non-Embarq employees with access to the building, including, without limitation:
- 91.2.1. CLECINTRADO COMM must obtain non-employee photo identification cards for each CLECINTRADO COMM employee or vendor. Temporary identification cards may otherwise be provided by Embarq for employees or agents, contractors and invitees of CLECINTRADO COMM who may require occasional access to the Collocation Space.
 - 91.2.2. CLECINTRADO COMM will supply to Embarq the completed access form for employees or approved vendors who require access to the Premises. Embarq may reasonably deny access to any person into the building. Embarq's objections will be consistent with the grounds for denying access to personnel of its own contractors or for denying employment directly with Embarq. Embarq may issue security cards, codes, or keys to CLECINTRADO COMM's listed employees or vendors where such systems are available and their use by CLECINTRADO COMM will not otherwise compromise building security. The rate for the issuance of security cards is listed on Table Two.
 - 91.2.3. CLECINTRADO COMM is responsible for returning identification and security cards, codes, or keys of its terminated employees or its employees who no longer require access to the Collocation Space. All cards, codes, or keys must be returned upon termination of the applicable Collocation Space. CLECINTRADO COMM will reimburse Embarq actual costs due to unreturned or replacement cards, codes, or keys.
 - 91.2.4. In the event that a key is lost, CLECINTRADO COMM is responsible for costs associated with recoring locks and reissuing keys to Embarq and other parties authorized to access the Premise.
 - 91.2.5. CLECINTRADO COMM's employees, agents, invitees and vendors must display identification cards at all times.
 - 91.2.6. CLECINTRADO COMM will assist Embarq in validation and verification of identification of its employees, agents, invitees and vendors by providing a telephone contact available twenty-four (24) hours a day, seven (7) days a week to verify identification.
 - 91.2.7. Removal of all furniture, equipment or similar articles will be based on local Embarq security practices. These security practices will not be more stringent for CLECINTRADO COMM than Embarq requires for its own employees or Embarq's contractors.
 - 91.2.8. Before leaving the Collocation Space unattended, CLECINTRADO COMM shall close and securely lock all doors and windows and shut off

unnecessary equipment in the Collocation Space. Any injury to persons or damage to the property of Embarq or any other party with equipment in the Building resulting from CLECINTRADO COMM's failure to do so shall be the responsibility of CLECINTRADO COMM. CLECINTRADO COMM will defend and indemnify Embarq from and against any claim by any person or entity resulting in whole or in part from CLECINTRADO COMM's failure to comply with this Section.

91.2.9. CLECINTRADO COMM agrees that Embarq may provide a security escort for physical collocation, at no cost or undue delay to CLECINTRADO COMM, to CLECINTRADO COMM personnel while on Embarq Premises. While such escort shall not be a requirement to CLECINTRADO COMM's entry into the Building, CLECINTRADO COMM must allow the security escort to accompany CLECINTRADO COMM personnel at all times and in all areas of the Building, including the Collocation Space, if so requested.

91.2.10. CLECINTRADO COMM shall post in a prominent location visible from the common building area, the names and telephone numbers of emergency contact personnel along with names and telephone numbers of their superiors for 24 hour emergency use by Embarq. CLECINTRADO COMM shall promptly update this information as changes occur.

91.3. CLECINTRADO COMM will provide Embarq with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Embarq equipment located in CLECINTRADO COMM facility. CLECINTRADO COMM shall provide Embarq immediate notification by telephone of any emergency power activity that would impact Embarq equipment.

91.4. CLECINTRADO COMM shall not provision and/or install Uninterruptible Power Supply ("UPS") systems within the Embarq premises. The customer is permitted to install Inverted Power Systems if and only if documented compliance with National Equipment Building Standards (NEBS) III and Listing by Underwriters Laboratory (UL) has been met.

91.5. CLECINTRADO COMM shall not place Electro-Chemical Storage Batteries of any type inside the Collocation Space.

91.6. CLECINTRADO COMM shall provide Embarq with written notice three (3) Business Days prior to those instances where CLECINTRADO COMM or its subcontractors perform work, which is to be a known service affecting activity. CLECINTRADO COMM will inform Embarq by e-mail of any unplanned service outages. The parties will then agree upon a plan to manage the outage so as to minimize customer interruption. Notification of any unplanned service outage shall be made as soon as practicable after CLECINTRADO COMM learns that such outage has occurred so that Embarq can take any action required to monitor or protect its service.

- 91.7. CLECINTRADO COMM may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by CLECINTRADO COMM and at CLECINTRADO COMM's expense, Embarq will provide basic telephone service with a connection jack in the Collocation Space.
- 91.8. CLECINTRADO COMM shall, with the prior written consent of Embarq, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that CLECINTRADO COMM may not install or use sprinklers or carbon dioxide fire suppression systems within the building or the Collocation Space.
- 91.8.1. If any governmental bureau, department or organization or Embarq's insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the building in which the Collocation Space of CLECINTRADO COMMs in general are located, such changes, modifications, or additions shall be made by Embarq and CLECINTRADO COMM shall reimburse Embarq for the cost thereof in the same proportion as the size of the CLECINTRADO COMM's Collocation Space as compared to the total available collocation space in the affected portion of the building.
- 91.9. CLECINTRADO COMM shall identify and shall notify Embarq in writing of any Hazardous Materials CLECINTRADO COMM may bring onto the Premises, and will provide Embarq copies of any inventories or other data provided to State Emergency Response Commissions ("SERCs"), Local Emergency Planning Committees ("LEPCs"), or any other governmental agencies if required by the Emergency Planning and Community Right to Know Act (41 USC 11001, *et seq.*). CLECINTRADO COMM, its agents and employees shall transport, store and dispose of Hazardous Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. CLECINTRADO COMM will promptly notify Embarq of any releases of Hazardous Materials and will copy Embarq on any notification of or correspondence with any governmental agency which may be required by any environmental law as a result of such release.
- 91.9.1. CLECINTRADO COMM shall provide Embarq copies of all Material Safety Data Sheets ("MSDSs") for materials or chemicals regulated under the OSHA Hazard Communication Standard (29 CFR 1910.1200) that are brought onto the property. All such materials shall be labeled in accordance with 29 CFR 1910.1200 and applicable state regulations if such regulations are more stringent.
- 91.9.2. If Embarq discovers that CLECINTRADO COMM has brought onto Embarq's Premises Hazardous Materials without notification, or is storing or disposing of such materials in violation of any applicable environmental law, Embarq may, at Embarq's option and without

penalty, terminate the applicable Collocation Space or, in the case of pervasive violation, this Agreement or suspend performance hereunder. CLECINTRADO COMM shall be responsible for, without cost to Embarq, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. CLECINTRADO COMM shall also be responsible for removing and disposing of all Hazardous Materials on its Collocation Space at the termination of the applicable Collocation Space or this Agreement. If Embarq elects to terminate the applicable Collocation Space or this Agreement or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials contrary to the terms of this Agreement, CLECINTRADO COMM shall have no recourse against Embarq and shall be responsible for all costs and expenses associated with such termination or suspension of service in addition to being responsible for any remedies available to Embarq for defaults under this Agreement.

91.9.3. CLECINTRADO COMM shall indemnify and hold harmless Embarq, its successors and assigns against, and in respect of, any and all damages, claims, losses, liabilities and expenses, including, without limitation, all legal, accounting, consulting, engineering and other expenses, which may be imposed upon, or incurred by, Embarq or asserted against Embarq by any other party or parties (including, without limitation, Embarq's employees and/or contractors and any governmental entity) arising out of, or in connection with, CLECINTRADO COMM's use, storage or disposal of Hazardous Materials.

91.9.4. For purposes of this Section, "Hazardous Materials" shall mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation, asbestos) as defined in, or pursuant to, the OSHA Hazard Communication Standard (29 CFR Part 1910, Subpart Z), the Resource Conservation and Recovery Act of 1976 (42 USC Section 6901, et seq.), or regulations adopted pursuant to those statutes, the Toxic Substances Control Act (15 USC Section 2601, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Section 9601, et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall survive the termination, cancellation, modification or recession of this Agreement.

91.10. CLECINTRADO COMM shall not do or permit anything to be done upon the Collocation Space, or bring or keep anything thereon which is in violation of any federal, state or local laws or regulations (including environmental laws or regulations not previously described), or any rules, regulations or requirements of the local fire department, Fire Insurance Rating Organization, or any other similar authority having jurisdiction over the building. CLECINTRADO COMM shall not do or permit anything to be done upon the Collocation Space which may in

any way create a nuisance, disturb, endanger, or otherwise interfere with the Telecommunications Services of Embarq, any other occupant of the building, their patrons or customers, or the occupants of neighboring property, or injure the reputation of the Premises.

91.10.1. CLECINTRADO COMM shall not exceed the Uniformly Distributed Live Load Capacity. Embarq shall evaluate and determine Live Load Capacity rating on a site specific basis prior to equipment installation. CLECINTRADO COMM agrees to provide Embarq with equipment profile information prior to installation authorization.

91.10.2. CLECINTRADO COMM shall not paint, display, inscribe or affix any sign, trademark, picture, advertising, notice, lettering or direction on any part of the outside or inside of the building, or on the Collocation Space, without the prior written consent of Embarq.

91.10.3. CLECINTRADO COMM shall not use the name of the building or Embarq for any purpose other than that of the business address of CLECINTRADO COMM, or use any picture or likeness of the building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Embarq.

91.10.4. CLECINTRADO COMM shall not exhibit, sell or offer for sale, rent or exchange in the Collocation Space or on the Premises any article, thing or service except those ordinarily embraced within the use of the Collocation Space specified in Sections 3 and 11 of this Agreement without the prior written consent of Embarq.

91.10.5. CLECINTRADO COMM shall not place anything or allow anything to be placed near the glass of any door, partition or window which Embarq determines is unsightly from outside the Collocation Space; take or permit to be taken in or out of other entrances of the building, or take or permit to be taken on any passenger elevators, any item normally taken through service entrances or elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, or shipping platform. CLECINTRADO COMM shall lend its full cooperation to keep such areas free from all obstruction and in a clean and neat condition, move all supplies, furniture and equipment directly to the Collocation Space as soon as received, and move all such items and waste, other than waste customarily removed by employees of the building.

91.10.6. CLECINTRADO COMM shall not, without the prior written consent of Embarq install or operate any lead-acid batteries, refrigerating, heating or air conditioning apparatus or carry on any mechanical business in the Collocation Space. Embarq may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.

- 91.10.7. CLECINTRADO COMM shall not use the Collocation Space for housing, lodging or sleeping purposes.
- 91.10.8. CLECINTRADO COMM shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space.
- 91.10.9. CLECINTRADO COMM shall not permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Collocation Space or permit the presence of any animals except those used by the visually impaired.
- 91.11. CLECINTRADO COMM, its employees, agents, contractors, and business invitees shall:
 - 91.11.1. comply with all rules and regulations which Embarq may from time to time adopt for the safety, environmental protection, care, cleanliness and/or preservation of the good order of the building, the Premises and the Collocation Space and its tenants and occupants, and
 - 91.11.2. comply, at its own expense, with all ordinances which are applicable to the Collocation Space and with all lawful orders and requirements of any regulatory or law enforcement agency requiring the correction, prevention and abatement of nuisances in or upon the Collocation Space during the Term of this Agreement or any extension hereof.
- 91.12. CLECINTRADO COMM shall not make installations, alterations or additions in or to the Collocation Space without submitting plans and specifications to Embarq and securing the prior written consent of Embarq in each instance. Embarq's consent shall not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Collocation Space that do not adversely affect the building's appearance, value, structural strength and mechanical integrity. Such work shall be done at the sole expense of CLECINTRADO COMM.
 - 91.12.1. All installations, alterations and additions shall be constructed in a good and workmanlike manner and only new and good grades of material shall be used, and shall comply with all insurance requirements, governmental requirements, and terms of this Agreement. Work shall be performed at such times and in such manner as to cause a minimum of interference with Embarq's transaction of business. CLECINTRADO COMM shall permit Embarq to inspect all construction operations within the Collocation Space.
 - 91.12.2. All installations, alterations and additions which take the form of fixtures, except trade fixtures, placed in the Collocation Space by and at the expense of CLECINTRADO COMM or others shall become the property of Embarq, and shall remain upon and be surrendered with the Collocation Space. Upon termination of this Agreement, however, Embarq shall have the right to require CLECINTRADO COMM to

remove such fixtures and installations, alterations or additions at CLECINTRADO COMM's expense, and to surrender the Collocation Space in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.

91.12.3. All fixtures and other equipment to be used by CLECINTRADO COMM in, about or upon the Collocation Space shall be subject to the prior written approval of Embarq, which shall not be unreasonably withheld.

91.13. Fireproofing Policy. CLECINTRADO COMM shall not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Collocation Space or the Building, outside or inside, without the prior written consent of Embarq. If CLECINTRADO COMM desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of CLECINTRADO COMM. Embarq shall have the right of prior approval of such utility or service connections, and shall direct where and how all connections and wiring for such service shall be introduced and run. In all cases, in order to maintain the integrity of the Halon space for proper Halon concentration, and to ensure compliance with Embarq's fireproofing policy, any penetrations by CLECINTRADO COMM, whether in the Collocation Space, the building or otherwise, shall be sealed as quickly as possible by CLECINTRADO COMM with Embarq-approved fire barrier sealants, or by Embarq at CLECINTRADO COMM's cost.

91.14. Equipment Grounding. CLECINTRADO COMM equipment shall be connected to Embarq's grounding system.

91.15. Representations and Warranties. CLECINTRADO COMM hereby represents and warrants that the information provided to Embarq in any Application or other documentation relative to CLECINTRADO COMM's request for telecommunications facility interconnection and Central Office building collocation as contemplated in this Agreement is and shall be true and correct, and that CLECINTRADO COMM has all necessary corporate and regulatory authority to conduct business as a telecommunications carrier. Any violation of this Section shall be deemed a material breach of this Agreement.

92. BUILDING RIGHTS

92.1. Embarq may, without notice to CLECINTRADO COMM:

92.1.1. Change the name or street address of the Premises;

92.1.2. Install and maintain signs on the exterior and interior of the Premises or anywhere on the Premises;

92.1.3. Designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverages, foods, towels, vending machines or toilet supplies used or consumed in the Collocation Space;

- 92.1.4. Have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding CLECINTRADO COMM's safes;
- 92.1.5. Reduce heat, light, water and power as required by any mandatory or voluntary conservation programs;
- 92.1.6. Approve the weight, size and location of safes, computers and all other heavy articles in and about the Collocation Space and the Building, and to require all such items and other office furniture and equipment to be moved in and out of the Building or Collocation Space only at such times and in such a manner as Embarq shall direct and in all events at CLECINTRADO COMM's sole risk and responsibility;
- 92.1.7. At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Collocation Space, the Premises, or any part thereof (including, without limitation, the permanent or temporary relocation of any existing facilities such as parking lots or spaces), and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through the Collocation Space or any part of the Premises all material and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities. Embarq shall limit inconvenience or annoyance to CLECINTRADO COMM as reasonably possible under the circumstances;
- 92.1.8. Do or permit to be done any work in or about the Collocation Space or the Premises or any adjacent or nearby building, land, street or alley;
- 92.1.9. Grant to anyone the exclusive right to conduct any business or render any service on the Premises, provided such exclusive right shall not operate to exclude CLECINTRADO COMM from the use expressly permitted by this Agreement, unless Embarq exercises its right to terminate this Agreement with respect to all or a portion of the Collocation Space;
- 92.1.10. Close the Building at such reasonable times as Embarq may determine, under such reasonable regulations as shall be prescribed from time to time by Embarq subject to CLECINTRADO COMM's right to access.
- 92.2. If the owner of the Building or Embarq sells, transfers or assigns any interest in the Building, or there is any material change in the Lease to which the Building is subject, and such sale, transfers assignment or material change in the Lease gives rise to an obligation which is inconsistent with this Agreement, Embarq's performance under this Agreement shall be excused to the extent of the inconsistency. Embarq hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation shall in no way obligate Embarq to incur any out of pocket expenses in its efforts to avoid such inconsistencies.

- 92.3. This Agreement shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments) that may be placed on the Collocation Space and CLECINTRADO COMM agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

93. INDEMNIFICATION

- 93.1. CLECINTRADO COMM shall indemnify and hold Embarq harmless from any and all claims arising from:

- 93.1.1. CLECINTRADO COMM's use of the Collocation Space;
- 93.1.2. the conduct of CLECINTRADO COMM's business or from any activity, work or things done, permitted or suffered by CLECINTRADO COMM in or about the Collocation Space or elsewhere;
- 93.1.3. any and all claims arising from any breach or default in the performance of any obligation on CLECINTRADO COMM's part to be performed under the terms of this Agreement; and
- 93.1.4. any negligence of the CLECINTRADO COMM, or any of CLECINTRADO COMM's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.

- 93.2. If any action or proceeding is brought against Embarq by reason of any such claim, CLECINTRADO COMM, upon notice from Embarq, shall defend same at CLECINTRADO COMM's expense employing counsel satisfactory to Embarq.

- 93.3. CLECINTRADO COMM shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of CLECINTRADO COMM, or out of any work performed, material furnished, or obligations incurred by CLECINTRADO COMM in, upon or otherwise in connection with the Collocation Space. CLECINTRADO COMM shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLECINTRADO COMM's liability under this Section.

- 93.3.1. If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLECINTRADO COMM shall give Embarq written notice thereof as soon as CLECINTRADO COMM obtains such knowledge.

- 93.3.2. CLECINTRADO COMM shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and

for the account of CLECINTRADO COMM, from obtaining such discharge and release if CLECINTRADO COMM fails or refuses to do the same within the thirty-day period.

- 93.3.3. If CLECINTRADO COMM has first discharged the lien as provided by law, CLECINTRADO COMM may, at CLECINTRADO COMM's expense, contest any mechanic's lien in any manner permitted by law.

94. PARTIAL DESTRUCTION

- 94.1. If the Collocation Space or a portion thereof sufficient to make the Collocation Space substantially unusable shall be destroyed or rendered unoccupiable by fire or other casualty, Embarq may, at its option, restore the Collocation Space to its previous condition. CLECINTRADO COMM's rights to the applicable Collocation Space shall not terminate unless, within ninety (90) Days after the occurrence of such casualty, Embarq notifies CLECINTRADO COMM of its election to terminate CLECINTRADO COMM's rights to the applicable Collocation Space. If Embarq does not elect to terminate CLECINTRADO COMM's rights to the applicable Collocation Space, Embarq shall repair the damage to the Collocation Space caused by such casualty.
- 94.2. Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of CLECINTRADO COMM, its agents, employees, contractors, CLECINTRADO COMMs, customers or business invitees, unless Embarq otherwise elects, the CLECINTRADO COMM's rights to the applicable Collocation Space shall not terminate, and, if Embarq elects to make such repairs, CLECINTRADO COMM shall reimburse Embarq for the cost of such repairs, or CLECINTRADO COMM shall repair such damage, including damage to the building and the area surrounding it, and the License Fee shall not abate.
- 94.3. If the building shall be damaged by fire or other casualty to the extent that portions are rendered unoccupiable, notwithstanding that the Collocation Space may be directly unaffected, Embarq may, at its election within ninety (90) Days of such casualty, terminate CLECINTRADO COMM's rights to the applicable Collocation Space by giving written notice of its intent to terminate CLECINTRADO COMM's rights to the applicable Collocation Space. The termination as provided in this paragraph shall be effective thirty (30) Days after the date of the notice.

95. EMINENT DOMAIN

- 95.1. If the Premises, or any portion thereof which includes a substantial part of the Collocation Space, shall be taken or condemned by any competent authority for any public use or purpose, CLECINTRADO COMM's rights to the applicable Collocation Space shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of

the Premises, or if the grade of any street or alley adjacent to the Premises is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the Premises to conform to the changed grade, Embarq shall have the right to terminate CLECINTRADO COMM's rights to the applicable Collocation Space upon not less than 30 Days notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Embarq to CLECINTRADO COMM for such cancellation, and the CLECINTRADO COMM shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

96. BANKRUPTCY

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

97. ASBESTOS

97.1. CLECINTRADO COMM is aware the Premises in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and CLECINTRADO COMM is hereby notified that the Premises in which the Collocation Space is located may contain asbestos or asbestos containing building material (ACBM). CLECINTRADO COMM agrees that it is responsible for contacting the appropriate Embarq manager responsible for the Premises to determine the presence, location and quantity of asbestos or ACBM that CLECINTRADO COMM's employees, agents, or contractors may reasonably expect to encounter while performing activities in the Premises. CLECINTRADO COMM shall not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with, or resulting from the disturbance of asbestos or ACBM in the Premises unless such disturbance arises out of or in connection with, or results from CLECINTRADO COMM's use of the Collocation Space or placement of equipment onto ACBM or into areas containing asbestos identified by Embarq. Embarq agrees to provide CLECINTRADO COMM reasonable notice prior to undertaking any asbestos control, abatement, or other activities which may disturb asbestos or ACBM that could potentially affect CLECINTRADO COMM's equipment or operations in the Collocation Space, including but not limited to the contamination of such equipment. Embarq will not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with the presence of asbestos in Embarq Premises.

98. MISCELLANEOUS

- 98.1. CLECINTRADO COMM warrants that it has had no dealings with any broker or agent in connection with this Agreement, and covenants to pay, hold harmless and indemnify Embarq from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Agreement or the negotiation thereof.
- 98.2. Submission of this instrument for examination or signature by Embarq does not constitute a reservation of or option for license and it is not effective, as a license or otherwise, until execution and delivery by both Embarq and CLECINTRADO COMM.
- 98.3. Neither Embarq nor its agents have made any representation or warranties with respect to the Collocation Space of this Agreement except as expressly set forth herein; no rights, easements, or licenses shall be acquired by CLECINTRADO COMM by implication or otherwise unless expressly set forth herein.
- 98.4. In the event of work stoppages, Embarq may establish separate entrances for use by personnel of CLECINTRADO COMM. CLECINTRADO COMM shall comply with any emergency operating procedures established by Embarq to deal with work stoppages.
- 98.5. The individuals executing this Agreement on behalf of CLECINTRADO COMM represent and warrant to Embarq they are fully authorized and legally capable of executing this Agreement on behalf of CLECINTRADO COMM.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed and accepted by its duly authorized representatives.

“Customer”

“Embarq”

By: Intrado Communications Inc.

By: _____

Name : Thomas W. Hicks

Name: William E. Cheek

Title: Director – Carrier Relations

Title: President Wholesale Markets

Date: _____

Date: _____

TABLE ONE WHERE ARE THE PRICE LISTS?

TABLE TWO

EXHIBIT A

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@Embarq.com]
Sent: Wednesday, October 03, 2007 3:05 PM
To: Hicks, Thomas
Subject: ICA

Tom - We are still discussing internally. Day 160 is 10/24/07. We would like to extend the window. I know we won't be ready to sign an agreement by then. Please let me know what you think about that.

Kathryn L. Feeney
Manager - Contract Management
9300 Metcalf
Overland Park, KS 66212
Mailstop: KSOPKB0402-4674
(v) 913-534-2313
(f) 913-534-7833
Kathryn.L.Feeney@embarq.com

From: Hicks, Thomas
Sent: Monday, October 08, 2007 12:17 PM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: Intrado Edited Embarq 251 Interconnection Agreement w-T&C red lines

Kathryn,

We have now concluded our review of the "Terms and Conditions" and have made the following edits in the attached version of our red lines. The added text is in **Blue**, and the deleted text is in **Red**

10.4 "EMBARQ SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF CLEC'S EQUIPMENT AND OTHER PREMISES **ONLY TO THE EXTENT** IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY EMBARQ'S **[SOLE]** NEGLIGENCE OR WILLFULL MISCONDUCT."

12. Insurance

12.6. "All Risk" property insurance on a full replacement cost basis insuring INTRADO COMM's property situated on or within the Property, naming Embarq as loss payee **to the extent Embarq can demonstrate financial interest in said property**. INTRADO COMM may elect to insure business interruption and contingent business interruption, as it is agreed that Embarq has no liability for loss of profit or revenues should an interruption of service occur.

12.7. **Deleted "Nothing contained in this Section shall limit INTRADO COMM's liability to Embarq to the limits of insurance certified or carried."**

12.8. All policies required of the INTRADO COMM shall contain evidence of the insurer's waiver of the right of subrogation against Embarq for any insured loss covered thereunder **with respect to property only**. All policies of insurance **for property** shall be written as primary policies and not contributing with or in excess of the coverage, if any, that Embarq may carry.

12.9. INTRADO COMM shall furnish to Embarq a certificate or certificates of insurance, satisfactory in form and content to Embarq, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled without first **endeavoring to give [giving]** at least thirty (30) Days prior written notice to Embarq.

As eluded to in my voice message I just left for you, I will leave it to you whether you wish to hold these back until you have returned your first pass red lines and we can include it in our next iteration, or whether you may wish to send these edits along to others on your team for review now.

Please call me should you have any questions.

Thanks,
Tom

972-772-5883



**INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT
FOR THE STATE OF [INSERT STATE NAME]**

*Insert Date of Agreement
(leave blank until ready for final signature)*

Intrado Communications Inc.

and

[Insert Embarq Company Name]

THIS DOCUMENT IS A DRAFT AND REPRESENTS THE CURRENT POSITIONS OF THE EMBARQ LOCAL OPERATING COMPANIES WITH RESPECT TO INTERCONNECTION AND RESALE. EMBARQ RESERVES THE RIGHT TO MODIFY THIS DRAFT AGREEMENT, INCLUDING ANY APPENDICES, SCHEDULES AND/OR ATTACHMENTS THERETO, AT ANY TIME PRIOR TO THE EXECUTION OF A FINAL AGREEMENT BY BOTH PARTIES. THIS DOCUMENT IS NOT AN OFFER. TO THE EXTENT THE PARTIES AGREE TO ALSO NEGOTIATE NETWORK ELEMENTS, SERVICES, OR INTERCONNECTION RATES, TERMS AND CONDITIONS NOT GOVERNED BY 47 USC 251 ("NON-251 SERVICES"), THE PARTIES AGREEMENT TO NEGOTIATE BOTH TYPES OF SERVICES DOES NOT MAKE THE NON-251 SERVICES SUBJECT TO THE PROVISIONS OF 47 USC 252 AND DOES NOT TRIGGER THE VARIOUS PROCESSES UNDER SECTION 252, INCLUDING THE RIGHT TO COMPULSORY ARBITRATION OF THE RATES, TERMS AND CONDITIONS FOR NON-251 SERVICES. FURTHER, ~~CLEC~~INTRADO COMM AGREES NOT TO ARGUE THAT AGREEMENT TO DISCUSS BOTH 251 AND NON-251 SERVICES CONSTITUTES AN AGREEMENT BY EMBARQ THAT THE NON-251 SERVICES ARE SUBJECT TO 252.

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INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT

This Interconnection, Collocation and Resale Agreement (the "Agreement"), dated this ____ day of ____, 20__, is entered into by and between [~~Insert CLEC Name~~] Intrado Communications Inc (hereafter referred to as INTRADO COMM) ("CLEC"), a [~~Insert State Name~~] corporation, and [~~Insert Embarq Company Name~~] ("Embarq"), a [~~Insert state of incorporation~~] corporation, to establish the rates, terms and conditions for local interconnection, collocation, local resale, and purchase of unbundled Network Elements (individually referred to as the "service" or collectively as the "services").

WHEREAS, the Parties wish to interconnect their local exchange networks for the purposes of transmission and termination of calls, so that customers of each can receive calls that originate on the other's network and place calls that terminate on the other's network, and for ~~CLEC~~INTRADO COMM's use in the provision of exchange access ("Local Interconnection"); and

WHEREAS, ~~CLEC~~INTRADO COMM wishes to purchase Telecommunications Services for resale to others, and Embarq is willing to provide these services; and

WHEREAS, ~~CLEC~~INTRADO COMM wishes to purchase unbundled Network Elements, ancillary services and functions and additional features ("Network Elements") for the provision of Telecommunications Services to others, and Embarq is willing to provide unbundled Network Elements and services; and

WHEREAS, the Parties intend the rates, terms and conditions of this Agreement, and their performance of obligations thereunder, to comply with the Communications Act of 1934, as amended (the "Act"), the Rules and Regulations of the Federal Communications Commission ("FCC"), and the orders, rules and regulations of the Commission; and

WHEREAS, the Parties wish to replace any and all other prior agreements, written and oral, applicable to the state of [~~Insert State Name~~].

Now, therefore, in consideration of the terms and conditions contained in this Agreement, ~~CLEC~~INTRADO COMM and Embarq hereby mutually agree as follows:

PART A – DEFINITIONS

1. DEFINED TERMS

- 1.1. Capitalized terms defined in this Section shall have the meanings as set forth in this Agreement. Other terms used but not defined will have the meanings ascribed to them in the Act or in the Rules and Regulations of the FCC or the Commission. The Parties acknowledge that other terms appear in this Agreement, which are not defined or ascribed as stated above. The Parties agree that any such terms shall be construed in accordance with their customary usage in the telecommunications industry as of the Effective Date of this Agreement.
- 1.2. **“911 Service”** means a universal telephone number which gives the public direct access to the Public Safety Answering Point (“PSAP”). Basic 911 service collects 911 calls from one or more local exchange switches that serve a geographic area. The calls are then sent to the correct authority designated to receive such calls.
- 1.3. **“Access Services”** refers to interstate and intrastate switched access and private line transport services.
- 1.4. **“Act”** means the Communications Act of 1934, as amended.
- 1.5. **“Affiliate”** is as defined in the Act.
- 1.6. **“Augment”** refers to a modification (increase/addition or decrease/reduction) to an existing Collocation Arrangement. Examples include changes to the space, cage, power, cross-connect cabling, conduit, vault, riser, or cabling associated with the Collocation Arrangement.
- 1.7. **“Automated Message Accounting” (“AMA”)** is the structure inherent in switch technology that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Telcordia as GR-1100-CORE which defines the industry standard for message recording.
- 1.8. **“Automatic Location Identification” (“ALI”)** means a feature that provides the caller’s telephone number, address and the names of the Emergency Response agencies that are responsible for that address.
- 1.9. **“Automatic Location Identification/Data Management System (“ALI/DMS”)** means the emergency service (“E911/911”) database containing subscriber location information (including name, address, telephone number, and sometimes special information from the local service provider) used to determine to which Public Safety Answering Point (“PSAP”) to route the call.
- 1.10. **“Automatic Number Identification” (“ANI”)** is a feature that identifies and displays the number of a telephone line that originates a call.

- 1.11. **“Automatic Route Selection” (“ARS”)** is a service feature associated with a specific grouping of lines that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.
- 1.12. **“ATU - C”** refers to an ADSL Transmission Unit - Central Office.
- 1.13. **“Busy Line Verify/Busy Line Verify Interrupt” (“BLV/BLVI”)** means an operator call in which the caller inquires as to the busy status of, or requests an interruption of a call on another subscriber’s telephone line.
- 1.14. **“Business Day(s)”** means the days of the week excluding Saturdays, Sundays, and all Embarq holidays.
- 1.15. **“Business Line”** is an Embarq-owned switched access line used to serve a business customer, whether by Embarq or by a competitive LEC that leases the line from Embarq. The number of Business Lines in a Wire Center shall equal the sum of all Embarq business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, Business Line tallies (1) shall include only those access lines connecting end-user customers with Embarq end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to twenty-four (24) 64 kbps-equivalents, and therefore to twenty-four (24) “Business Lines.”
- 1.16. **“Cable Vault”** shall mean a location in a Premises where facilities enter the Premises from the Outside Cable Duct and access the Inner Duct for distribution within the Premises.
- 1.17. **“Carrier Access Billing System” (“CABS”)** is the system which is defined in a document prepared under the direction of the Billing Committee of the OBF. The CABS document is published by Telcordia in Volumes 1, 1A, 2, 3, 3A, 4 and 5 as Special Reports SR-OPT-001868, SR-OPT-0011869, SR-OPT-001871, SR-OPT-001872, SR-OPT-001873, SR-OPT-001874, and SR-OPT-001875, respectively, and contains the recommended guidelines for the billing of access and other connectivity services. Embarq’s carrier access billing system is its Carrier Access Support System (CASS). CASS mirrors the requirements of CABS.
- 1.18. **“Central Office Building” or “Building”** shall mean a structure (not including a controlled environment vault (“CEV”)) housing Embarq network equipment that is under the control of Embarq and for which Embarq has the right to grant access and/or occupation by third parties.
- 1.19. **“Central Office Switches”** - are switching facilities within the public switched telecommunications network, including, but not limited to:
- 1.19.1. **“End Office Switches” (“EOs”)** are switches from which end user Telephone Exchange Services are directly connected and offered.

- 1.19.2. “**Tandem Switches**” are switches that are used to connect and switch trunk circuits between and among Central Office Switches.
- 1.19.3. “**Remote Switches**” are switches that are away from their host or control office. All or most of the central control equipment for the remote switch is located at the host or Control Office.
- 1.20. “**Centrex**” means a Telecommunications Service associated with a specific grouping of lines that uses central office switching equipment for call routing to handle direct dialing of calls, and to provide numerous private branch exchange-like features.
- 1.21. “**CLASS/LASS**” (Telcordia Service Mark) refers to service features that utilize the capability to forward a calling party’s number between end offices as part of call setup. Features include Automatic Callback, Automatic Recall, Caller ID, Call Trace, and Distinctive Ringing.
- 1.22. “**Collocation Arrangement**” refers to a single, specific provision of collocation in a particular Premises, not limited to a cage enclosing CLECINTRADO COMM’s equipment within the Premises.
- 1.23. “**Collocation Space**” shall mean an area of space located in a building to be used by CLECINTRADO COMM to house telecommunications equipment that is necessary for interconnection or access to UNEs. Additionally, roof or wall space used for wireless interconnection shall be included in the definition where applicable.
- 1.24. “**Commingle**” means the act of Commingling.
- 1.25. “**Commingling**” means the connecting, attaching, or otherwise linking of an unbundled Network Element, or a combination of unbundled Network Elements, to one or more facilities or services that CLECINTRADO COMM has obtained at wholesale from Embarq or the combining of an unbundled Network Element, or a combination of unbundled Network Elements with one or more such facilities or services.
- 1.26. “**Commission**” means the [*Insert Commission Name*].
- 1.27. “**Common Channel Signaling**” (“CCS”) is a method of digitally transmitting call set-up and network control data over a digital signaling network fully separate from the public switched telephone network that carries the actual call.
- 1.28. “**Common Transport**” provides a local interoffice transmission path between End Office Switches, between End Office Switches and Tandem Switches and between Tandem Switches in Embarq’s network. Common Transport is shared between multiple customers and is required to be switched at the Tandem Switch.
- 1.29. “**Confidential and/or Proprietary Information**” has the meaning set forth in Section 15.
- 1.30. “**Controlled Environment Vault**” (“CEV”) shall mean a below ground room

other than a Central Office Building which is controlled by Embarq and which is suitable for collocation of telecommunications equipment under controlled temperature and humidity.

- 1.31. **"Control Office"** is an exchange carrier center or office designated as the Party's single point of contact for the provisioning and maintenance of its portion of local interconnection arrangements.
- 1.32. **"Copper Loop"** is a stand-alone local loop comprised entirely of copper wire or cable. Copper Loops include two-wire and four-wire analog voice-grade Copper Loops, digital Copper Loops (*e.g.*, DS0s and integrated services digital network lines), as well as two-wire and four-wire Copper Loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the Copper Loops are in service or held as spares. The Copper Loop includes attached electronics using time division multiplexing technology, but does not include packet switching capabilities.
- 1.33. **"Custom Calling Features"** means a set of Telecommunications Service features available to residential and single-line business customers including call-waiting, call-forwarding and three-party calling.
- 1.34. **"Customer Proprietary Network Information" ("CPNI")** is as defined in the Act.
- 1.35. **"Database Management System" ("DBMS")** is a computer process used to store, sort, manipulate and update the data required to provide Selective Routing and ALI.
- 1.36. **"Day"** means Days unless otherwise specified.
- 1.37. **"Dedicated Transport"** includes Embarq transmission facilities between Wire Centers or Switches owned by Embarq, or between Wire Centers or Switches owned by Embarq and Switches owned by ~~CLEC~~INTRADO COMM, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.
- 1.38. **"Demarcation Point"** is that point on the facility where Embarq's control of the facility ceases, and the End User Customer's control of the facility begins.
- 1.39. **"Digital Subscriber Line Access Multiplexer" ("DSLAM")** is equipment that links end-user xDSL connections to a single high-speed packet switch, typically ATM or IP.
- 1.40. **"Directory Assistance Database"** refers to any subscriber record used by Embarq in its provision of live or automated operator-assisted directory assistance including but not limited to 411, 555-1212, NPA-555-1212.
- 1.41. **"Directory Assistance Services"** provides listings to callers. Directory Assistance Services may include the option to complete the call at the caller's direction.

- 1.42. **“DS1 Loop”** is a digital Local Loop having a total digital signal speed of 1.544 megabytes per second. DS1 Loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services.
- 1.43. **“DS3 Loop”** is a digital Local Loop having a total digital signal speed of 44.736 megabytes per second.
- 1.44. **“DSLAM”** refers to a Digital Subscriber Line Access Multiplexer.
- 1.45. **“Duct”** is a single enclosed path to house facilities to provide Telecommunications Services.
- 1.46. **“Effective Date”** is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.
- 1.47. **“Electronic Interface”** means access to operations support systems consisting of preordering, ordering, provisioning, maintenance and repair and billing functions.
- 1.48. **“Emergency Response Agency”** is a governmental entity authorized to respond to requests from the public to meet emergencies.
- 1.49. **“Emergency Service Number” (“ESN”)** is a number assigned to the ALI and selective routing databases for all subscriber telephone numbers. The ESN designates a unique combination of fire, police and emergency medical service response agencies that serve the address location of each in-service telephone number.
- 1.50. **“Enhanced Extended Link” (“EEL”)** for purposes of this Agreement refers to the combination of unbundled Network Elements, specifically NID, Loop, multiplexing (MUX) if necessary and Dedicated Transport, in the Embarq Network.
- 1.51. **“Exchange Message Interface System” (“EMI”)** is the Industry standard for exchanging telecommunications message information for billable, non-billable, sample settlement and study records. The EMI is published by ATIS (Alliance for Telecommunications Industry Solutions).
- 1.52. **“End Date”** is the date this Agreement terminates as referenced in 5.1.
- 1.53. **“Enhanced 911 Service” (“E911”)** means a telephone communication service which will automatically route a call dialed “9-1-1” to a designated public safety answering point (PSAP) attendant and will provide to the attendant the calling party’s telephone number and, when possible, the address from which the call is being placed and the Emergency Response agencies responsible for the location from which the call was dialed.
- 1.54. **“FCC”** means the Federal Communications Commission.
- 1.55. **“Fiber-based Collocator”** means any carrier, unaffiliated with Embarq, that

maintains a Collocation Arrangement in Embarq's wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a Collocation Arrangement within the Wire Center; (2) leaves Embarq's Wire Center premises; and (3) is owned by a party other than Embarq or any affiliate of Embarq, except as set forth in this definition. Dark fiber obtained from Embarq on an indefeasible right of use basis shall be treated as non-Embarq fiber-optic cable. Two or more Affiliated Fiber-based Collocators in a single Wire Center shall collectively be counted as a single Fiber-based Collocator. For purposes of this definition, the term Affiliate is defined by 47 USC § 153(1) and any relevant interpretation in the Act.

- 1.56. **"Fiber-to-the-curb Loop" ("FTTC Loop")** means a Local Loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential multiple dwelling units ("MDUs"), not more than 500 feet from the MDU's minimum point of entry ("MPOE"). The fiber optic cable in a fiber-to-the curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises.
- 1.57. **"Fiber-to-the-home Loop" ("FTTH Loop")** means a Local Loop consisting entirely of fiber optic cable, whether dark or lit, and serving an end-user's customer premises or, in the case of predominantly residential MDUs, a fiber optic cable, whether dark or lit, that extends to the multiunit premises' MPOE.
- 1.58. **"Grandfathered Service"** means service which is no longer available for new customers and is limited to the current customer at their current locations with certain provisioning limitations, including but not limited to upgrade denials, feature adds/changes and responsible/billing party.
- 1.59. **"High Frequency Portion of the local Loop" ("HFPL")** is defined as the frequency range above the voice band on a Copper Loop facility that is being used to carry analog circuit-switched voice band transmissions provided by Embarq to the end-user customer.
- 1.60. **"Hybrid Loop"** means a Local Loop comprised of both fiber optic cable, usually in the feeder plant, and copper wire or cable usually in the distribution plant.
- 1.61. **"Incumbent Local Exchange Carrier" ("ILEC")** is as defined in the Act.
- 1.62. **"Information Services"** shall have the meaning defined in 47 CFR 51.5.
- 1.63. **"Interexchange Carrier" ("IXC")** means a provider of interexchange Telecommunications Services.
- 1.64. **"Interexchange Service"** shall mean telecommunications service between stations in different exchange areas.
- 1.65. **"ISP-Bound Traffic,"** for the purposes of this Agreement, is defined as traffic

that is transmitted to an Internet Service Provider ("ISP") consistent with the ISP Remand Order (FCC 01-131), 16 F.C.C. Rcd. 9151 (2001).

- 1.66. **"Inner Duct"** or "Conduit" shall mean any passage or opening in, on, under, over or through the Embarq Central Office Building cable or conduit systems.
- 1.67. **"Line Information Data Base"** ("**LIDB**") means a Service Control Point (SCP) database that provides for such functions as calling card validation for telephone line number cards issued by Embarq and other entities and validation for collect and billed-to-third services.
- 1.68. **"Live Load Capacity"** as it relates to a ~~CLEC~~INTRADO COMM's Collocation Space refers to the structural strength of the floor to support the weight of ~~CLEC~~INTRADO COMM's property and equipment installed in the collocated space.
- 1.69. **"Local Loop"** refers to a transmission facility between the main distribution frame [cross-connect], or its equivalent, in an Embarq Central Office or wire center, and up to the demarcation point (*e.g.*, Network Interface Device) at a customer's premises, to which ~~CLEC~~INTRADO COMM is granted exclusive use. This includes all electronics, optronics and intermediate devices (including repeaters and load coils) used to establish the transmission path to the customer premises. Local loops include Copper Loops, Hybrid Loops, DS1 loops, DS3 loops, FTTC Loops and FTTH Loops.
- 1.70. **"Local Number Portability"** ("**LNP**") means the ability of users of Telecommunications Services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one Telecommunications Carrier to another.
- 1.71. **"Local Service Request"** ("**LSR**") means an industry standard form or a mutually agreed upon change thereof, used by the Parties to add, establish, change or disconnect local services.
- 1.72. **"Local Traffic"** for the purposes of this Agreement the Parties shall agree that "Local Traffic" means traffic (excluding Commercial Mobile Radio Service "CMRS" traffic) that is originated and terminated within Embarq's local calling area, or mandatory extended area service (EAS) area, as defined by the Commission or, if not defined by the Commission, then as defined in existing Embarq Tariffs. For this purpose, Local Traffic does not include any ISP-Bound Traffic.
- 1.73. **"Mobile Wireless Service"** means any mobile wireless telecommunications service, including any commercial mobile radio service (CMRS). CMRS includes paging, air-ground radiotelephone service and offshore radiotelephone service, as well as mobile telephony services, such as the voice offerings of carriers using cellular radiotelephone, broadband PCS and SMR licenses.
- 1.74. **"Multiple Exchange Carrier Access Billing"** ("**MECAB**") refers to the document prepared by the Billing Committee of the ATIS Ordering and Billing

Forum (“OBF”). The MECAB document contains the recommended guidelines for the billing of an access service provided to a customer by two or more providers or by one provider in two or more states within a single LATA.

- 1.75. **“Multiple Exchange Carrier Ordering And Design” (“MECOD”)** refers to the guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices of the OBF, which functions under the auspices of the Carrier Liaison Committee (“CLC”) of the Alliance for Telecommunications Industry Solutions (“ATIS”). The MECOD document, published by Telcordia as Special Report SR STS-002643, establishes recommended guidelines for processing orders for Access Service which is to be provided by two or more Telecommunications Carriers.
- 1.76. **“National Emergency Number Association” (“NENA”)** is an association with a mission to foster the technological advancement, availability and implementation of 911 nationwide.
- 1.77. **“Network Element”** is as defined in the Act.
- 1.78. **“North American Numbering Plan” (“NANP”)** means the plan for the allocation of unique 10-digit directory numbers consisting of a three-digit area code, a three-digit office code, and a four-digit line number. The plan also extends to format variations, prefixes, and special code applications.
- 1.79. **“Numbering Plan Area” (“NPA”)** (sometimes referred to as an area code) is the three-digit indicator which is designated by the first three digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, “Geographic NPAs” and “Non-Geographic NPAs.” A “Geographic NPA” is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A “Non-Geographic NPA,” also known as a “Service Access Code (SAC Code)” is typically associated with a specialized Telecommunications Service which may be provided across multiple geographic NPA areas; 500, 800, 900, 700, and 888 are examples of Non-Geographic NPAs.
- 1.80. **“NXX,” “NXX Code,” “COC,” “Central Office Code,” or “CO Code”** is the three-digit switch entity indicator which is defined by the fourth, fifth and sixth digits of a 10-digit telephone number within NANP.
- 1.81. **“OBF”** means the Ordering and Billing Forum, which functions under the auspices of the CLC of the Alliance for Telecommunications Industry Solutions (ATIS).
- 1.82. **“Operator Services”** provides for:
 - 1.82.1. operator handling for call completion (*e.g.*, collect calls);
 - 1.82.2. operator or automated assistance for billing after the subscriber has dialed the called number (*e.g.*, credit card calls); and

1.82.3. special services (*e.g.*, BLV/BLI, Emergency Agency Call).

- 1.83. **“Outside Cable Duct”** shall mean any space located outside the Central Office Building and owned by or under the control of Embarq through which Embarq runs its cable, conduit or other associated facilities.
- 1.84. **“Parity”** means, subject to the availability, development and implementation of necessary industry standard Electronic Interfaces, the provision by Embarq of services, Network Elements, functionality or telephone numbering resources under this Agreement to CLECINTRADO COMM, including provisioning and repair, at least equal in quality to those offered to Embarq, its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources. Until the implementation of necessary Electronic Interfaces, Embarq shall provide such services, Network Elements, functionality or telephone numbering resources on a non-discriminatory basis to CLECINTRADO COMM as it provides to its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources.
- 1.85. **“P.01 Transmission Grade Of Service” (“GOS”)** means a trunk facility provisioning standard with the statistical probability of no more than one call in 100 blocked on initial attempt during the average busy hour.
- 1.86. **“Parties”** means, jointly, Embarq and CLECINTRADO COMM, and no other entity, Affiliate, subsidiary or assign.
- 1.87. **“Party”** means either Embarq or CLECINTRADO COMM, and no other entity, Affiliate, subsidiary or assign.
- 1.88. **“Percent Local Usage” (“PLU”)** is a calculation which represents the ratio of the local minutes to the sum of local and intraLATA toll minutes between exchange carriers sent over Local Interconnection Trunks. Directory assistance, BLV/BLVI, 900, and 976 transiting calls from other exchange carriers and switched access calls are not included in the calculation of PLU.
- 1.89. **“Physical Collocation”** is as defined in 47 CFR 51.5.
- 1.90. **“Point of Interconnection” (“POI”)** is the physical point that establishes the technical interface, the test point, and the operational responsibility hand-off between CLECINTRADO COMM and Embarq for the local interconnection of their networks. The POI also establishes the demarcation point to delineate each Party’s financial obligations for facility costs.
- 1.91. **“Premises”** is as defined in 47 CFR 51.5.
- 1.92. **“Pre-Order Loop Qualification” (“Loop Qualification”)** is an OSS function that includes supplying loop qualification information to CLECINTRADO COMMS as part of the Pre-ordering Process. Examples of the type of information provided are:
- 1.92.1. Composition of the loop material, i.e. fiber optics, copper;

- 1.92.2. Existence, location and type of any electronic or other equipment on the loop, including but not limited to:
 - 1.92.2.1. Digital Loop Carrier (“DLC”) or other remote concentration devices;
 - 1.92.2.2. Feeder/distribution interfaces;
 - 1.92.2.3. Bridge taps;
 - 1.92.2.4. Load coils;
 - 1.92.2.5. Pair gain devices; or
 - 1.92.2.6. Disturbance in the same or adjacent binders.
- 1.92.3. Loop length which is an indication of the approximate loop length, based on a 26-gauge equivalent and is calculated on the basis of Distribution Area distance from the central office;
- 1.92.4. Wire gauge or gauges; and
- 1.92.5. Electrical parameters.
- 1.93. “**Proprietary Information**” shall have the same meaning as Confidential Information.
- 1.94. “**Rate Center**” means the geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to Embarq or CLECINTRADO COMM for its provision of basic exchange Telecommunications Services. The “rate center point” is the finite geographic point identified by a specific V&H coordinate, which is used to measure distance-sensitive end user traffic to/from the particular NPA-NXX designations associated with the specific Rate Center. The “rate center area” is the exclusive geographic area identified as the area within which Embarq or CLECINTRADO COMM will provide Basic Exchange Telecommunications Services bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center point must be located within the Rate Center area.
- 1.95. “**Routing Point**” means a location which Embarq or CLECINTRADO COMM has designated on its own network as the homing (routing) point for traffic inbound to basic exchange Services provided by Embarq or CLECINTRADO COMM which bear a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Telcordia Practice BR 795-100-100, the Routing Point may be an “End Office” location, or a “LEC Consortium Point of Interconnection.” Pursuant to that same Telcordia Practice, examples of the latter shall be designated by a common language location identifier (CLLI) code with (x)MD or X(x) in positions 9, 10, 11, where (x) may be any alphanumeric A-Z or 0-9. The above referenced Telcordia document

refers to the Routing Point as the Rating Point. The Rating Point/Routing Point need not be the same as the Rate Center Point, nor must it be located within the Rate Center Area, but must be in the same LATA as the NPA-NXX.

- 1.96. **“Small Exchange Carrier Access Billing” (“SECAB”)** means the document prepared by the Billing Committee of the OBF. The SECAB document, published by ATIS as Special Report SR OPT-001856, contains the recommended guidelines for the billing of access and other connectivity services.
- 1.97. **“Selective Routing”** is a service which automatically routes an E911 call to the PSAP that has jurisdictional responsibility for the service address of the telephone that dialed 911, irrespective of telephone company exchange or Wire Center boundaries.
- 1.98. **“Signaling Transfer Point” (“STP”)** means a signaling point that performs message routing functions and provides information for the routing of messages between signaling points within or between CCIS networks. An STP transmits, receives and processes CCIS messages.
- 1.99. **“Splitter”** is a device that divides the data and voice signals concurrently moving across the loop, directing the voice traffic through copper tie cables to the switch and the data traffic through another pair of copper tie cables to multiplexing equipment for delivery to the packet-switched network. The Splitter may be directly integrated into the DSLAM equipment or may be externally mounted.
- 1.100. **“Street Index Guide” (“SIG”)** is a database defining the geographic area of an E911 Service. It includes an alphabetical list of the street names, high-low house number ranges, community names, and Emergency Service Numbers provided by the counties or their agents to Embarq.
- 1.101. **“Switch”** means a Central Office Switch as defined in this Part A.
- 1.102. **“Synchronous Optical Network” (“SONET”)** is an optical interface standard that allows interworking of transmission products from multiple vendors (*i.e.*, mid-span meets). The base rate is 51.84 MHps (OC-1/STS-1 and higher rates are direct multiples of the base rate up to 1.22 GHps).
- 1.103. **“Tandem Office Switches,” “Tandem,” and “Tandem Switching”** describe Class 4 switches which are used to connect and switch trunk circuits between and among End Office Switches and other tandems.
- 1.104. **“Tariff”** means a filing made at the state or federal level for the provision of a Telecommunications Service by a Telecommunications Carrier that provides for the terms, conditions and pricing of that service. Such filing may be required or voluntary and may or may not be specifically approved by the Commission or FCC.
- 1.105. **“Technically Feasible”** refers solely to technical or operational concerns, rather than economic, space, or site considerations.

- 1.106. **“Tier 1”** Wire Centers are those Embarq Wire Centers that contain at least four Fiber-based Collocators, at least 38,000 Business Lines, or both. Tier 1 Wire Centers also are those Embarq tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. Once a Wire Center is determined to be a Tier 1 Wire Center, that Wire Center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.
- 1.107. **“Tier 2”** Wire Centers are those Embarq Wire Centers that are not Tier 1 Wire Centers but contain at least three (3) Fiber-based Collocators, at least 24,000 Business Lines, or both. Once a Wire Center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.
- 1.108. **“Tier 3”** Wire Centers are those Embarq Wire Centers that are not Tier 1 or Tier 2 Wire Centers.
- 1.109. **“Telecommunications”** is as defined in the Act.
- 1.110. **“Telecommunications Carrier”** is as defined in the Act.
- 1.111. **“Telecommunications Service”** is as defined in the Act.
- 1.112. **“Transit Service”** means the delivery of Transit Traffic.
- 1.113. **“Transit Traffic”** means Local Traffic or ISP-Bound Traffic that originated on CELECINTRADO COMM’s network, transited through Embarq’s network, and terminated to a third party Telecommunications Carrier’s network or that is originated on a third party Telecommunications Carrier’s network, transited through Embarq, and terminated to CELECINTRADO COMM’s network.
- 1.114. **“Virtual Collocation”** is as defined in 47 CFR 51.5.
- 1.115. **Virtual NXX Traffic (“VNXX Traffic”)** – As used in this Agreement, Virtual NXX traffic or VNXX Traffic is defined as calls in which a Party’s customer is assigned a telephone number with an NXX Code (as set forth in the LERG) assigned to a Rate Center that is different from the Rate Center associated with the customer’s actual physical premise location.
- 1.116. **“Wholesale Service”** means Telecommunication Services that Embarq provides at retail to subscribers who are not Telecommunications Carriers as set forth in 47 USC § 251(c)(4) which Embarq provides to resellers at a wholesale rate.
- 1.117. **“Wire center”** is the location of an incumbent LEC local switching facility containing one or more central offices, as defined in part 36 of the Code of Federal Regulations. The Wire Center boundaries define the area in which all customers served by a given Wire Center are located.
- 1.118. **“xDSL”** refers to a generic term for a series of high speed transmission protocols, equipment, and services designed to operate over copper wire. This series includes but is not limited to ADSL, VDSL, SDSL, and others.

PART B – GENERAL TERMS AND CONDITIONS

2. SCOPE OF THIS AGREEMENT

- 2.1. This Agreement, including Parts A through L, Tables One and Two and exhibits, specifies the rights and obligations of each Party with respect to the establishment, purchase, and sale of Local Interconnection, Collocation, resale of Telecommunications Services and Unbundled Network Elements. Certain terms used in this Agreement shall have the meanings defined in PART A – DEFINITIONS, or as otherwise elsewhere defined throughout this Agreement. Other terms used but not defined in this Agreement will have the meanings ascribed to them in the Act and in the FCC's and the Commission's rules, regulations and orders. PART B sets forth the general terms and conditions governing this Agreement. The remaining Parts set forth, among other things, descriptions of the services, pricing, technical and business requirements, and physical and network security requirements.

3. NETWORK CHANGES

- 3.1. Embarq shall provide notice of network changes and upgrades in accordance with §§ 51.325 through 51.335 of Title 47 of the Code of Federal Regulations. Embarq may discontinue any interconnection arrangement, Telecommunications Service, or Network Element provided or required hereunder due to network changes or upgrades after providing CLECINTRADO COMM notice as required by this Section. Embarq agrees to cooperate with CLECINTRADO COMM and/or the appropriate regulatory body in any transition resulting from such discontinuation of service and to minimize the impact to customers, which may result from such discontinuance of service.

4. REGULATORY APPROVALS

- 4.1. This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with § 252 of the Act within thirty (30) Days after obtaining the last required Agreement signature. Embarq and CLECINTRADO COMM shall use their best efforts to obtain approval of this Agreement by any regulatory body having jurisdiction over this Agreement. In the event any governmental authority or agency rejects any provision hereof, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval.
- 4.2. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the texts of the Act and the orders, rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment of the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Act to

the Parties or in which the court, FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, "Amended Rules"), either Party may, by providing written notice to the other Party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly within sixty (60) Days of the date of the notice to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

- 4.3. Notwithstanding any other provision of this Agreement to the contrary Section 4.2 hereof shall control. Any rates, terms or conditions thus developed or modified shall be substituted in place of those previously in effect and shall be effective under this Agreement as of the effective date established by the Amended Rules, whether such action was commenced before or after the Effective Date of this Agreement. Should the Parties be unable to reach agreement with respect to the applicability of such order or the resulting appropriate modifications to this Agreement, either party may invoke the Dispute Resolution provisions of this Agreement, it being the intent of the parties that this Agreement shall be brought into conformity with the then current obligations under the Act as determined by the Amended Rules. Embarq may charge rates to CLECINTRADO COMM under this Agreement that are approved by the Commission in a generic cost proceeding, whether such action was commenced before or after the Effective Date of this Agreement, as of the effective date of the Commission decision.
- 4.4. In the event that as a result of any effective decision, order, or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, Embarq determines that it is not required to furnish any service, facility, arrangement, or benefit required to be furnished or provided to CLECINTRADO COMM under this Agreement, then Embarq may discontinue any service, facility, arrangement, or benefit ("Discontinued Arrangement") to the extent permitted by any such decision, order, or determination by providing sixty (60) Days written notice to CLECINTRADO COMM. Immediately upon provision of such written notice to CLECINTRADO COMM, CLECINTRADO COMM will be prohibited from ordering and Embarq will not provide new Discontinued Arrangements.

5. TERM AND TERMINATION

- 5.1. This Agreement shall be deemed effective upon the Effective Date first stated above, and continue for a period of ~~three~~two years until [*Enter End Date*] ("End Date"), unless earlier terminated in accordance with this Section 5, provided however that if CLECINTRADO COMM has any outstanding past due obligations to Embarq or any of Embarq's affiliates, this Agreement will not be effective until such time as any undisputed past due obligations with Embarq are paid in full. This agreement shall become binding upon execution by the Parties. No order or request for services under this Agreement shall be processed before the Effective Date, except as otherwise agreed to in writing by the Parties. No

order or request for services under this Agreement shall be processed before CLECINTRADO COMM has established a customer account with Embarq and has completed the Implementation Plan described in this Agreement.

- 5.2. In the event of either Party's material breach of any of the terms or conditions hereof, including the failure to make any undisputed payment when due, the non-defaulting Party may immediately terminate this Agreement in whole or in part if the non-defaulting Party so advises the defaulting Party in writing of the event of the alleged default and the defaulting Party does not remedy the alleged default within sixty (60) Days after written notice thereof. The non-defaulting Party may pursue all available legal and equitable remedies for such breach.
- 5.3. Embarq may terminate this Agreement upon ~~sixtyten (610)~~ sixty (60) Days notice if CLECINTRADO COMM is not exchanging traffic with Embarq or has not submitted orders pursuant to this Agreement within ~~one hundred eighty (180)~~ three hundred sixty (360) Days of the Effective Date. In addition, Embarq reserves the right to terminate this Agreement immediately upon written notice from the CLECINTRADO COMM that it has ceased doing business in this state. ~~In addition to notice from CLEC, Embarq may utilize any publicly available information in concluding that CLEC is no longer doing business in this state, and immediately terminate this Agreement.~~
- 5.4. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect to any act or omission prior to termination or from any obligation which is expressly stated in this Agreement to survive termination.
- 5.5. Notwithstanding the above, should Embarq sell or trade substantially all the assets in an exchange or group of exchanges that Embarq uses to provide Telecommunications Services, then Embarq may terminate this Agreement in whole or in part as to that particular exchange or group of exchanges upon sixty (60) Days prior written notice in accordance with relevant state commission approvals.

6. POST EXPIRATION INTERIM SERVICE ARRANGEMENTS

- 6.1. No later than one-hundred sixty (160) Days prior to the End Date, CLECINTRADO COMM will provide Embarq notice to commence negotiations pursuant to Sections 251 and 252 of the Act for terms, conditions and rates for a successor agreement to be effective on or before the End Date.
- 6.2. In the event that this Agreement expires under Section 5.1, CLECINTRADO COMM has submitted a notice to commence negotiations under Section 6.1, and the Parties have not executed a successor agreement at the time of expiration, provided the Parties are actually in arbitration or mediation before the Commission or FCC under § 252 of the Act or the Parties have a written agreement to continue negotiations under § 252, it is the intent of the Parties to

provide in this Section for post-expiration interim service arrangements between the Parties so that service to their respective end users will not be interrupted should a new agreement not be consummated prior to the End Date. Therefore, except in the case of termination as a result of the events under Sections 5.2, 5.4, and 5.5, services that had been available under this Agreement, were ordered prior to the End Date and are actually in service as of the End Date may continue uninterrupted after the End Date at the written request of either Party only until the earlier to occur of (i) the Parties execute a successor agreement, (ii) the issuance of an order, whether a final non-appealable order or not, by the Commission or FCC, approving an agreement resulting from the resolution of the issues set forth in such arbitration or mediation request, or (iii) the first anniversary of the End Date.

- 6.3. In the event that on the End Date the Parties have not executed a successor agreement and Section 6.2 does not apply or no longer applies, Embarq will continue to provide services pursuant to one of the following:

6.3.1. Such standard terms and conditions or tariffs approved by and made generally available by the Commission, if they exist; or

6.3.2. An existing agreement between Embarq and another carrier adopted by CLECINTRADO COMM for the remaining term of that agreement. If CLECINTRADO COMM fails to designate an agreement under this subsection, then Embarq may designate such agreement.

7. CHARGES, BILLING AND PAYMENT

- 7.1. In consideration of the services provided by Embarq under this Agreement, CLECINTRADO COMM shall pay the charges set forth in Part C subject to the provisions of Section 4 hereof and subject to the dispute provisions provided herein. Additional billing procedures for charges incurred by CLECINTRADO COMM hereunder are set forth in Part J.

- 7.2. Subject to the terms of this Agreement, the Parties shall pay invoices within thirty (30) Days from the bill date shown on the invoice.

7.2.1. For invoices not paid when due, late payment charges will be assessed under Section 7.4.

7.2.2. If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the next business day.

7.2.3. If an invoice is not paid within forty-five (45) Days after the bill date, Embarq may suspend processing new orders and cancel any pending orders.

7.2.4. If the account remains delinquent sixty (60) Days after the bill date, Embarq will terminate all services under this Agreement.

- 7.3. If the CLECINTRADO COMM disputes any charges shown on an invoice, the following billing dispute procedures are the exclusive means for challenging such charges, and the failure by CLECINTRADO COMM to follow such procedures will result in the suspension or termination of service for non-payment of invoiced amounts:
- 7.3.1. Any billing dispute must be submitted in writing, itemizing the particular charges that CLECINTRADO COMM is challenging, and explaining in reasonable detail the specific grounds for disputing the validity or applicability of such charges.
 - 7.3.2. Billing disputes must be submitted to the National Dispute Center on the billing dispute form designated by Embarq, along with any payment for undisputed charges that are shown on such invoice. The billing dispute form may be accompanied by any additional, relevant materials submitted by CLECINTRADO COMM.
 - 7.3.3. The payment due date of an invoice shall be suspended with respect to disputed amounts on such invoice, but only if a written, itemized dispute has been filed in compliance with Section 7.3 within thirty (30) Days of the bill date. Such payment due date for the disputed amounts shall remain suspended during negotiations between the Parties or pending a determination by the Commission under the dispute resolution provisions of Section 25.
 - 7.3.4. Billing disputes that are submitted in a timely manner in compliance with Section 7.3 shall not have the effect of suspending the payment due date with respect to *billed amounts that are not in dispute*, notwithstanding the existence of a dispute with respect to other amounts billed on the same invoice.
 - 7.3.5. The failure to submit a written dispute in compliance with Section 7.3 within thirty (30) Days of a bill date shall not preclude a Party from thereafter submitting a dispute or seeking a billing adjustment for any charges which have been paid, but any billing dispute which is not submitted within thirty (30) Days of a bill date or which is not submitted in writing in compliance with Section 7.3 shall not be effective to suspend the payment due date for the disputed amount or to prevent late charges and possible suspension or termination of service for non-payment of billed amounts in accordance with Section 7.2. Payment of billed amounts that are subsequently disputed or which become the subject of a request for adjustment shall not constitute or be deemed to represent a waiver of a Party's right to submit a dispute or seek an adjustment of such Party's account with respect to such paid amounts, and the paying Party shall not be required to designate any such payment as "conditional" or "under protest" in order to submit a dispute or seek a subsequent adjustment with respect to amounts which have previously been paid. A dispute which is filed more than 30 Days after a bill date or a request for an account

adjustment must be submitted in writing in the same manner as provided for in Section 7.3 with respect to disputes, and such requests shall be subject to the Dispute Resolution provisions of this Agreement.

- 7.4. Late payment charges on invoices not paid when due (or any portion thereof which is not subject to a timely filed dispute) will be assessed until the undisputed amount due is paid in full, and shall be calculated using a rate equal to the lesser of the following:
 - 7.4.1. the total amount due times the highest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the payment due date to and including the date the customer actually makes the payment to Embarq, or
 - 7.4.2. the total amount due multiplied by a factor of 0.000329 times the number of days which occurred between the payment due date and (including) the date CLECINTRADO COMM actually makes the payment to Embarq.
- 7.5. Embarq shall credit CLECINTRADO COMM for incorrect Connectivity Billing charges including without limitation: overcharges, services ordered or requested but not delivered, interrupted services, services of poor quality and installation problems if caused by Embarq. Such reimbursements shall be set forth in the appropriate section of the Connectivity Bill pursuant to CABS, or SECAB standards.
- 7.6. Embarq will bill CLECINTRADO COMM for message provisioning and, if applicable, data tape charges related to exchange access records. Embarq will bill CLECINTRADO COMM for the records at the rates on Table One. If CLECINTRADO COMM requests additional copies of the monthly invoice, Embarq may also bill CLECINTRADO COMM for the additional copies.
- 7.7. Embarq shall comply with various industry, OBF, and other standards referred to throughout this Agreement. Embarq will review any changes to industry standards, and implement the changes within the industry-defined window. Embarq will notify CLECINTRADO COMM of any deviations to the standards.
- 7.8. Where Parties have established interconnection, Embarq and the CLECINTRADO COMM agree to conform to MECAB and MECOD guidelines. They will exchange Billing Account Reference and Bill Account Cross Reference information and will coordinate Initial Billing Company/Subsequent Billing Company billing cycles. Embarq will provide CLECINTRADO COMM the appropriate records to bill exchange access charges to the IXC. Embarq will capture EMI records for inward terminating calls and send them to CLECINTRADO COMM, as appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom). Upon Embarq's request, CLECINTRADO COMM will provide Embarq the appropriate records to bill exchange access charges to the IXC. CLECINTRADO COMM will capture EMI records for inward terminating calls and send them to Embarq, as

appropriate, in a daily or other agreed upon interval, via and agreed upon media (e.g.: Connect Direct or CD Rom).

- 7.9. Embarq shall provide a single point of contact for handling of any data exchange questions or problems that may arise during the implementation and performance of the terms and conditions of this Agreement.
- 7.10. Revenue Protection. Embarq shall make available to ~~CLECINTRADO COMM~~, at Parity with what Embarq provides to itself, its Affiliates and other local telecommunications ~~CLECINTRADO COMMs~~, all present and future fraud prevention or revenue protection features, including prevention, detection, or control functionality embedded within any of the Network Elements. These features include, but are not limited to screening codes, information digits assigned such as information digits '29' and '70' which indicate prison and COCOT pay phone originating line types respectively, call blocking of domestic, international, 800, 888, 900, NPA-976, 700, 500 and specific line numbers, and the capability to require end-user entry of an authorization code for dial tone. Embarq shall, when technically capable and consistent with the implementation schedule for Operations Support Systems (OSS), additionally provide partitioned access to fraud prevention, detection and control functionality within pertinent OSS.
- 7.11. Embarq reserves the right to secure the account with a suitable form of security deposit in accordance with Section 37.

8. AUDITS AND EXAMINATIONS

- 8.1. Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the other Party involved. Subject to each Party's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, either Party, at its own expense, may perform an audit through an independent third party of the other Party's books, records and other documents directly related to billing and invoicing once in any twelve (12) month period for the purpose of evaluating the accuracy of the other Party's billing and invoicing. "Audit" shall mean a comprehensive review of bills for services performed under this Agreement; "Examination" shall mean an inquiry into a specific element of or process related to bills for services performed under this Agreement. Either Party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date, with the assistance of the other Party, which will not be unreasonably withheld. The Audit period will include no more than the preceding twelve (12) month period as of the date of the Audit request. The Requesting Party may perform Examinations, as it deems necessary, with the assistance of the other Party, which will not be unreasonably withheld.
- 8.2. Upon thirty (30) Days written notice by the Requesting Party to Audited Party, Requesting Party shall have the right through its authorized representative to make an Audit, during normal business hours, of any records, accounts and

processes which contain information bearing upon the billing and invoicing of the services provided under this Agreement. Within the above-described thirty (30) Day period, the Parties shall reasonably agree upon the scope of the Audit or Examination, the documents and processes to be reviewed, and the time, place and manner in which the Audit or Examination shall be performed. Audited Party agrees to provide Audit or Examination support, including appropriate access to and use of Audited Party's facilities (e.g.: conference rooms, telephones, copying machines).

- 8.3. Each party shall bear its own expenses in connection with the conduct of the Audit or Examination. The reasonable cost of special data extraction required by the Requesting Party to conduct the Audit or Examination will be paid for by the Requesting Party. For purposes of this Section 8.3, a "Special Data Extraction" shall mean the creation of an output record or informational report (from existing data files) that is not created in the normal course of business. If any program is developed to Requesting Party's specifications and at Requesting Party's expense, Requesting Party shall specify at the time of request whether the program is to be retained by Audited Party for reuse for any subsequent Audit or Examination.
- 8.4. Adjustments based on the audit findings may be applied to the twelve (12) month period included in the audit. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) Days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such Audit or Examination and are agreed to by the Parties. Interest shall be calculated in accordance with Section 7.4 above.
- 8.5. Neither such right to examine and audit nor the right to receive an adjustment shall be affected by any statement to the contrary appearing on checks or otherwise, unless such statement expressly waiving such right appears in writing, is signed by the authorized representative of the Party having such right and is delivered to the other Party in a manner sanctioned by this Agreement.
- 8.6. This Section shall survive expiration or termination of this Agreement for a period of one (1) year after expiration or termination of this Agreement.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Intellectual property includes, without limitation, patent, copyright, trade mark, trade secrets, and other proprietary rights. Each Party grants to the other party a limited license to its intellectual property solely to the extent necessary for the use of any facility or equipment (including software) or for the receipt of services as provided under this Agreement. Except for such limited license to use its intellectual property, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel.

- 9.2. CLECINTRADO COMM acknowledges that its right under this Agreement for Local Interconnection with Embarq's network and to unbundled and/or combine Embarq's Network Elements may be subject to or limited by intellectual property rights and contract rights of third parties. Embarq agrees to use its best efforts to obtain for CLECINTRADO COMM, third party intellectual property rights, under commercially reasonable terms, to each unbundled Network Element necessary for CLECINTRADO COMM to use such unbundled Network Element in the same manner as Embarq.
- 9.3. Embarq shall have no obligations to attempt to obtain for CLECINTRADO COMM any third party intellectual property right(s) that would permit CLECINTRADO COMM to use any unbundled Network Element in a different manner than used by Embarq.
- 9.4. To the extent not prohibited by a contract with the vendor of the Network Element sought by CLECINTRADO COMM that contains intellectual property licenses, Embarq shall reveal to CLECINTRADO COMM the name of the vendor, the intellectual property rights licensed to Embarq under the vendor contract and the terms of the contract (excluding cost terms). Embarq shall, at CLECINTRADO COMM's request, contact the vendor to attempt to obtain permission to reveal additional contract details to CLECINTRADO COMM.
- 9.5. All costs associated with the extension of third party intellectual property rights to CLECINTRADO COMM pursuant to Section 9.2, including the cost of the license extension itself and the costs associated with the effort to obtain the license, shall be part of the cost of providing the unbundled Network Element to which the intellectual property rights relate and apportioned to all requesting CLECINTRADO COMM using that unbundled Network Element including Embarq.
- 9.6. Embarq hereby conveys no licenses to use such third party intellectual property rights and makes no warranties, express or implied, concerning CLECINTRADO COMM's rights with respect to such third party intellectual property rights and contract rights, including whether such rights will be violated by such Local Interconnection or unbundling and/or combining of Network Elements (including combining with CLECINTRADO COMM's use of other functions, facilities, products or services furnished under this Agreement). Any licenses or warranties for intellectual property rights associated with unbundled network elements are vendor licenses and warranties and are a part of the third party intellectual property rights Embarq agrees in Section 9.2 to use its best efforts to obtain.

10. LIMITATION OF LIABILITY [PENDING INTRADO COMM'S FURTHER REVIEW]

- 10.1. Neither Party, its parents, subsidiaries, affiliates, agents, servants or employees shall be liable for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, providing or failing to provide services or facilities

(including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of willful misconduct.

- 10.2. Notwithstanding the foregoing, in no event shall Embarq's liability to ~~CLECINTRADO COMM~~ for a service outage exceed an amount equal to the proportionate charge for the service(s) or unbundled element(s) provided for the period during which the service was affected.
- 10.3. Neither Party shall be responsible to the other for any indirect, special, consequential or punitive damages, including (without limitation) damages for loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted, or done hereunder (collectively "Consequential Damages"), whether arising in contract or tort except that the foregoing shall not limit a Party's obligation under Section 11 to indemnify, defend, and hold the other Party harmless against amounts payable to third parties.
- 10.4. EMBARQ SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF ~~CLECINTRADO COMM~~'S EQUIPMENT AND OTHER PREMISES ONLY TO THE EXTENT IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY EMBARQ'S SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.

11. INDEMNIFICATION [PENDING INTRADO COMM'S FURTHER REVIEW]

- 11.1. Each Party agrees to indemnify and hold harmless the other Party from and against claims by third parties for damage to tangible personal or real property and/or personal injuries to the extent caused by the negligence or willful misconduct or omission of the indemnifying Party.
- 11.2. ~~CLECINTRADO COMM~~ shall indemnify and hold harmless Embarq from all claims by ~~CLECINTRADO COMM~~'s subscribers.
- 11.3. Embarq shall indemnify and hold harmless ~~CLECINTRADO COMM~~ from all claims by Embarq's subscribers.
- 11.4. The indemnifying Party under this Section agrees to defend any suit brought against the other Party either individually or jointly with the indemnified Party for any such loss, injury, liability, claim or demand.
- 11.5. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which it is claimed that the indemnifying Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims.
- 11.6. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party of any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to

promptly assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.

- 11.7. When the lines or services of other companies and CLECINTRADO COMMs are used in establishing connections to and/or from points not reached by a Party's lines, neither Party shall be liable for any act or omission of the other companies or carriers.
- 11.8. In addition to its indemnity obligations hereunder, each Party shall, to the extent allowed by law or Commission Order, provide, in its tariffs and contracts with its subscribers that relate to any Telecommunications Services provided or contemplated under this Agreement, that in no case shall such Party or any of its agents, contractors or others retained by such Party be liable to any subscriber or third party for
 - 11.8.1. any loss relating to or arising out of this Agreement, whether in contract or tort, that exceeds the amount such Party would have charged the applicable subscriber for the service(s) or function(s) that gave rise to such loss, and
 - 11.8.2. Consequential Damages (as defined in Section 10 above).
- 11.9. If CLECINTRADO COMM has physical collocations under this Agreement, CLECINTRADO COMM shall also indemnify and hold Embarq harmless from any and all claims arising from:
 - 11.9.1 CLECINTRADO COMM's use of the Collocation Space;
 - 11.9.2 the conduct of CLECINTRADO COMM's business or from any activity, work or things done, permitted or suffered by CLECINTRADO COMM in or about the Collocation Space or elsewhere;
 - 11.9.3 any and all claims arising from any breach or default in the performance of any obligation on CLECINTRADO COMM's part to be performed under the terms of this Agreement; and
 - 11.9.4 any negligence of the CLECINTRADO COMM, or any of CLECINTRADO COMM's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
 - 11.9.5 If any action or proceeding is brought against Embarq by reason of any such claim, CLECINTRADO COMM, upon notice from Embarq, shall defend same at CLECINTRADO COMM's expense employing counsel satisfactory to Embarq.
- 11.10 ILEC shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments

arising directly or indirectly out of any use, occupancy or activity of CLECINTRADO COMM, or out of any work performed, material furnished, or obligations incurred by CLECINTRADO COMM in, upon or otherwise in connection with the Collocation Space. CLECINTRADO COMM shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLECINTRADO COMM's liability under this Section.

- 11.11 If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLECINTRADO COMM shall give Embarq written notice thereof as soon as CLECINTRADO COMM obtains such knowledge.
- 11.12 CLECINTRADO COMM shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and for the account of CLECINTRADO COMM, from obtaining such discharge and release if CLECINTRADO COMM fails or refuses to do the same within the thirty-day period.
- 11.13 If CLECINTRADO COMM has first discharged the lien as provided by law, CLECINTRADO COMM may, at CLECINTRADO COMM's expense, contest any mechanic's lien in any manner permitted by law.

12. INSURANCE [PENDING INTRADO COMM'S FURTHER REVIEW]

- 12.1. During the term of this Agreement, CLECINTRADO COMM shall carry, and shall cause any subcontractors to carry, with financially reputable insurers which are licensed to do business in all jurisdictions where any property is located, not less than the following insurance:
- 12.2. Commercial General Liability with limits of not less than \$1,000,000 combined single limit per occurrence and aggregate for bodily injury, property damage and personal and advertising injury liability insurance to include coverage for contractual and products/completed operations liability, naming Embarq as additional insured;
- 12.3. Business Auto liability, including all owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage liability, naming Embarq as additional insured;
- 12.4. Workers Compensation as provided for in the jurisdiction where the Property is located, with an Employer's Liability limit of not less than \$500,000 per accident or disease; and

- 12.5. Umbrella or excess liability in an amount not less than \$5,000,000 per occurrence and aggregate in excess of the above-referenced Commercial General, Business Auto and Employer's Liability, naming Embarq as additional insured; and
- 12.6. "All Risk" property insurance on a full replacement cost basis insuring CLECINTRADO COMM's property situated on or within the Property, naming Embarq as loss payee to the extent Embarq can demonstrate a financial interest in said property. CLECINTRADO COMM may elect to insure business interruption and contingent business interruption, as it is agreed that Embarq has no liability for loss of profit or revenues should an interruption of service occur.
- 12.7. ~~Nothing contained in this Section shall limit CLEC's liability to Embarq to the limits of insurance certified or carried.~~
- 12.8. All policies required of the CLECINTRADO COMM shall contain evidence of the insurer's waiver of the right of subrogation against Embarq for any insured loss covered thereunder with respect to property only. All policies of insurance for property shall be written as primary policies and not contributing with or in excess of the coverage, if any, that Embarq may carry.
- 12.9. CLECINTRADO COMM shall furnish to Embarq a certificate or certificates of insurance, satisfactory in form and content to Embarq, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled without first endeavoring to give ~~giving~~ at least thirty (30) Days prior written notice to Embarq.

13. BRANDING

- 13.1. CLECINTRADO COMM shall provide the exclusive interface to CLECINTRADO COMM subscribers, except as CLECINTRADO COMM shall otherwise specify for the reporting of trouble or other matters identified by CLECINTRADO COMM for which Embarq may directly communicate with CLECINTRADO COMM subscribers. In those instances where CLECINTRADO COMM requests that Embarq personnel interface with CLECINTRADO COMM subscribers, such Embarq personnel shall inform the CLECINTRADO COMM subscribers that they are representing CLECINTRADO COMM, or such brand as CLECINTRADO COMM may specify.
- 13.2. Other business materials furnished by Embarq to CLECINTRADO COMM subscribers shall bear no corporate name, logo, trademark or tradename.
- 13.3. Except as specifically permitted by a Party, in no event shall either Party provide information to the other Party's subscribers about the other Party or the other Party's products or services.
- 13.4. Embarq shall share pertinent details of Embarq's training approaches related to branding with CLECINTRADO COMM to be used by Embarq to assure that Embarq meets the branding requirements agreed to by the Parties.

- 13.5. This Section shall not confer on either Party any rights to the service marks, trademarks and/or trade names owned by or used in connection with services by the other Party, except as expressly permitted in writing by the other Party.

14. REMEDIES

- 14.1. Except as otherwise provided herein, all rights of termination, cancellation or other remedies prescribed in this Agreement, or otherwise available, are cumulative and are not intended to be exclusive of other remedies to which the injured Party may be entitled in case of any breach or threatened breach by the other Party of any provision of this Agreement, and use of one or more remedies shall not bar use of any other remedy for the purpose of enforcing the provisions of this Agreement.

15. CONFIDENTIALITY AND PUBLICITY

- 15.1. All information which is disclosed by one Party (“Disclosing Party”) to the other (“Recipient”) in connection with this Agreement, or acquired in the course of performance of this Agreement, shall be deemed confidential and proprietary to the Disclosing Party and subject to this Agreement, such information includes but is not limited to, orders for services, usage information in any form, and CPNI as that term is defined by the Act and the rules and regulations of the FCC (“Confidential Information”).
- 15.2. During the term of this Agreement, and for a period of five (5) year thereafter, Recipient shall
 - 15.2.1. use Confidential Information only for the purpose of performing under this Agreement,
 - 15.2.2. hold Confidential Information in confidence and disclose it only to employees or agents who have a need to know it in order to perform under this Agreement, and
 - 15.2.3. safeguard Confidential Information from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.
- 15.3. Recipient shall have no obligation to safeguard Confidential Information
 - 15.3.1. which was in the Recipient’s possession free of restriction prior to its receipt from Disclosing Party,
 - 15.3.2. which becomes publicly known or available through no breach of this Agreement by Recipient,
 - 15.3.3. which is rightfully acquired by Recipient free of restrictions on its Disclosure, or

- 15.3.4. -which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.
- 15.4. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, if the Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and the Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient will comply with any protective order that covers the Confidential Information to be disclosed.
- 15.5. Each Party agrees that in the event of a breach of this Section 15 by Recipient or its representatives, Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 15.6. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, symbols or words from which the other Party's name may reasonably be inferred or implied in any product, service, advertisement, promotion, or any other publicity matter, except that nothing in this paragraph shall prohibit a Party from engaging in valid comparative advertising. This Section 15.6 shall confer no rights on a Party to the service marks, trademarks and trade names owned or used in connection with services by the other Party or its Affiliates, except as expressly permitted by the other Party.
- 15.7. Neither Party shall produce, publish, or distribute any press release nor other publicity referring to the other Party or its Affiliates, or referring to this Agreement, without the prior written approval of the other Party. Each party shall obtain the other Party's prior approval before discussing this Agreement in any press or media interviews. In no event shall either Party mischaracterize the contents of this Agreement in any public statement or in any representation to a governmental entity or member thereof.
- 15.8. Except as otherwise expressly provided in this Section 15, nothing herein shall be construed as limiting the rights of either Party with respect to its customer information under any applicable law, including without limitation § 222 of the Act.

16. DISCLAIMER OF WARRANTIES

- 16.1. EXCEPT AS SPECIFICALLY PROVIDED ELSEWHERE IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO QUALITY, FUNCTIONALITY OR CHARACTERISTICS OF THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF

MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR STATEMENT MADE BY EITHER PARTY OR ANY OF ITS AGENTS OR EMPLOYEES, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, ANY SPECIFICATIONS, DESCRIPTIONS OR STATEMENTS PROVIDED OR MADE SHALL BE BINDING UPON EITHER PARTY AS A WARRANTY.

17. ASSIGNMENT AND SUBCONTRACT

- 17.1. If any Affiliate of either Party succeeds to that portion of the business of such Party that is responsible for, or entitled to, any rights, obligations, duties, or other interests under this Agreement, such Affiliate may succeed to those rights, obligations, duties, and interest of such Party under this Agreement. In the event of any such succession hereunder, the successor shall expressly undertake in writing to the other Party the performance and liability for those obligations and duties as to which it is succeeding a Party to this Agreement. Thereafter, the successor Party shall be deemed CLECINTRADO COMM or Embarq and the original Party shall be relieved of such obligations and duties, except for matters arising out of events occurring prior to the date of such undertaking.
- 17.2. Except as provided in Section 17.1, any assignment of this Agreement or of the work to be performed, in whole or in part, or of any other interest of a Party hereunder, without the other Party's written consent, which consent shall not be unreasonably withheld or delayed, shall be void.

18. GOVERNING LAW

- 18.1. This Agreement shall be governed by and construed in accordance with the Act, the FCC's Rules and Regulations and orders of the Commission, except insofar as state law may control any aspect of this Agreement, in which case the domestic laws of the Commission's state, without regard to its conflicts of laws principles, shall govern.

19. RELATIONSHIP OF PARTIES

- 19.1. It is the intention of the Parties that each Party shall be an independent contractor and nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other.

20. NO THIRD PARTY BENEFICIARIES

- 20.1. The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person, and this Agreement shall not provide any person not a party hereto with any remedy, claim, liability, reimbursement, right of action, or other right in excess of those existing without reference hereto. This shall not be construed to prevent CLECINTRADO COMM from providing its Telecommunications Services to other carriers.

21. NOTICES

- 21.1. Except as otherwise provided herein, all notices or other communication hereunder shall be deemed to have been duly given when made in writing and delivered in person or deposited in the United States mail, certified mail, postage prepaid, return receipt requested and addressed as follows:

If to "Customer":

Intrado Communications Inc.
Director – Regulatory Compliance
1601 Dry Creek Drive
Longmont, CO 80503

With a copy to:

If to Embargo:

Director - Wholesale Markets
 Embargo
 KSOPKB0401-413
 9300 Metcalf Avenue
 Overland Park, KS 66212

With a copy to:

- 21.2. If delivery, other than certified mail, return receipt requested, is used to give notice, a receipt of such delivery shall be obtained and the notice shall be effective when received. If delivery via certified mail, return receipt requested, is used, notice shall be effective when sent. The address to which notices or communications may be given to either Party may be changed by written notice given by such Party to the other pursuant to this Section.

22. WAIVERS

- 22.1. No waiver of any provisions of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed.
- 22.2. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.
- 22.3. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

23. SURVIVAL

- 23.1. 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 including but not limited to Sections 7, 8, 9, 10, 11, 15, 20, 22, and 25.

24. FORCE MAJEURE

24.1. Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, strikes, work stoppage affecting a supplier or unusually severe weather. No delay or other failure to perform shall be excused pursuant to this Section 24 unless delay or failure and consequences thereof are beyond the control and without the fault or negligence of the Party claiming excusable delay or other failure to perform. Subject to Sections 4.4, 5.2, 5.2, and 5.5 hereof, in the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delayed Party shall perform its obligations at a performance level no less than that which it uses for its own operations. In the event of such performance delay or failure by Embarq, Embarq agrees to resume performance in a nondiscriminatory manner and not favor its own provision of Telecommunications Services above that of ~~CLEC~~INTRADO COMM.

25. DISPUTE RESOLUTION

- 25.1. The Parties recognize and agree that the Commission has continuing jurisdiction to implement and enforce all terms and conditions of this Agreement, except those services in Part I (non-251 services). Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties cannot resolve, other than Part I (non-251 services), may be submitted to the Commission for resolution, in the manner provided for herein. The dispute resolution provisions of this Section shall not preclude the Parties from seeking relief available in any other forum.
- 25.2. A Party may not submit a dispute to the Commission for resolution unless at least sixty (60) Days have elapsed after the Party asserting the dispute has given written notice of such dispute to the other Party. Such notice must explain in reasonable detail the specific circumstances and grounds for each disputed item, which shall include the specific information required in Section 7.3 for billing disputes. If a Party gives notice of a billing dispute more than thirty (30) Days after the billing date and has not paid the disputed amounts by the payment due date, then the notice of such dispute shall be deemed to have been given thirty (30) Days after the billing date for purposes of calculating the time period before such dispute may be submitted to the Commission.
- 25.3. The Parties shall meet or confer as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the Parties, provided, however, that all reasonable requests for relevant, non-

privileged, information made by one Party to the other Party shall be honored, and provided that the following terms and conditions shall apply:

- 25.3.1. If Embarq provides written notice to the CLECINTRADO COMM that a billing dispute has been denied, stating the grounds for such determination, then the CLECINTRADO COMM shall have ten (10) Days in which to either pay the disputed amounts or to send written notice to the National Dispute Center advising that the CLECINTRADO COMM disagrees with the determination by Embarq, and such notice may be accompanied by any additional, relevant materials submitted by CLECINTRADO COMM. Failure by the CLECINTRADO COMM to make a timely response to a notice of denial by Embarq shall result in lifting the suspension of the payment due date for such disputed invoice, and the possible assessment of late charges and suspension or termination of service for non-payment of billed amount in accordance with Section 7.2.
- 25.3.2. Failure by the CLECINTRADO COMM to make a timely response to a notice of denial by Embarq shall also preclude the CLECINTRADO COMM from thereafter requesting an escalation of the same dispute under Section 25.4, although the CLECINTRADO COMM may file a petition in compliance with Section 25.5.
- 25.4. If the Parties are unable to resolve the dispute in the normal course of business within thirty (30) Days after delivery of notice of the Dispute, then upon the request of either Party, the dispute shall be escalated to other representatives of each Party that have authority to settle the dispute, and such escalation may be repeated every thirty (30) Days during which negotiations continue. Referral of a dispute by a Party to its legal counsel shall be considered an escalation for purposes of this paragraph.
- 25.5. If the Parties are unable to resolve the dispute within sixty (60) Days after delivery of the initial notice of the dispute, then either Party may file a petition or complaint with the Commission seeking resolution of the dispute. The petition or complaint shall include a statement that both Parties have agreed to request an expedited resolution by the Commission within sixty (60) Days from the date on which the petition or complaint was filed with the Commission.
- 25.6. If the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each Party shall pay half of the fees and expenses so incurred.
- 25.7. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement provided, however, that neither Party shall be required to act in any unlawful fashion.
- 25.8. A dispute which has been resolved by a written settlement agreement between the Parties or pursuant to a determination by the Commission may not be resubmitted under the dispute resolution process.

26. COOPERATION ON FRAUD

- 26.1. The Parties agree that they 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 unduly burden or harm one party as compared to the other.

27. TAXES [PENDING INTRADO COMM'S FURTHER REVIEW]

- 27.1. For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including Tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.
- 27.2. Taxes and Fees Imposed Directly On Either Providing Party or Purchasing Party.
- 27.2.1. Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.
- 27.2.2. Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.
- 27.3. Taxes and Fees Imposed on Purchasing Party but Collected And Remitted By Providing Party.
- 27.3.1. Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.
- 27.3.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 27.3.3. If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefore, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any

such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.

- 27.3.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
 - 27.3.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
 - 27.3.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
 - 27.3.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.
- 27.4. Taxes and Fees Imposed on Providing Party But Passed On To Purchasing Party.
- 27.4.1. Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
 - 27.4.2. To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
 - 27.4.3. If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such

tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.

- 27.4.4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 27.4.5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 27.4.6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorneys' fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 27.4.7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) Days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) Days after receipt of such assessment, proposed assessment or claim.
- 27.5. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.
- 27.6. To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. If Applicable Law excludes or exempts a purchase of services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party furnishes the providing Party with a letter or other evidence of exemption, reasonably satisfactory to the providing Party,

claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate. If the exemption is later found to be invalid by the applicable jurisdiction, then the purchasing Party shall pay any tax, interest and/or penalty that is determined to be due, and shall be responsible for any costs incurred by the providing Party, including but not limited to reasonable attorneys' fees.

28. AMENDMENTS AND MODIFICATIONS

28.1. No provision of this Agreement shall be deemed waived, amended or modified by either Party unless such a waiver, amendment or modification is in writing, dated, and signed by both Parties.

29. SEVERABILITY

29.1. Subject to Section 4.2, if any part of this Agreement is held to be invalid, void or unenforceable for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

30. HEADINGS NOT CONTROLLING

30.1. The headings and numbering of Sections and Parts in this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

31. ENTIRE AGREEMENT

31.1. This Agreement, including all Parts and subordinate documents attached hereto or referenced herein, all of which are hereby incorporated by reference herein, subject only to the terms of any applicable Tariff on file with the state Commission or the FCC, constitute the entire matter thereof, and supersede all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter thereof.

32. SUCCESSORS AND ASSIGNS

32.1. Subject to the terms of this Agreement, Embarq and ~~CLEC~~INTRADO COMM agree this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

33. IMPLEMENTATION PLAN

33.1. This Agreement sets forth the overall standards of performance for the services, processes, and systems capabilities that the Parties will provide to each other, and

the intervals at which those services, processes and capabilities will be provided. The Parties understand that the arrangements and provision of services described in this Agreement shall require technical and operational coordination between the Parties. Accordingly, the Parties agree to form a team (the "Implementation Team") which shall develop and identify those processes, guidelines, specifications, standards and additional terms and conditions necessary to support and satisfy the standards set forth in this Agreement and implement each Party's obligations hereunder.

- 33.2. Dispute Resolution. If the Implementation Team is unable to agree upon any of the matters to be included in the Implementation Plan, then either Party may invoke the procedures set forth in Part B Section 25.

34. FEDERAL JURISDICTIONAL AREAS

- 34.1. Article 1, § 8, Clause 17 of the United States Constitution provides the authority to Congress to exercise exclusive jurisdiction over areas and structures used for military purposes (Federal Enclaves). Thus, Telecommunications Services to such Federal Enclaves are not subject to the jurisdiction of the Commission. The Parties agree that Services provided within Federal Enclaves are not within the scope of this Agreement. To the extent Embarq has contracts with federal entities that limit or prohibit the ability of CLECINTRADO COMM to provide resale or UNEs such contract will govern Telecommunications Services on such Federal Enclave. If the contract with the federal entity provides for the resale or provision of UNEs to provide service on the Federal Enclave, Embarq will provide CLECINTRADO COMM with information regarding the provision of service on the Federal Enclave.

PART C – GENERAL PRINCIPLES

35. USE OF FACILITIES

35.1. In situations where a competitive LEC has the use of the facilities (*i.e.*, Local Loop) to a specific customer premise, either through resale of local service or the lease of the Local Loop as an Unbundled Network Element, and Embarq receives a good faith request for service from a customer at the same premise or from another carrier with the appropriate customer authorization, the procedures below will apply.

35.1.1. Embarq will process such orders and provision services consistent with the terms contained in Section ~~727271~~, of this Agreement.

35.1.2. Where ~~CLEC~~INTRADO COMM is using a single facility to provide service to multiple end user customers, Embarq will not disconnect that facility as a result of the following procedures.

35.1.3. Embarq will follow methods prescribed by the FCC and any applicable state regulation for carrier change verification.

35.1.4. Customer with Existing Service Changing Local Service Provider:

In situations where a competitive LEC submits an order for an end user customer that is changing local service providers for existing service, and is not adding service (*i.e.*, an additional line), Embarq will process the service request without delay, and provide the losing competitive LEC a customer loss notification consistent with industry standards.

35.1.5. Customer with Existing Service Adding New Service

In situations where an order is submitted for an end user customer adding service to existing service (*i.e.*, an additional line), the order should be marked as an additional line and existing facilities will not be affected.

35.1.6. Customer Requesting New Service where Previous Customer has Abandoned Service

(a) The following applies in the case where an end user customer vacates premises without notifying the local service provider and a new end user customer moves into the vacated premises and orders new service from a local service provider and neither Embarq nor the previous local service provider are aware that the original end user customer has abandoned the service in place.

(b) When a carrier requests service at a location and marks the order as abandoned and CLECINTRADO COMM is the

previous local service provider, Embarq shall notify CLECINTRADO COMM via fax that it has had a request for service at the premise location that is currently being served by CLECINTRADO COMM;

- (c) If available to Embarq, Embarq shall include the name and address of the party receiving service at such locations, but at a minimum shall provide local service address location information;
- (d) If CLECINTRADO COMM does not respond within twenty-four (24) hours (excluding weekends and holidays) after receiving Embarq's notification or if CLECINTRADO COMM responds relinquishing the facilities, Embarq shall be free to use the facilities in question and Embarq shall issue a disconnect order with respect to the CLECINTRADO COMM service at that location. If CLECINTRADO COMM responds stating that the service is working and should not be disconnected, Embarq will notify the carrier ordering service and request verification of the address and location or the submission of an order for an additional line.

36. PRICE SCHEDULE

36.1. All prices under this Agreement are set forth in the attachments designated Table One and Table Two of this Agreement are hereby incorporated into, and made a part of, this Agreement. If this Agreement provides for a service that does not have a corresponding rate in Table One or Table Two, or is not subject to Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~⁴², Embarq will develop a rate consistent with Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~⁴³.

36.2. Subject to the provisions of Part B, Section 4 of this Agreement, all rates provided under this Agreement shall remain in effect for the term of this Agreement.

36.3. Local Service Resale

The rates that CLECINTRADO COMM shall pay to Embarq for Local Resale are as set forth in Table One of this Agreement and shall be applied consistent with the provisions of Part D of this Agreement.

36.4. Unbundled Network Elements

The charges that CLECINTRADO COMM shall pay to Embarq for Unbundled Network Elements are set forth in Table One of this Agreement.

36.5. Collocation

The charges that CLECINTRADO COMM shall pay to Embarq for Collocation are set forth in Table Two of this Agreement.

36.6. Call Related Databases

The charges that CLECINTRADO COMM shall pay to Embarq for Call Related Databases purchased pursuant to Part J are set forth in Table One of this Agreement.

37. SECURITY DEPOSIT

- 37.1. Embarq reserves the right to secure the account with a suitable security deposit in the form and amounts set forth herein.
- 37.2. Security deposits shall take the form of cash or cash equivalent, an irrevocable letter of credit or other form of security acceptable to Embarq.
- 37.3. If a security deposit is required on a new account, CLECINTRADO COMM will remit such security deposit prior to inauguration of service. If a security deposit is requested for an existing account, payment of the security deposit will be made prior to acceptance by Embarq of additional orders for service.
- 37.4. Security deposits shall be in an amount equal to two (2) months' estimated billings as calculated by Embarq, or twice the most recent month's invoices from Embarq for existing accounts. All security deposits will be subject to a minimum deposit level of \$10,000.
- 37.5. The fact that a security deposit has been made in no way relieves CLECINTRADO COMM from complying with Embarq's regulations as to advance payments and the prompt payment of bills on presentation, nor is it a waiver or modification of the regular practices of Embarq for the discontinuance of service for non-payment of any sums due Embarq.
- 37.6. Embarq may increase the security deposit requirements when gross monthly billing has increased beyond the level initially used to determine the security deposit. If payment of the additional security deposit amount is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLECINTRADO COMM will be considered in breach of the Agreement.
- 37.7. Any security deposit shall be held by Embarq as a guarantee of payment of any charges for services billed to CLECINTRADO COMM pursuant to this Agreement or in connection with any other services provided to CLECINTRADO COMM by Embarq. Embarq may exercise its right to credit any cash deposit to CLECINTRADO COMM's account, or to demand payment from the issuing bank or bonding company of any irrevocable bank letter of credit, upon the occurrence of any one of the following events:
 - 37.7.1. when CLECINTRADO COMM's undisputed balances due to Embarq are more than thirty (30) Days past due; or
 - 37.7.2. when CLECINTRADO COMM files for protection under the bankruptcy laws; or

- 37.7.3. when an involuntary petition in bankruptcy is filed against CLECINTRADO COMM and is not dismissed within sixty (60) Days;
 - 37.7.4. when this Agreement expires or terminates;
 - 37.7.5. any letter of credit issued hereunder or any bank issuing a letter of credit hereunder (each, a “Letter of Credit Bank”) fails to meet the terms, conditions, and requirements set forth below in this Section; ; or
 - 37.7.6. CLECINTRADO COMM fails to provide Embarq with a replacement letter of credit on the terms set forth herein at least ten (10) Business Days prior to the expiration of any letter of credit issued to Embarq hereunder.
- 37.8. If any security deposit held by Embarq is applied as a credit toward payment of CLECINTRADO COMM’s balances due to Embarq, then Embarq may require the CLECINTRADO COMM to provide a new deposit. If payment of the new deposit is not made within thirty (30) Days of the request, Embarq may stop processing orders for service and CLECINTRADO COMM will be considered in breach of the Agreement.
- 37.9. Any security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service. No interest will accrue or be paid on deposits.
- 37.10. Any letter of credit issued to Embarq hereunder must meet the following requirements:
- 37.10.1. The bank issuing any letter of credit hereunder (the “Letter of Credit Bank”) must maintain a minimum credit rating of A (by Standard & Poor’s) or A2 (by Moody’s). If CLECINTRADO COMM proposes that the letter of credit be issued by a bank that is not so rated by Standard & Poor’s or Moody’s, then CLECINTRADO COMM must obtain the prior written approval by Embarq to use such bank as the Letter of Credit Bank.
 - 37.10.2. The original letter of credit shall be in such form and on terms that are acceptable to Embarq and must include an automatic one-year renewal extension.
 - 37.10.3. If CLECINTRADO COMM receives notice from the Letter of Credit Bank of any non-renewal of a letter of credit issued hereunder, then CLECINTRADO COMM shall promptly notify Embarq of such notice of non-renewal. Not later than ten (10) Business Days prior to the expiration of the letter of credit, CLECINTRADO COMM shall provide Embarq a replacement letter of credit on substantially identical terms to the existing letter of credit (or such other terms as are acceptable to Embarq). If CLECINTRADO COMM provides a replacement letter of credit not later than 10 Business Days prior to the expiration of the expiring letter of credit, then Embarq shall not make

a drawing under the expiring letter of credit. Upon receipt of a replacement letter of credit meeting the requirements set forth in this Agreement, Embarq will provide the original, expiring letter of credit to CLECINTRADO COMM.

- 37.10.4. If CLECINTRADO COMM desires to replace any letter of credit issued to Embarq hereunder, whether due to non-renewal or otherwise, each such replacement letter of credit and the Letter of Credit Bank issuing such replacement letter of credit must meet the terms, conditions and requirements set forth in this Section.

PART D – LOCAL RESALE**38. TELECOMMUNICATIONS SERVICES PROVIDED FOR RESALE**

38.1. At the request of CLECINTRADO COMM, and pursuant to the requirements of the Act, and FCC and Commission Rules and Regulations, Embarq shall make available to CLECINTRADO COMM for resale Telecommunications Services that Embarq currently provides or may provide hereafter at retail to subscribers who are not Telecommunications Carriers. Such resale may be as allowed by the FCC and Commission. The Telecommunications Services provided by Embarq to CLECINTRADO COMM pursuant to this Part D are collectively referred to as "Local Resale." To the extent that this Part describes services which Embarq shall make available to CLECINTRADO COMM for resale pursuant to this Agreement, this list of services is neither all inclusive nor exclusive.

39. GENERAL TERMS AND CONDITIONS

39.1. The prices charged to CLECINTRADO COMM for Local Resale are the Embarq Tariff retail prices, discounted as set forth in Part C of this Agreement.

39.1.1. Voluntary Federal and State Subscriber Financial Assistance Programs. Subsidized local Telecommunications Services are provided to low-income subscribers pursuant to requirements established by the appropriate state regulatory body, and include programs such as Voluntary Federal Subscriber Financial Assistance Program and Link-Up America. Voluntary Federal and State Subscriber Financial Assistance Programs are not Telecommunications Services that are available for resale under this Agreement.

39.1.2. Embarq shall offer for resale to CLECINTRADO COMM all Grandfathered Services solely for the existing grandfathered base on a customer specific basis. Embarq shall make reasonable efforts to provide CLECINTRADO COMM with advance copy of any request for the termination of service and/or grandfathering to be filed by Embarq with the Commission.

39.1.3. Embarq shall offer for resale all of its Telecommunications Services available at retail to subscribers who are not Telecommunications Carriers, including but not limited to Contract Service Arrangements (or ICB), Special Arrangements (or ICB), and Promotions in excess of ninety (90) Days, all in accordance with FCC and Commission Rules and Regulations. For Contract Service Arrangements, Special Arrangements, or ICBs, the end-user customer's agreement with Embarq will terminate and any applicable termination liabilities will be charged to the end-user customer. The terms of the Contract Service Arrangement, Special Arrangement or ICB will apply commencing on the date CLECINTRADO COMM commences to provide service to the

end-user customer and ending on the end date of the Contract Service Arrangement, Special Arrangement or ICB. Embarq will apply the rate in the Contract Service Arrangement, Special Arrangement or ICB in accordance with Section 39.1.

- 39.1.4. Customer Owned Coin Operated Telephone (COCOT) or Pay Telephone Access lines will not be resold to payphone service providers at wholesale prices under this Agreement.
- 39.1.5. For Telecommunications Services that are offered by Embarq to its end users and that are available for resale, the rules and regulations associated with Embarq's retail Tariff(s) shall apply when the services are resold by ~~CLECINTRADO~~ COMM. Use limitations shall be in Parity with services offered by Embarq to its end users.
- 39.1.6. Except as set forth above and as may be allowed by the FCC or Commission, Embarq shall not place conditions or restrictions on ~~CLECINTRADO~~ COMM's resale of wholesale regulated Telecommunications Services, except for restrictions on the resale of residential service to other classifications (e.g., residential service to business customers) and for promotions of ninety (90) Days or less in length. In addition, ~~CLECINTRADO~~ COMM shall be prohibited from marketing its products using the Embarq product name (e.g., ~~CLECINTRADO~~ COMM may purchase the features package called "Embarq Essential" but shall be prohibited from reselling this product using the Embarq brand name or the Embarq product name). Every regulated retail service rate, including promotions over ninety (90) Days in length, discounts, and option plans will have a corresponding wholesale rate. Embarq will make wholesale Telecommunications Service offerings available for all new regulated services at the same time the retail service becomes available.
- 39.1.7. Voice Mail Service is not a Telecommunications Service available for resale under this Agreement. However, where available, Embarq shall make available for Local Resale the SMDI-E (Station Message Desk Interface-Enhanced), or SMDI (Station Message Desk Interface) where SMDI-E is not available, feature capability allowing for Voice Mail Services. Embarq shall make available the MWI (Message Waiting Indicator) interrupted dial tone and message waiting light feature capabilities where technically available. Embarq shall make available CF-B/DA (Call Forward on Busy/Don't Answer), CF/B (Call Forward on Busy), and CF/DA (Call Forward Don't Answer) feature capabilities allowing for Voice Mail services. Where available, ~~CLECINTRADO~~ COMM may purchase Voice Mail Service and related services for its end users at Embarq's retail rates.
- 39.1.8. Hospitality Service. Embarq shall provide all blocking, screening, and all other applicable functions available for hospitality lines under tariff.

39.1.9. LIDB Administration

- (a) Embarq shall maintain customer information for ~~CLECINTRADO~~ COMM customers who subscribe to resold Embarq local service dial tone lines, in Embarq's LIDB in the same manner that it maintains information in LIDB for its own similarly situated end-user subscribers. Embarq shall update and maintain the ~~CLECINTRADO~~ COMM information in LIDB on the same schedule that it uses for its own similarly situated end-user subscribers.
- (b) Until such time as Embarq's LIDB has the software capability to recognize a resold number as ~~CLECINTRADO~~ COMM's, Embarq shall store the resold number in its LIDB at no charge and shall retain revenue for LIDB look-ups to the resold number.

39.1.10. Embarq will continue to provide Primary Interexchange Carrier ("PIC") processing for end-users obtaining resold service from ~~CLECINTRADO~~ COMM. Embarq will bill and ~~CLECINTRADO~~ COMM will pay any PIC change charges. Embarq will only accept said requests for PIC changes from ~~CLECINTRADO~~ COMM and not from ~~CLECINTRADO~~ COMM's end users.

PART E – UNBUNDLED NETWORK ELEMENTS

40. GENERAL

- 40.1. Pursuant to the following terms, Embarq will unbundle and separately price and offer Unbundled Network Elements (“UNEs”). CLECINTRADO COMM shall pay Embarq each month for the UNEs provisioned, and shall pay the non-recurring charges listed in Table One or agreed to by the Parties. It is CLECINTRADO COMM’s obligation to combine Embarq-provided UNEs with any facilities and services that CLECINTRADO COMM may itself provide.

41. USE OF UNBUNDLED NETWORK ELEMENTS

- 41.1. Embarq shall offer UNEs to CLECINTRADO COMM for the purpose of offering Telecommunications Service to CLECINTRADO COMM subscribers. Embarq shall offer UNEs to CLECINTRADO COMM on an unbundled basis on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of this Agreement.
- 41.2. CLECINTRADO COMM may use one or more UNEs to provide any feature, function, capability, or service option that such UNE(s) is (are) technically capable of providing, except as otherwise limited herein. Except as provided elsewhere in this Agreement, it is CLECINTRADO COMM’s obligation to combine Embarq provided UNEs with any and all facilities and services whether provided by Embarq, CLECINTRADO COMM, or any other party. CLECINTRADO COMM may Commingle UNEs with Wholesale Services or Tariffed access services obtained from Embarq as provided for in this Agreement.
- 41.3. Each UNE provided by Embarq to CLECINTRADO COMM shall be at Parity with the quality of design, performance, features, functions, capabilities and other characteristics, that Embarq provides to itself, Embarq’s own subscribers, to an Embarq Affiliate or to any other Telecommunications Carrier requesting access to that UNE.
- 41.4. CLECINTRADO COMM may use Network Elements provided under this Agreement for any Telecommunications Service subject to the conditions listed below. By placing an order for UNEs, CLECINTRADO COMM certifies that these requirements are met.
- 41.4.1. Any combination of the following, where both are provided by Embarq, are subject to the EEL use restrictions in Section 53. Such restrictions apply irrespective of the manner in which the loops and transport are combined
- (a) high capacity loops (DS1, DS3), to the extent available, and special access transport (a commingled facility); or

- (b) special access channel terminations (DS1, DS3) and Dedicated Transport (DS1, DS3), to the extent available (a commingled facility), or
- (c) high capacity loops (DS1, DS3) and Dedicated Transport (DS1, DS3).

41.4.2. ~~CLECINTRADO COMM~~ may not order or use a UNE for the exclusive provision of Mobile Wireless Service. Facilities connecting Embarq's network and CMRS carriers' networks do not qualify as UNEs and will not be available to ~~CLECINTRADO COMM~~ as UNEs.

41.4.3. ~~CLECINTRADO COMM~~ may not order or use a UNE for the exclusive provision of Interexchange Services (*i.e.*, interLATA or intraLATA long distance). Facilities connecting Embarq's network and interexchange carriers' networks used by the interexchange carrier to exclusively provide such services to end users do not qualify as UNEs and will not be available to ~~CLECINTRADO COMM~~ as UNE.

41.4.4. ~~CLECINTRADO COMM~~ must use any UNE purchased from Embarq for the purpose of providing eligible telecommunications services (not exclusively Mobile Wireless Service or Interexchange Services). ~~CLECINTRADO COMM~~ may use a UNE for the provision of Interexchange Services, Mobile Wireless Service, or Information Services, if ~~CLECINTRADO COMM~~ is also providing an eligible telecommunications service over the same UNE. ~~CLECINTRADO COMM~~ may not order or use a UNE for the sole purpose of selling it to another carrier for the exclusive provision of Mobile Wireless Service or Interexchange Services.

41.4.5. An Information Service is not an eligible telecommunications service except that ~~CLECINTRADO COMM~~ can use unbundled loops to provide xDSL services in accordance with this Agreement.

42. BONA FIDE REQUEST PROCESS

42.1. Embarq shall promptly consider and analyze ~~CLECINTRADO COMM~~ requests for unbundled Network Elements included in this Agreement that are not currently developed by Embarq, network information that is reasonably required to determine what unbundled Network Elements it needs to serve a particular customer or development of and changes to Embarq work processes related to ordering, provisioning or installation of unbundled Network Elements with the submission of a Bona Fide Request ("BFR") hereunder.

42.2. A BFR shall be submitted in writing on the Embarq Standard BFR Form and shall include a clear technical description of each request.

- 42.3. CLECINTRADO COMM may cancel a BFR at any time, but shall pay all reasonable and demonstrable costs of processing and/or implementing the BFR up to the date of cancellation.
- 42.4. Within ten (10) Days of its receipt, the Embarq shall acknowledge receipt of the BFR.
- 42.5. Except under extraordinary circumstances, within thirty (30) Days of its receipt of a BFR, the Embarq shall provide to CLECINTRADO COMM a preliminary analysis of such BFR.
- 42.6. Upon receipt of the preliminary analysis, CLECINTRADO COMM shall, within thirty (30) Days, notify Embarq, in writing, of its intent to proceed or not to proceed.
- 42.7. Embarq shall promptly proceed with the BFR upon receipt of written authorization from CLECINTRADO COMM. When it receives such authorization, Embarq shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals.
- 42.8. As soon as feasible, but not more than ninety (90) Days after its receipt of authorization to proceed with developing the BFR, Embarq shall provide to CLECINTRADO COMM a BFR Quote which will include, at a minimum, a description of each service, the availability, the applicable rates and the installation intervals.
- 42.9. Within thirty (30) Days of its receipt of the BFR Quote, CLECINTRADO COMM must either confirm, in writing, its order for the BFR pursuant to the BFR Quote or if a disagreement arises, seek resolution of the dispute under the Dispute Resolution procedures in Part B of this Agreement.
- 42.10. If a Party to a BFR believes that the other Party is not requesting, negotiating or processing the BFR in good faith, or disputes a determination, or price or cost quote, such Party may seek resolution of the dispute pursuant to the Dispute Resolution provisions in Part B of this Agreement.

43. INDIVIDUAL CASE BASIS PRICING

- 43.1. Individual Case Basis (ICB) pricing will be provided by Embarq upon request from the CLECINTRADO COMM for customer specific rates or terms for network services and features for UNEs that are not otherwise provided for in this Agreement.
- 43.2. Embarq will process ICB Pricing requests upon receipt from the CLECINTRADO COMM. Embarq will provide CLECINTRADO COMM a price quote within thirty (30) Business Days from the receipt of the request. Price quote intervals may vary depending upon the complexity of the request but shall not exceed thirty (30) Business Days from the receipt of the request.

44. NETWORK INTERFACE DEVICE

- 44.1. Embarq will offer unbundled access to the network interface device element (NID). The NID is defined as any means of interconnection of end-user customer premises wiring to an incumbent LEC's distribution plant, such as a cross connect device used for that purpose. This includes all features, functions, and capabilities of the facilities used to connect the loop to end-user customer premises wiring, regardless of the specific mechanical design.
- 44.2. The function of the NID is to establish the network demarcation point between a LEC (ILEC/~~CLEC~~INTRADO COMM) and its subscriber. The NID provides a protective ground connection, protection against lightning and other high voltage surges and is capable of terminating cables such as twisted pair cable.
- 44.3. ~~CLEC~~INTRADO COMM may connect its NID to Embarq's NID; may connect an unbundled loop to ~~CLEC~~INTRADO COMM's NID; or may connect ~~CLEC~~INTRADO COMM's own Loop to Embarq's NID, except that ~~CLEC~~INTRADO COMM may not disconnect Embarq's loop and leave it disconnected from Embarq's NID. Embarq will provide one NID termination with each loop. If additional NID terminations are required, ~~CLEC~~INTRADO COMM may request them pursuant to the process detailed in the Bona Fide Request Section herein.
- 44.4. Embarq will provide ~~CLEC~~INTRADO COMM with information that will enable their technician to locate end user inside wiring at NIDs terminating multiple subscribers. Embarq will dispatch a technician and tag the wiring at the ~~CLEC~~INTRADO COMM's request. In such cases the charges specified in Table One will apply.
- 44.5. Embarq will not provide specialized (Embarq non-standard) NIDS.
- 44.6. The Embarq NID shall provide a clean, accessible point of connection for the inside wiring and for the distribution media and/or cross connect to ~~CLEC~~INTRADO COMM's NID and shall maintain a connection to ground that meets applicable industry standards. Each Party shall ground its NID independently of the other party's NID.
- 44.7. When requested, Embarq will provide NIDs separately from loops for a separate price as shown in Table One. A NID will be provided with each unbundled loop and is included in the loop pricing shown in Table One.

45. LOOP

- 45.1. Embarq will provide ~~CLEC~~INTRADO COMM access to Local Loops, including Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops. The following section includes the terms and conditions for Copper Loops, DS1 Loops, DS3 Loops, Hybrid Loops, FTTC Loops and FTTH Loops. Terms and conditions for making any network modifications resulting from ~~CLEC~~INTRADO COMM's request for Local Loops are contained in

Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~54.

- 45.2. At CLECINTRADO COMM's request, and if Technically Feasible, Embarq will test and report trouble on conditioned loops for all of the line's features, functions, and capabilities, and will not restrict its testing to voice-transmission only. Testing shall include Basic Testing and Cooperative Testing. Optional Cooperative Testing and Joint Testing are performed only at CLECINTRADO COMM's request. To the extent CLECINTRADO COMM requests testing that would require Embarq to purchase new equipment, establish new procedures, or make systems modifications, CLECINTRADO COMM will compensate Embarq for costs incurred to provide such testing. Request for additional testing must be submitted pursuant to the BFR Process in Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~42.
- 45.2.1. Basic Testing shall include simple metallic measurements only. Basic Testing does not include cooperative or joint testing efforts that require Embarq's technician to work jointly with CLECINTRADO COMM's staff ("Cooperative Testing" or "Joint Testing").
- 45.2.2. Cooperative testing is provided on service order activity only and will be provided by Embarq at CLECINTRADO COMM's expense. Embarq technicians will try to contact CLECINTRADO COMM's representative at the conclusion of installation. If the CLECINTRADO COMM does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLECINTRADO COMM's representative, and bill the CLECINTRADO COMM in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLECINTRADO COMM will be charged for the test and any additional technician time involved.
- 45.2.3. Joint Testing is provided on maintenance activity only and will be provided by Embarq at CLECINTRADO COMM's expense, when requested. Embarq technicians will try to contact CLECINTRADO COMM's representative to initiate Joint Testing after completing the requested activity. If the CLECINTRADO COMM does not respond within three (3) minutes, Embarq may, in its sole discretion, continue its attempts to contact the CLECINTRADO COMM's representative, and bill the CLECINTRADO COMM in increments of 15 minutes for the technician's time for so long as such efforts continue, or Embarq may abandon the test and CLECINTRADO COMM will be charged for the test and any additional technician time involved. Loops involving multiplexing prohibit the reading of a short.
- 45.2.4. Embarq will charge CLECINTRADO COMM at the rates set out on Table One, when the location of the trouble on a CLECINTRADO COMM-reported ticket is determined to be in CLECINTRADO COMM

COMM's network or on the CLECINTRADO COMM end user's side of the Demarcation Point.

45.3. Analog Loop Capabilities

- 45.3.1. Analog loops facilitate the transmission of voice grade signals in the 300-3000 Hz range and terminate in a 2-wire or 4-wire electrical interface at the CLECINTRADO COMM's end user's premises. CLECINTRADO COMM shall not install equipment on analog Loops that exceeds the specified bandwidth.
- 45.3.2. Embarq will provide analog Loops as Copper Loops, Hybrid Loops, and where required, FTTH Loops and FTTC Loops, based on available facilities.

45.4. Digital Loops

- 45.4.1. Embarq will provide digital Loops on the basis of the service that will be provisioned over the Loop. Digital Loops are Copper Loops over which CLECINTRADO COMM may deploy advanced services. Deployment of advanced services over digital loops by CLECINTRADO COMM will be consistent with the terms and conditions contained in Section 45.8. On digital Loops, Embarq will only provide electrical continuity and line balance.
- 45.4.2. Embarq shall employ industry accepted standards and practices to maximize binder group efficiency through analyzing the interference potential of each loop in a binder group, assigning an aggregate interference limit to the binder group, and then adding loops to the binder group until that limit is met. Disputes regarding the standards and practices employed in this regard shall be resolved through the Dispute Resolution Process set forth in Part B of this Agreement.
- 45.4.3. Reverse ADSL Loops. If a CLECINTRADO COMM's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the subscriber, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to ADSL transmission only and not part of Embarq's regular feeder or distribution plant.

45.5. Non-Standard Digital Loops

- 45.5.1. If CLECINTRADO COMM requests a digital Loop, for which the effective loop length exceeds the xDSL standard of 18 kft (subject to gauge design used in an area), Embarq will only provide a Non-Standard Digital Loop. Additional non-recurring charges for conditioning will apply. Non-Standard Digital Loops will not be subject to performance

measurements or technical specifications, however, all of the SMC requirements set forth in Section 45.4 are applicable.

45.6. DS1 Loops

- 45.6.1. Subject to the cap in Section 45.6.2, Embarq will provide CLECINTRADO COMM nondiscriminatory access to a DS1 Loop on an unbundled basis to any building not served by a Wire Center with at least 60,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS1 loop unbundling will be required in that wire center. DS1 loops include, but are not limited to, two-wire and four-wire Copper Loops capable of providing high-bit rate digital subscriber line services, including T1 services. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.
- 45.6.2. CLECINTRADO COMM may obtain a maximum of ten unbundled DS1 loops to any single building in which DS1 loops are available as unbundled loops.
- 45.6.3. Where Embarq is not required to provide unbundled DS1 loops pursuant to Sections 45.6.1 and 45.6.2, CLECINTRADO COMM may not obtain new DS1 loops as UNEs.
- 45.6.4. Any DS1 loops that CLECINTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.6.1 and 45.6.2, are subject to the following:
 - (a) Such DS1 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert the DS1 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Loops to comparable access services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - (b) Any service provided to CLECINTRADO COMM by Embarq after 03/10/06 over DS1 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such facilities
 - (c) Any service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 over such DS1 Loops that CLECINTRADO COMM placed in service prior to 03/11/05 shall

be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.

45.6.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the DS1 Loop threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS1 loops for the identified wire centers after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a wire center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS1 loops leased from Embarq within an identified Wire Center on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

(a) CLECINTRADO COMM must submit the necessary orders to convert such DS1 Loops to an alternative service arrangement within six (6) months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned the UNEs to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders before the end of the six (6) month period, Embarq will convert the DS1 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

45.7. DS3 Loops

45.7.1. Subject to the cap described in Section 45.7.2, Embarq shall provide CLECINTRADO COMM with nondiscriminatory access to a DS3 loop on an unbundled basis to any building not served by a Wire Center with at least 38,000 Business Lines and at least four Fiber-based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS3 loop unbundling will be required in that Wire Center. The Wire Centers that meet these requirements as of the date of this Agreement are listed on Exhibit A.

45.7.2. CLECINTRADO COMM may obtain a maximum of a single unbundled DS3 loop to any single building in which DS3 loops are available as unbundled loops.

- 45.7.3. Where Embarq is not required to provide unbundled DS3 loops pursuant to Sections 45.7.1 and 45.7.2, CLECINTRADO COMM may not obtain new DS3 loops as UNEs.
- 45.7.4. Any DS3 loop UNEs that CLECINTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.7.1 and 45.7.2, are subject to the following:
- (a) Such DS3 Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert the DS3 Loops to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Loops to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - (b) Any service provided to CLECINTRADO COMM by Embarq after 03/10/06 over DS3 Loops that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such facilities.
 - (c) Any service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 over such DS3 Loops that CLECINTRADO COMM placed in service prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such DS1 Loops immediately prior to such period.
- 45.7.5. If Embarq identifies Wire Centers in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS3 loops for the identified wire centers after 90 Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a wire center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS3 loops leased from Embarq on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.
- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS3 Loops to an alternative service arrangement within six months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned

the UNEs to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders by the end of the six (6) month period, Embarq will convert the DS3 Loops to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

45.8. Adherence to National Industry Standards

- 45.8.1. In providing advanced service loop technology, Embarq shall allow CLECINTRADO COMM to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.
- 45.8.2. Until long term industry standards and practices can be established, a particular technology shall be presumed acceptable for deployment under certain circumstances. Deployment that is consistent with at least one of the following circumstances presumes that such loop technology will not significantly degrade the performance of other advanced services or impair traditional analog circuit-switched voice band services:
 - (a) Complies with existing industry standards, including an industry-standard PSD mask, as well as modulation schemes and electrical characteristics;
 - (b) Is approved by an industry standards body, the FCC, or any state commission or;
 - (c) Has been successfully deployed by any CLECINTRADO COMM without significantly degrading the performance of other services.
- 45.8.3. Where CLECINTRADO COMM seeks to establish that deployment of a technology falls within the presumption of acceptability under Section 45.8.2, the burden is on CLECINTRADO COMM to demonstrate to the Commission that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services.
- 45.8.4. If a deployed technology significantly degrades other advanced services, the affected Party will notify the interfering party and give them a reasonable opportunity to correct the problem. The interfering Party will immediately stop any new deployment until the problem is resolved to mitigate disruption of other carrier services. If the affected parties are unable to resolve the problem, they will present factual evidence to the Commission for review and determination. If the Commission determines that the deployed technology is the cause of the interference,

the deploying party will remedy the problem by reducing the number of existing customers utilizing the technology or by migrating them to another technology that does not disturb.

- 45.8.5. When the only degraded service itself is a known disturber and the newly deployed technology is presumed acceptable pursuant to Section 45.8.2, the degraded service shall not prevail against the newly deployed technology.
- 45.8.6. If Embarq denies a request by CLECINTRADO COMM to deploy a technology, it will provide detailed, specific information providing the reasons for the rejection.
- 45.8.7. Parties agree to abide by national standards as developed by ANSI, i.e., Committee T1E1.4 group defining standards for loop technology. At the time the deployed technology is standardized by ANSI or the recognized standards body, the CLECINTRADO COMM will upgrade its equipment to the adopted standard within sixty (60) Days of the standard being adopted.
- 45.8.8. CLECINTRADO COMM shall meet the power spectral density requirement given in the respective technical references listed below:
 - (a) For Basic Rate ISDN: Telcordia TR-NWT-000393 Generic Requirements for ISDN Basic Access Digital Subscriber Lines.
 - (b) For HDSL installations: Telcordia TA-NWT-001210 Generic Requirements for High-Bit-Rate Digital Subscriber Lines. Some fractional T1 derived products operating at 768 kbps may use the same standard.
 - (c) For ADSL: ANSI T1.413-1998 (Issue 2 and subsequent revisions) Asymmetrical Digital Subscriber Line (ADSL) Metallic Interface.
 - (d) As an alternative to Section 45.8.8, CLECINTRADO COMM may meet the requirements given in ANSI document T1E1.4/2000-002R2 dated May 1, 2000. "Working Draft of Spectrum Management Standard" and subsequent revisions of this document.
- 45.9. Information to be Provided for Deployment of Advanced Services
 - 45.9.1. Upon request, Embarq shall provide to CLECINTRADO COMM:
 - (a) information with respect to the spectrum management procedures and policies that Embarq uses in determining which services can be deployed;
 - (b) information with respect to the rejection of CLECINTRADO COMM's provision of advanced services, together with the specific reason for the rejection; and

- (c) information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops.

45.9.2. In connection with the provision of advanced services, CLECINTRADO COMM shall provide to Embarq the following information on the type of technology that CLECINTRADO COMM seeks to deploy where CLECINTRADO COMM asserts that the technology it seeks to deploy fits within a generic Power Spectral Density (PSD) mask:

- (a) information in writing (via the service order) regarding the Spectrum Management Class (SMC), as defined in the T1E1.4/2000-002R2 Draft, of the desired loop so that the loop and/or binder group may be engineered to meet the appropriate spectrum compatibility requirements;
- (b) the SMC (*i.e.*, PSD mask) of the service it seeks to deploy, at the time of ordering and if CLECINTRADO COMM requires a change in the SMC of a particular loop, CLECINTRADO COMM shall notify Embarq in writing of the requested change in SMC (via a service order);
- (c) to the extent not previously provided CLECINTRADO COMM must disclose to Embarq every SMC that the CLECINTRADO COMM has implemented on Embarq's facilities to permit effective Spectrum Management.

45.10. Hybrid Loops. Embarq will provide CLECINTRADO COMM access to Hybrid Loops for the provision of narrowband services as provided below. Embarq is not required to provide unbundled access to the packet switched features, functions, and capabilities of its Hybrid Loops.

45.10.1. When CLECINTRADO COMM requests access to a Hybrid Loop for the provision of narrowband services, Embarq will

- (a) Provide non-discriminatory unbundled access to the entire Hybrid Loop capable of providing voice-grade service (*i.e.*, equivalent to DS0 capacity) using time division multiplexing, or
- (b) Provide non-discriminatory unbundled access to a spare Copper Loop serving that end-user.

45.11. Fiber Loops

45.11.1. Dark Fiber Loops

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq that has not

been activated through connections to optronics that light it, and thereby render it capable of carrying communications.

- (b) Embarq is not required to provide ~~CLEC~~INTRADO COMM with access to Drk Fiber Loop on an unbundled basis.
- (c) Any Dark Fiber Loop that ~~CLEC~~INTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 45.11 shall be subject to the following:
 - (i) Such Dark Fiber Loops must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLEC~~INTRADO COMM fails to submit the necessary orders to convert such Dark Fiber Loops to an alternative service arrangement within such thirty (30) Day period, Embarq will have the right to disconnect such Dark Fiber Loops.
 - (ii) Any service provided by Embarq to ~~CLEC~~INTRADO COMM over Dark Fiber Loops between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber Loops immediately prior to that period, and any service provided by Embarq to ~~CLEC~~INTRADO COMM over Dark Fiber Loops after 09/05/06 and prior to such conversion or disconnection shall be billed at applicable rates for comparable access services based on the capacity of the electronics deployed by the ~~CLEC~~INTRADO COMM in connection with such Dark Fiber Loops.

45.12. FTTH and FTTC Fiber Loops

- 45.12.1. New builds. Embarq will not provide non-discriminatory access to FTTH Loop or a FTTC Loop on an unbundled basis when Embarq has deployed a FTTH or FTTC Loop to an end-user customer premise that previously has not been served by any loop facility.
- 45.12.2. Overbuilds. Embarq will not provide non-discriminatory access to FTTH Loop or FTTC Loop on an unbundled basis when Embarq has deployed a FTTH Loop or FTTC Loop parallel to, or in replacement of, an existing loop facility, except that:
 - (a) Embarq will maintain the existing Copper Loop connected to a particular customer premises after deploying FTTH Loop or FTTC Loop and provide non-discriminatory access to the Copper Loop on an unbundled basis unless Embarq has retired the Copper Loop as set forth below.
 - (b) If Embarq deploys FTTH Loop or FTTC Loop and maintains the existing Copper Loop, Embarq will restore the Copper Loop to

serviceable condition upon request and at CLECINTRADO COMM's expense.

- (c) If Embarq deploys FTTH Loop or FTTC Loop and retires the existing Copper Loop, Embarq will provide non-discriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the FTTH Loop or FTTC Loop.
- (d) Prior to retiring Copper Loop or copper subloop that has been replaced with FTTH Loop or FTTC Loop Embarq will comply with the notice requirements set forth in 251(c)(5) of the Act, §§ 51.325 through 51.335 of the Code of Federal Regulations and applicable Commission requirements, if any.

45.13. Tag and Label. At CLECINTRADO COMM's request, Embarq will tag and label unbundled loops at the Network Interface Device (NID). Tag and label may be ordered simultaneously with the ordering of the Loop or as a separate service subsequent to the ordering of the Loop.

45.13.1. Embarq will include the following information on the label: order number, due date, CLECINTRADO COMM name, and the circuit number.

45.13.2. CLECINTRADO COMM must specify on the order form whether each Loop should be tagged and labeled.

45.13.3. The rates for Loop tag and label and related services are set forth on Table One. A trip charge may be billed in addition to the Tag and Label charges.

46. SUBLOOPS

46.1. Embarq will offer unbundled access to copper subloops and subloops for access to multiunit premises wiring. Embarq will consider all requests for access to subloops through the ICB process due to the wide variety of interconnections available and the lack of standards. A written response will be provided to CLECINTRADO COMM covering the interconnection time intervals, prices and other information based on the ICB process as set forth in this Agreement.

46.2. Embarq is not required to provide CLECINTRADO COMM access to dark fiber subloops.

46.3. Copper Subloops. Embarq will make available access to copper subloops on an unbundled basis. A copper subloop is a portion of a Copper Loop, or Hybrid Loop, and is comprised entirely of copper wire or copper cable that acts as a transmission facility between any accessible terminal in Embarq's outside plant, including inside wire owned or controlled by Embarq, and the end-user customer premises. A copper subloop can also include intermediate devices, such as repeaters, used to establish the transmission path. Copper subloops can be used by CLECINTRADO COMM to provide voice-grade services as well as digital

subscriber line services. Access to copper subloops is subject to the collocation provisions of this Agreement. Copper subloop consists of the distribution portion of the Copper Loop. Embarq is not obligated to offer feeder loop plant as a stand-alone UNE.

46.3.1. An accessible terminal is any point on the loop where technicians can access a copper wire within the cable without removing a splice case. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, and the feeder/distribution interface.

46.4. Multiunit premises wiring. Embarq will make available to ~~CLECINTRADO~~ COMM access to subloops for access to multiunit premises wiring on an unbundled basis. The subloop for access to multiunit premises wiring is defined as any portion of the loop that it is technically feasible to access at a terminal in the incumbent LEC's outside plant at or near a multiunit premises, including inside wire. Inside wire is wire owned or controlled by Embarq at a multiunit customer premises between the minimum point of entry and the point of demarcation.

46.4.1. An accessible terminal is any point in Embarq's network where a technician can access the wire within the cable (e.g., via screw posts, terminals, patch panels) without removing a splice case to reach the wire within to access the wiring in the multiunit premises. Such points include, but are not limited to, a pole or pedestal, the NID, the minimum point of entry, the single point of interconnection, and the feeder/distribution interface.

46.4.2. Upon request for interconnection at a multiunit premises where Embarq owns, controls, or leases wiring, Embarq will provide a single point of interconnection that is suitable for use by multiple carriers. If the Parties do not agree on appropriate terms, conditions and rates for the single point of interconnection to multiunit premises wiring either Party may invoke the Dispute Resolution provisions of this Agreement.

46.5. Embarq will not provide or maintain inside wire in situations where it determines there are health or safety concerns in doing so.

46.6. Deployment of advanced services by ~~CLECINTRADO~~ COMM over subloops will be in accordance with the terms included in Section 45.8 and Section 45.9.

46.7. Reverse ADSL Loops. If a ~~CLECINTRADO~~ COMM's ADSL Transmission Unit (including those integrated into DSLAMs) is attached to Embarq's Network and if an ADSL Copper Loop should start at an outside location, and is looped through a host or remote, and then to the subscriber, the copper plant from the outside location to the Embarq host or remote central office must be a facility dedicated to

ADSL transmission only and not part of Embarq's regular feeder or distribution plant.

47. OPERATIONS SUPPORT SYSTEMS (OSS)

- 47.1. Embarq will offer unbundled access to Embarq's operations support systems to the extent technically feasible in a non-discriminatory manner at Parity. OSS consists of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by Embarq's databases and information. The OSS element includes access to all loop qualification information contained in Embarq's databases or other records, including information on whether a particular loop is capable of providing advanced services.

48. LOOP MAKE-UP INFORMATION

- 48.1. Embarq shall make available Loop Make-Up Information in a non-discriminatory manner at Parity with the data and access it gives itself and other CLECINTRADO COMMs, including affiliates. The charges for Loop Make-Up Information are set forth in Table One to this Agreement.
- 48.2. Information provided to the CLECINTRADO COMM will not be filtered or digested in a manner that would affect the CLECINTRADO COMM's ability to qualify the loop for advanced services.
- 48.3. Embarq shall provide Loop Make-Up Information based on the individual telephone number or address of an end-user in a particular wire center or NXX code. Loop Make-Up Information requests will be rejected if the service address is not found within existing serving address information, if the telephone number provided is not a working number or if the POI identified is not a POI where the requesting CLECINTRADO COMM connects to the Embarq LTD network.
- 48.4. Errors identified in validation of the Loop Make-Up Information inquiry order will be returned to the CLECINTRADO COMM.
- 48.5. Embarq may provide the requested Loop Make-Up Information to the CLECINTRADO COMMs in whatever manner Embarq would provide to their own internal personnel, without jeopardizing the integrity of proprietary information (*i.e.*, fax, intranet inquiry, document delivery, etc.). If the data is provided via fax, CLECINTRADO COMM must provide a unique fax number used solely for the receipt of Loop Make-Up Information.
- 48.6. If CLECINTRADO COMM does not order Loop Make-Up Information prior to placing an order for a loop for the purpose of provisioning of an advanced service and the advanced service cannot be successfully implemented on that loop, CLECINTRADO COMM agrees that:
- 48.6.1. CLECINTRADO COMM will be charged a Trouble Isolation Charge to determine the cause of the failure;

- 48.6.2. If Embarq undertakes Loop Make-Up Information activity to determine the reason for such failure, CLECINTRADO COMM will be charged a Loop Make-Up Information Charge; and
- 48.6.3. If Embarq undertakes Conditioning activity for a particular loop to provide for the successful installation of advanced services, CLECINTRADO COMM will pay applicable conditioning charges as set forth in Table One pursuant to Section 54.3 of this Agreement.

49. LOCAL CIRCUIT SWITCHING

- 49.1. Embarq is not required to provide access to local circuit switching on an unbundled basis.
- 49.2. Any local circuit switching element that CLECINTRADO COMM previously obtained from Embarq on an unbundled basis, including local circuit switching previously provided as part of UNE-P, shall be subject to the following:
 - 49.2.1. Such local circuit switching must be converted to an alternative arrangement within thirty (30) Days after the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert and complete the transition of such local circuit switching element to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert such local circuit switching to comparable Wholesale Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.
 - 49.2.2. Any local circuit switching, including local circuit switching provided by Embarq to CLECINTRADO COMM as part of UNE-P between 03/11/05 and 03/10/06 shall be subject to billing by Embarq at the transition rates established by the FCC, and any local circuit switching, including local circuit switching provided by Embarq to CLECINTRADO COMM as part of UNE-P after 03/10/06 shall be subject to billing at the rates charged by Embarq to CLECINTRADO COMMS for such service under separate commercial agreements.

50. DEDICATED TRANSPORT

- 50.1. Embarq shall provide CLECINTRADO COMM with nondiscriminatory access to dedicated transport on an unbundled basis, as set forth in this Agreement. A "route" is a transmission path between one of Embarq's Wire Centers or switches and another of Embarq's Wire Centers or switches. A route between two points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") may pass through one or more intermediate wire centers or switches (e.g., Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective

of whether they pass through the same intermediate Wire Centers or switches, if any.

50.1.1. Embarq is not obligated to provide a requesting carrier with unbundled access to dedicated transport that does not connect a pair of Embarq Wire Centers (*i.e.*, entrance facilities). Further, Embarq is not obligated to provide DSO or OC-N and above Dedicated Transport facilities as a UNE.

50.2. Dedicated DS1 transport shall be made available to ~~CLEC~~INTRADO COMM on an unbundled basis as set forth below. Dedicated DS1 transport consists of Embarq interoffice transmission facilities that have a total digital signal speed of 1.544 megabytes per second and are dedicated to a particular customer or carrier.

50.2.1. Embarq shall unbundle DS1 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in Part A, both wire centers defining the route are Tier 1 Wire Centers. As such, Embarq will unbundle DS1 transport if a Wire Center at either end of a requested route is *not* a Tier 1 Wire Center, or if *neither* is a Tier 1 Wire Center.

50.2.2. ~~CLEC~~INTRADO COMM may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.

50.2.3. Where Embarq is not required to provide unbundled DS1 transport pursuant Sections 50.2.1 and 50.2.2, ~~CLEC~~INTRADO COMM may not obtain new DS1 transport as unbundled Network Elements.

50.2.4. Any DS1 dedicated transport that ~~CLEC~~INTRADO COMM previously leased from Embarq but which Embarq is not obligated to unbundle pursuant to Sections 50.2.1 and 50.2.2, shall be subject to the following:

(a) Such DS1 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLEC~~INTRADO COMM fails to submit the necessary orders to convert and complete the transition of such DS1 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of ~~CLEC~~INTRADO COMM.

(b) Any DS1 dedicated transport service provided to ~~CLEC~~INTRADO COMM by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided

however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundled such transport.

- (c) Any DS1 dedicated transport service provided to CLECINTRADO COMM by Embarq between 03/11/05 and 03/10/06 that CLECINTRADO COMM ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.

50.2.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS1 Dedicated Transport circuit threshold for a route, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new DS1 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS1 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (a) CLECINTRADO COMM must submit the necessary orders to convert such DS1 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders within the six month period, Embarq will convert the DS1 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.3. Dedicated DS3 transport shall be made available to CLECINTRADO COMM on an unbundled basis as set forth below. Dedicated DS3 transport consists of Embarq interoffice transmission facilities that have a total digital signal speed of 44.736 megabytes per second and are dedicated to a particular customer or carrier.

- 50.3.1. Embarq shall unbundle DS3 transport between any pair of Embarq Wire Centers except where, through application of tier classifications defined in this Agreement, both Wire Centers defining the route are either Tier 1 or Tier 2 wire centers. As such, Embarq will unbundle

DS3 transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.

50.3.2. ~~CLECINTRADO COMM~~ may obtain a maximum of twelve unbundled DS3 dedicated transport circuits on each route where DS3 dedicated transport is available on an unbundled basis.

50.3.3. Where Embarq is not required to provide unbundled DS3 transport pursuant to Sections 50.3.1 and 50.3.2, ~~CLECINTRADO COMM~~ may not obtain new DS3 transport as unbundled Network Elements.

50.3.4. Any DS3 dedicated transport UNE that ~~CLECINTRADO COMM~~ previously leased from Embarq as of 03/11/05 but which Embarq is not obligated to unbundle pursuant to Sections 50.3.1 and 50.3.2, shall be subject to the following:

- (a) Such DS3 dedicated transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If ~~CLECINTRADO COMM~~ fails to convert and complete the transition of such DS3 transport to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement, Embarq will convert the DS3 Dedicated Transport to comparable Access Services. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of ~~CLECINTRADO COMM~~.
- (b) Any DS3 dedicated transport service provided to ~~CLECINTRADO COMM~~ by Embarq after 03/10/06 that Embarq was no longer required to unbundle shall be subject to billing at applicable rates for comparable access services, provided however, that such access rates shall not apply until ninety (90) Days after Embarq was no longer required to unbundle such transport.
- (c) Any DS3 dedicated transport service provided to ~~CLECINTRADO COMM~~ by Embarq between 03/11/05 and 03/10/06 that ~~CLECINTRADO COMM~~ ordered prior to 03/11/05 shall be subject to billing at 115% of the rate that was applicable to such dedicated transport immediately prior to such period.

50.3.5. If Embarq identifies routes in addition to those listed on Exhibit A that exceed the DS3 Dedicated Transport circuit threshold for a route, Embarq will provide ~~CLECINTRADO COMM~~ notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. ~~CLECINTRADO COMM~~ shall not be able to order new DS3 Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any

carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any DS3 Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate ~~CLECINTRADO COMM~~ paid on the date of the notice.

- (a) ~~CLECINTRADO COMM~~ must submit the necessary orders to convert such DS3 Dedicated Transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, ~~CLECINTRADO COMM~~ must have transitioned the transport to alternative facilities or arrangements. If ~~CLECINTRADO COMM~~ fails to submit the necessary orders before the end of six (6) month period, Embarq will convert the DS3 Dedicated Transport to comparable Access Services at applicable rates. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of ~~CLECINTRADO COMM~~.

50.4. Technical Requirements for DS1 and DS3 Dedicated Transport

50.4.1. Where technologically feasible and available, Embarq shall offer Dedicated Transport consistent with the underlying technology as follows:

- (a) When Embarq provides Dedicated Transport, the entire designated transmission circuit (*e.g.*, DS1, DS3) shall be dedicated to ~~CLECINTRADO COMM~~ designated traffic.
- (b) Where Embarq has technology available, Embarq shall provide Dedicated Transport using currently available technologies including, but not limited to, DS1 and DS3 transport systems, SONET (or SDS) Bi-directional Line Switched Rings, SONET (or SDH) Unidirectional Path Switched Rings, and SONEfT (or SDS) point-to-point transport systems (including linear add-drop systems), at all available transmission bit rates.

50.5. Dedicated Dark Fiber Transport

50.5.1. General Rules and Definition

- (a) Dark Fiber is an optical transmission facility without attached multiplexing, aggregation or other electronics. Dark Fiber is unactivated fiber optic cable, deployed by Embarq, that has not been activated through connections to optronics that light it, and thereby render it capable of carrying communications.
- (b) Embarq will unbundle Dark Fiber for Dedicated Transport as set forth in this Agreement and as follows:

- (i) Embarq shall unbundle dark fiber transport between any pair of Embarq Wire Centers except where both wire centers defining the route are either Tier 1 or Tier 2 Wire Centers. Embarq will unbundle dark fiber transport if a Wire Center on either end of a requested route is a Tier 3 Wire Center.
- (ii) Where Embarq is not required to provide unbundled dark fiber transport, CLECINTRADO COMM may not obtain new dark fiber transport as a UNE.
- (iii) Any Dark Fiber transport that CLECINTRADO COMM previously leased from Embarq, but which Embarq is no longer obligated to unbundle pursuant to Section 50.5 shall be subject to the following:
 - (A) Such Dark Fiber transport must be converted to an alternative service arrangement within thirty (30) Days of the Effective Date of this Agreement. If CLECINTRADO COMM fails to submit the necessary orders to convert such Dark Fiber transport to an alternative arrangement within such thirty (30) Day period, Embarq will have the right to terminate and disconnect the Dark Fiber transport.
 - (B) Any Dark Fiber transport service provided by Embarq to CLECINTRADO COMM between 03/11/05 and 09/05/06 shall be billed at 115% of the rate applicable for such Dark Fiber transport immediately prior to that period, and any Dark Fiber transport service provided by Embarq to CLECINTRADO COMM after 09/05/06 and prior to such conversion or termination shall be billed at applicable rates for comparable access services, based on the capacity of the electronics deployed in connection with such Dark Fiber transit.
- (c) If Embarq identifies routes in addition to those listed on Exhibit A that exceed the threshold, Embarq will provide CLECINTRADO COMM notice in accordance with the notice provisions of this Agreement and Embarq will also post such information on its website. CLECINTRADO COMM shall not be able to order new Dark Fiber Dedicated Transport for the identified routes after ninety (90) Days have elapsed from the date of the notice, subject to the Dispute Resolution section of this Agreement. If any carrier has disputed a Wire Center designation and the dispute was resolved by the Commission, the parties will abide by the Commission's decision. Any Dark

Fiber Dedicated Transport leased from Embarq within the identified route on the date of the notice shall be available for a six (6) month period from the date of the notice at a rate equal that is 115% of rate CLECINTRADO COMM paid on the date of the notice.

- (i) CLECINTRADO COMM must submit the necessary orders to convert such dark fiber dedicated transport to an alternative service arrangement within six months of the above notice date. By the end of the six (6) month period, CLECINTRADO COMM must have transitioned the transport to alternative facilities or arrangements. If CLECINTRADO COMM fails to submit the necessary orders, Embarq will convert the Dark Fiber Dedicated Transport to comparable Access Services, if available, or disconnect the Dark Fiber facilities. Embarq will assess the conversion charge and a management fee for the work performed by Embarq on behalf of CLECINTRADO COMM.

50.5.2. Fiber Availability

- (a) Spare fibers in a sheath are not considered available if Embarq has plans to put the fiber in use within the current year or the following year.
- (b) Embarq will also maintain fibers to facilitate maintenance, rearrangements and changes. Embarq will generally reserve eight percent (8%) of fibers in a sheath for maintenance, subject to a minimum of four (4) fibers and a maximum of twelve (12) fibers.
- (c) Dark fiber requests will be handled on a first come, first served basis, based on the date the Dark Fiber Application (DFA) is received.

50.5.3. Interconnection Arrangements

- (a) Rules for gaining access to unbundled network elements apply to Dark Fiber. Virtual and physical collocation arrangements may be used by CLECINTRADO COMM to locate the optical electronic equipment necessary to "light" leased Dark Fiber.
- (b) The CLECINTRADO COMM that requests Dark Fiber must be able to connect to the Embarq fiber by means of fiber patch panel.
- (c) If fiber patch panels (FPPs) are not located within close enough proximity for a fiber patch cord, CLECINTRADO COMM must

submit an ICB request for the purchase and installation of intraoffice cabling.

- (d) Establishment of applicable fiber optic transmission equipment or intermediate repeaters needed to power the unbundled Dark Fiber in order to carry Telecommunications Services is the responsibility of the CLECINTRADO COMM.

50.5.4. Dark Fiber Application and Ordering Procedure

- (a) CLECINTRADO COMM will submit a Dark Fiber Application (DFA) and application fee to request that Embarq determine the availability of Dark Fiber between the CLECINTRADO COMM-specified locations. See Table One for application fee amount.
- (b) Within twenty (20) Business Days of receipt of DFA, Embarq will provide CLECINTRADO COMM with a response regarding fiber availability and price.
 - (i) If Dark Fiber is not available, Embarq will notify CLECINTRADO COMM of the DFA rejection.
 - (ii) CLECINTRADO COMM will follow the Dispute Resolution Process provided in this Agreement if CLECINTRADO COMM wishes to contest the rejection.
- (c) If Dark Fiber is available, CLECINTRADO COMM will notify Embarq of acceptance/rejection of Dark Fiber quote, via a firm order, within ten (10) Business Days of receipt of quote. Embarq will reserve the requested Dark Fiber for the CLECINTRADO COMM during these ten (10) Business Days. If, however, CLECINTRADO COMM does not submit a firm order by the tenth (10th) business day, the fiber will no longer be reserved.
- (d) After ten (10) Business Days of receipt of the price quote, if CLECINTRADO COMM has not accepted, CLECINTRADO COMM must submit another DFA and application fee.
- (e) The CLECINTRADO COMM will submit a firm order for Dark Fiber via an access service request (ASR).
- (f) By submitting the Dark Fiber firm order, the CLECINTRADO COMM agrees to pay quoted monthly recurring and non-recurring charges. See Table One for monthly recurring and non-recurring charges.
- (g) Due Date. Embarq will provision Dark Fiber twenty (20) Business Days after it receives firm order from CLECINTRADO COMM. Billing of the monthly recurring and non-recurring

charges will begin upon completion of Dark Fiber order. Embarq will allow CLECINTRADO COMM to extend due date for firm order completion up to sixty (60) Business Days from the date Embarq receives firm order from CLECINTRADO COMM. This extended due date must be specified on the firm order.

(i) Billing of the monthly recurring and non-recurring charges will begin on the due date of the Dark Fiber order completion unless:

(A) CLECINTRADO COMM cancels firm order before the established due date. If this occurs, CLECINTRADO COMM agrees to reimburse Embarq for all costs incurred to date; or

(B) a third party submits firm order for same Dark Fiber. If this occurs, CLECINTRADO COMM must begin compensating Embarq for monthly recurring and non-recurring charges in order to reserve fiber, once Embarq is able to provide Dark Fiber to CLECINTRADO COMM.

50.5.5. Maintenance and Testing

- (a) Embarq is only responsible for maintaining the facilities that it owns.
- (b) Embarq will conduct an end-to-end test of Dark Fiber after receipt of the firm order.
- (c) For meet point arrangements, Embarq will conduct cooperative testing with another carrier at CLECINTRADO COMM's request. Additional rates and charges will apply.
- (d) Embarq does not guarantee that the transmission characteristics of the Dark Fiber will remain unchanged over time.
- (e) Embarq is not responsible for determining whether the transmission characteristics of the Dark Fiber will accommodate the CLECINTRADO COMM requirements.

50.5.6. Rules for Take Back

- (a) Embarq reserves the right to take back Dark Fiber to meet its carrier of last resort obligations.
- (b) Embarq will provide CLECINTRADO COMM twelve (12) months written notice prior to taking back fiber.

- (c) If multiple CLECINTRADO COMMs have leased fiber within a single sheath, Embarq will take back the fiber that was the last to be leased.
- (d) Embarq will provide the CLECINTRADO COMM with alternative transport arrangements when Embarq takes back working fiber.
- (e) The Dispute Resolution Procedures found in this Agreement will be followed if CLECINTRADO COMM wishes to contest Embarq's decision to take back its leased fiber.

51. COMMINGLING

- 51.1. For the purpose of this Section, wholesale services includes both services CLECINTRADO COMM procures for resale pursuant to 251(c)(4) and exchange access service purchased from Embarq's access Tariffs.
- 51.2. CLECINTRADO COMM may Commingle an unbundled network element or combination of UNEs with wholesale services purchased from Embarq, subject to Section ~~53.5.353.5.353.5.4.~~ Upon request, Embarq will perform the work necessary to Commingle such UNE or UNE combinations with wholesale services purchased from Embarq subject to Section Error! Reference source not found. ~~Error! Reference source not found.~~ 42. CLECINTRADO COMM will compensate Embarq the costs of work performed to Commingle UNEs or UNE combinations with wholesale services. Each component of the commingled facility, either UNE or wholesale service, will be billed at the UNE or wholesale service rate for that component, plus applicable non-recurring charges. Embarq will not ratchet price individual components; that is, Embarq will not reflect a combination of UNE and wholesale rates for the same component. Wholesale service rates will be per the appropriate Tariff, including any applicable resale discounts pursuant to this Agreement.

52. LINE SPLITTING

- 52.1. Line Splitting
 - 52.1.1. Line Splitting is an arrangement between two carriers where one carrier provides the voice services and another carrier provides advanced services over an unbundled loop.
 - 52.1.2. Whenever CLECINTRADO COMM purchases the unbundled loop, CLECINTRADO COMM shall control the entire loop spectrum.
 - 52.1.3. Embarq shall institute procedures to allow CLECINTRADO COMM or another carrier to order HFS data capabilities on a UNE loop.
- 52.2. When either CLECINTRADO COMM or the other carrier orders Line Splitting using CLECINTRADO COMM's OCN, CLECINTRADO COMM will be billed

the charges for the Line Splitting service. When the other carrier orders Line Splitting using its own OCN, Embarq will bill the other carrier for the Line Splitting charges.

53. UNE COMBINATIONS

53.1. ~~CLECINTRADO~~ COMM may order UNEs either individually or in the combinations, including EEL as specifically set forth in this Section of the Agreement.

53.2. General Terms and Conditions

53.2.1. Embarq will allow ~~CLECINTRADO~~ COMM to order each UNE individually in order to permit ~~CLECINTRADO~~ COMM to combine UNEs with other UNEs obtained from Embarq as provided for in this Agreement, or with network components provided by itself or by third parties to provide Telecommunications Services to its end users, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled network elements or to interconnect with Embarq's network or in combination with any other Network Elements that are currently combined in Embarq's Network. Upon request, Embarq will perform the functions necessary to combine UNEs, even if those elements are not ordinarily combined in Embarq's network, if the requested combination is technically feasible and would not impair the ability of other carriers to obtain access to other unbundled Network Elements or to interconnect with Embarq's network. ~~CLECINTRADO~~ COMM will compensate Embarq the costs of work performed to combine the requested UNEs. Any request by ~~CLECINTRADO~~ COMM for Embarq to provide combined UNEs that are not otherwise specifically provided for under this Agreement will be made in accordance with the BFR process described in Section ~~Error! Reference source not found.~~Reference source not found.⁴² and made available to ~~CLECINTRADO~~ COMM upon implementation by Embarq of the necessary operational modifications.

53.3. The provisioning of combinations, including EEL, is limited to existing facilities and Embarq is not obligated to construct additional facilities to accommodate any request by ~~CLECINTRADO~~ COMM.

53.4. Specific Combinations and Pricing

53.4.1. In order to facilitate the provisioning of EELs, Embarq shall support the ordering and provisioning of this specific combination as set forth below.

53.5. Embarq Offers the Following Combinations of Network Elements

53.5.1. EEL is the combination of the NID, Loop, and Dedicated Transport network elements.

- (a) Embarq will offer the combination of unbundled loops with wholesale services and unbundled Dedicated Transport, where Embarq is required to provide unbundled Dedicated Transport and Local Loops, to provide EELs at the applicable recurring and non-recurring charges as specified in Table One for Loops, Dedicated Transport, and where applicable, Multiplexing. Recurring and nonrecurring charges, including but not limited to cross connect charges and Service Order Charges will apply. Embarq will cross-connect unbundled 2- or 4-wire analog or 2-wire digital Loops to unbundled voice grade DS1 or DS3 Dedicated Transport facilities for CLECINTRADO COMM's provision of circuit switched telephone exchange service to CLECINTRADO COMM's end users.
- (b) Multiplexing shall be provided as necessary as part of Dedicated Transport.

53.5.2. In order to obtain the EEL combinations below, a requesting CLECINTRADO COMM must provide certification that it satisfies the service eligibility criteria for each circuit as set forth below. For existing EELs, CLECINTRADO COMM must recertify compliance with the EELs criteria within thirty (30) Days of the Effective Date of this Agreement. CLECINTRADO COMM must continue to be in compliance with the service eligibility criteria for as long as CLECINTRADO COMM continues to receive the services in this Section. Embarq will offer the following EEL Combinations:

- (a) Unbundled DS1 Loop in combination with UNE DS1 Dedicated Transport.
- (b) Unbundled DS1 Loop commingled with dedicated DS1 transport wholesale service.
- (c) Unbundled DS1 Loop in combination with UNE DS3 Dedicated Transport.
- (d) Unbundled DS1 Loop commingled with dedicated DS3 transport wholesale service.
- (e) Unbundled DS3 Loop in combination with UNE DS3 Dedicated Transport.
- (f) Unbundled DS3 Loop commingled with dedicated DS3 transport wholesale service.
- (g) Unbundled DS1 Dedicated Transport commingled with DS1 channel termination.

- (h) Unbundled DS3 Dedicated Transport commingled with DS1 channel termination service.
- (i) Unbundled DS3 Dedicated Transport commingled with DS3 channel termination service.

53.5.3. EEL Eligibility Criteria

- (a) ~~CLEC~~INTRADO COMM must have state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, ~~CLEC~~INTRADO COMM must have complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in the area served;
- (b) The following criteria must be satisfied for each combined circuit, including each DS1 circuit, each DS1 EEL, and each DS1-equivalent circuit on a DS3 EEL:
 - (i) Each circuit to be provided to each ~~CLEC~~INTRADO COMM customer must be assigned one local number prior to the provision of service over the circuit;
 - (ii) Each DS1-equivalent circuit on a DS3 EEL must have its own local number assignment, so that each DS3 has up to twenty-eight (28) local voice numbers assigned to it;
 - (iii) Each circuit to be provided to each customer must provide 911 or E911 capability prior to the provision of service over the circuit;
 - (iv) Each circuit to be provided to each customer must terminate into a collocation that meets one of the following requirements:
 - (A) a collocation established pursuant to §251(c)(6) of the Act and located at Embarq's premises within the same LATA as the ~~CLEC~~INTRADO COMM's customer's premises, when Embarq is not the collocater; or
 - (B) a collocation located at a third party's premises within the same LATA as the ~~CLEC~~INTRADO COMM's customer's premises, when Embarq is the collocater.
 - (v) For each twenty-four (24) DS1 EELs or other facilities having equivalent capacity, ~~CLEC~~INTRADO COMM must maintain at least one active DS1 local service interconnection

trunk and CLECINTRADO COMM is required to transmit the calling party's number in connection with calls exchanged over each trunk. Where CLECINTRADO COMM does not establish an interconnection arrangement with Embarq for the meaningful exchange of Local Traffic that flows in both directions, such interconnection arrangement shall not satisfy this criteria, and

- (vi) Each circuit to be provided to each customer will be served by a switch capable of switching local voice traffic.
- (c) Embarq has the right, upon thirty (30) Days notice, to audit CLECINTRADO COMM's compliance with the service eligibility criteria defined by the FCC and as set forth above. Embarq will hire and pay for an independent auditor to perform the audit. CLECINTRADO COMM will reimburse Embarq if the audit report concludes that CLECINTRADO COMM failed to materially comply with the service eligibility criteria. Embarq may request one audit in a calendar year. In the instance of non-compliance, CLECINTRADO COMM shall true-up any difference in payments, convert the non-compliant circuit to the appropriate service and make accurate payments going forward. These audit rights are in addition to Embarq's audit rights in Part B of this Agreement.

54. MODIFICATIONS TO EMBARQ'S EXISTING NETWORK

54.1. Modifications to Unbundled Loop

54.1.1. Embarq will make routine network modifications to unbundled loop facilities used by CLECINTRADO COMM where the requested loop facility has already been constructed. Embarq will perform routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLECINTRADO COMM will compensate Embarq for the costs of such routine network modifications to unbundled loop facilities to the extent the costs are not recovered in the unbundled loop rates in accordance with Table One or Embarq will provide a price quote via the ICB process.

- (a) In the case of unbundled loop facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer and attaching

electronic and other equipment that Embarq ordinarily attaches to a DS1 Loop to activate such loop for its own customer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of new loop facilities or the installation of new aerial or buried cable for CLECINTRADO COMM.

54.2. Modifications to Dedicated Transport

54.2.1. Embarq will make routine network modifications to unbundled dedicated transport facilities used by CLECINTRADO COMM where the requested Dedicated Transport facilities have already been constructed. Embarq will perform the routine network modifications to unbundled Dedicated Transport facilities in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLECINTRADO COMM will compensate Embarq for the costs of such routine network modifications to unbundled Dedicated Transport facilities to the extent the costs are not recovered in the unbundled Dedicated Transport rates. Embarq will provide routine network modifications at the rates on Table One or Embarq will provide a price quote vis the ICB process.

- (a) In the case of unbundled Dedicated Transport facilities, a routine network modification is an activity that Embarq regularly undertakes for its own customers. Routine network modifications may include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications also include activities needed to enable CLECINTRADO COMM to light a Dark Fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for CLECINTRADO COMM.

54.3. Loop Conditioning

54.3.1. Conditioned loops are loops from which excessive bridge taps, load coils, low-pass filters, range extenders, and similar devices have been removed to enable the delivery of high-speed switched wireline telecommunications capability, including DSL. Embarq will condition loops at CLECINTRADO COMM's request and will assess charges for loop conditioning in accordance with the prices listed in Table One.

Embarq recommends that CLECINTRADO COMM utilize the Loop Make-Up process in Section ~~Error! Reference source not found.~~⁴⁸ prior to submitting orders for loops intended for advanced services.

- 54.4. Embarq is not obligated to build TDM capability into new packet-based networks or into existing packet-based networks that never had TDM capability. This includes packet-based networks that incorporate a packet to TDM format translation to connect to end user customer provided equipment.

PART F – INTERCONNECTION

55. LOCAL INTERCONNECTION TRUNK ARRANGEMENT

55.1. The Parties shall reciprocally terminate Local Traffic and IntraLATA/InterLATA toll calls originating on the other Party's network as follows:

55.1.1. The Parties shall make available to each other two-way trunks for the reciprocal exchange of combined Local Traffic, and non-equal access IntraLATA toll traffic. Neither Party is obligated under this Agreement to order reciprocal trunks or build facilities in the establishment of interconnection arrangements for the delivery of Internet traffic. The Party serving the Internet service provider shall order trunks or facilities from the appropriate tariff of the other Party for such purposes and will be obligated to pay the full cost of such facility.

(a) The Parties agree to use two-way trunks (one-way trunks directionalized in each direction). Upon mutual agreement, the Parties will transition specified trunks from directionalized two-way trunks to bi-directional trunks, subject to any engineering, billing or other constraints, and subject to compensation for the cost of undertaking the conversion of such trunks.

55.1.2. Separate two-way trunks will be made available for the exchange of equal-access InterLATA or IntraLATA interexchange traffic.

55.1.3. Separate one-way trunks will be utilized for connecting CLECINTRADO COMM's switch to each 911/E911 tandem.

55.1.4. One-way trunks will be utilized if Parties deploy E9-1-1 inter-tandem trunking configurations. These trunk configurations shall be dependent upon the Embarq E9-1-1 SR capabilities. E9-1-1 inter-tandem trunking shall allow the transfer of E9-1-1 calls between PSAPs subtending on each Party's respective E9-1-1 network.

55.1.5. Appropriate dial plans to support inter-tandem transfer will be maintained by the parties. Each party shall notify the other of changes, additions, or deletions to their respective inter-tandem dial plans.

55.2. Direct Interconnection Requirements

55.2.1. Point of Interconnection. CLECINTRADO COMM must establish a minimum of one POI within each LATA, at any technically feasible point, on Embarq's network. In addition, CLECINTRADO COMM shall establish additional POIs under the following circumstances:

(a) To the extent Embarq's network contains multiple tandems in the LATA, CLECINTRADO COMM must establish a POI at each tandem where it wishes to exchange (*i.e.*, receive or terminate) traffic with Embarq.

- (b) CLECINTRADO COMM must establish a POI at an Embarq end office when total traffic volumes exchanged between that particular Embarq end office and CLECINTRADO COMM exceeds a DS1 equivalent.
 - (c) CLECINTRADO COMM must establish a POI at any Embarq end office that subtends a non-Embarq tandem.
- 55.2.2. CLECINTRADO COMM will be responsible for engineering and maintaining its network on its side of the POI. Embarq will be responsible for engineering and maintaining its network on its side of the POI. Each Party is financially responsible for transport on its side of the POI.
- 55.2.3. Each Party is financially responsible for transporting its originated traffic to the POI.
- 55.2.4. When the Parties choose to interconnect at a mid-span meet, CLECINTRADO COMM and Embarq will jointly provision the facilities that connect the two networks. Embarq will be the “controlling carrier” for purposes of MECOD guidelines, as described in the joint implementation plan. Embarq will provide fifty percent (50%) of the facilities or to its exchange boundary, whichever is less. The construction of new facilities for a mid-span meet is only applicable when traffic is roughly balanced. Notwithstanding any provision in this Agreement to the contrary, when the Parties interconnect using a mid-span meet, each Party will be financially responsible for the facilities on its side of the mid-span meet and will not bill the other Party for any portion of those facilities.
- 55.2.5. If third party (*i.e.*, Competitive Access Provider or “CAP”) leased facilities are used for interconnection, the POI will be defined as the Embarq office in which the third party’s leased circuit terminates.
- 55.2.6. If CLECINTRADO COMM elects to lease any portion of the transport facility from Embarq or if CLECINTRADO COMM chooses to interconnect with Embarq using a meet-point arrangement (*i.e.*, facilities jointly provisioned by Embarq and another LEC), CLECINTRADO COMM will order those facilities that are wholly within Embarq’s serving territory from Embarq’s access tariff.
- 55.3. Technical Requirements for Interconnection
 - 55.3.1. Interconnection at the Embarq Tandem
 - (a) Interconnection to Embarq Tandem Switch(es) will provide CLECINTRADO COMM local interconnection for local service purposes to the Embarq end offices and NXXs which subtend that tandem(s), where local trunking is provided, and access to the toll network.

- (b) Interconnection to an Embarq Tandem for transit purposes will provide access to telecommunications carriers which are connected to that Tandem Switch.
- (c) Where an Embarq Tandem Switch also provides End-Office Switch functions, interconnection to an Embarq tandem serving that exchange will also provide CLECINTRADO COMM access to Embarq's end offices.
- (d) the CLECINTRADO COMM is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

55.3.2. Interconnection at the Embarq End Office

- (a) Interconnection to Embarq End Office Switch will provide CLECINTRADO COMM local interconnection for local service purposes to the Embarq NXX codes served by that end office and any Embarq NXXs served by remotes that subtend those End Offices.
- (b) the CLECINTRADO COMM is responsible for provisioning its traffic to interface into Embarq's switch port at the DS1 level, including any muxing necessary for such purposes.

56. INTERCARRIER COMPENSATION

[Note: If it is an Opt-in state and CLECINTRADO COMM accepts offer, the only applicable Section is Section Error! Reference source not found.~~Error! Reference source not found.~~56.3. All other provisions may be deleted, including Section 56.1 through and including Section Error! Reference source not found.~~Error! Reference source not found.~~56.4.1.]

56.1. Compensation for Local Traffic Transport and Termination [**DELETE THIS SECTION 56.1**WHERE FCC RATES APPLY TO ALL TRAFFIC (i.e. CLECINTRADO COMM has accepted offer). This Section 56.1 remains if either (1) It's a non-opt-in state; or (2) CLECINTRADO COMM reject our offer)]

56.1.1. The transport and termination charges for Local Traffic flowing through a POI shall be as follows:

- (a) In a mid-span meet arrangement, when calls from CLECINTRADO COMM are terminating on Embarq's network through the Embarq Tandem Switch, CLECINTRADO COMM will pay Embarq a charge for Tandem Switching, common transport to the end office, and end-office termination.

- (b) When the POI is at the Embarq Tandem Switch, CLECINTRADO COMM shall pay a charge for Tandem Switching, common transport to the end office and end-office termination.
- (c) Charges billed to Embarq by CLECINTRADO COMM for the transport and termination of Local Traffic will be equal to those that Embarq assesses the CLECINTRADO COMM for the same services. Where CLECINTRADO COMM is interconnected at an Embarq tandem and Embarq delivers its traffic to CLECINTRADO COMM directly from an end office, Embarq shall pay CLECINTRADO COMM end office termination. Where CLECINTRADO COMM is interconnected at an Embarq tandem and Embarq delivers its traffic to CLECINTRADO COMM from the tandem and the CLECINTRADO COMM switch serves a geographical area greater than or equal to the area served by the Embarq tandem, Embarq shall pay CLECINTRADO COMM for Tandem Switching, common transport, and end-office termination. If the CLECINTRADO COMM switch serves a geographical area less than the area served by the Embarq tandem, Embarq shall pay CLECINTRADO COMM end-office termination.
- (d) To validate the geographic area CLECINTRADO COMM must provide documentation supporting the following:
 - (i) that CLECINTRADO COMM's switch serves a geographic area that is roughly the same size as the area served by the Embarq Tandem Switch;
 - (ii) that CLECINTRADO COMM has obtained NPA/NXX codes to serve the exchanges within the geographic area; and,
 - (iii) that CLECINTRADO COMM is serving the area using its own switch with its own facilities or a combination of its own facilities and leased facilities connected to its collocation arrangements.
- (e) Where direct end office trunks are established, for CLECINTRADO COMM-originated calls, CLECINTRADO COMM shall pay Embarq end-office termination. For Embarq originated traffic terminating to CLECINTRADO COMM at that end office, compensation payable by Embarq shall be the same as that detailed in Section 56.1.1 above.

56.2. The rates to be charged for the exchange of Local Traffic are set forth in Table One and shall be applied consistent with the provisions of Part F of this Agreement. ISP-Bound Traffic will be exchanged on a Bill and Keep basis. The Parties agree to "Bill and Keep" for mutual reciprocal compensation for the

termination of ISP-Bound Traffic on the network of one Party which originates on the network of the other Party.

- 56.2.1. The Parties agree that by executing this Agreement and carrying out the intercarrier compensation rates, terms and conditions herein, neither Party waives any of its rights, and expressly reserves all of its rights, under the *Order on Remand and Report and Order*, FCC 01-131, CC Dockets No. 96-98 and 99-68, adopted April 18, 2001 (the "ISP Compensation Order"), including but not limited to Embarq's option to invoke on a date specified by Embarq the FCC's ISP interim compensation regime, after which date ISP-bound traffic will be subject to the FCC's prescribed interim compensation regime including the terminating compensation rates, and other terms and conditions. ~~CLECINTRADO COMM~~ agrees that on the date designated by ILEC, the Parties will begin billing Reciprocal Compensation to each other at the rates, terms and conditions specified in the FCC's ISP Compensation Order, unless the Parties are exchanging traffic (Local Traffic and/or ISP-Bound traffic) at Bill and Keep, such Bill and Keep arrangement shall continue.
- 56.3. Compensation for the termination of toll traffic and the origination of 800 traffic between the interconnecting parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations and consistent with the provisions of Part F of this Agreement. If ~~CLECINTRADO COMM~~ is acting as an IXC and a competitive local exchange carrier, ~~CLECINTRADO COMM~~ must have a unique CIC for each type of service order. Specifically, ~~CLECINTRADO COMM~~ must have two CICs, one that is used for ordering IXC facilities for interexchange toll traffic and one that is used to order facilities for local exchange traffic.
- 56.4. VNXX calls not Local for purposes of intercarrier compensation and ~~CLECINTRADO COMM~~ will pay Embarq's originating access rates. Both Parties represent and warrant that they are not exchanging Virtual NXX traffic as of the effective date of this Agreement; however, Embarq may perform traffic studies at any time. ~~CLECINTRADO COMM~~ agrees that it will provide data necessary to determine geographic location of ~~CLECINTRADO COMM~~'s customers when requested to assist with VNXX traffic study. Should the traffic study indicate that there is VNXX traffic; the Parties agree to implement a percentage of traffic that shall be deemed to occur via a VNXX arrangement that will apply on a retrospective basis to the effective date of the Agreement. Should the traffic studies thereafter indicate that the percentage should be changed by Embarq, the Parties agree to implement the correct percentage on a prospective basis without amending the agreement..
- 56.5. Voice calls that are transmitted, in whole or in part, via the public Internet or a private IP network (VoIP) shall be compensated in the same manner as voice traffic (e.g., reciprocal compensation, interstate access and intrastate access).

- 56.6. A call placed on a non-local basis (*e.g.*, a toll call or 8yy call) to an ISP shall not be treated as ISP-Bound Traffic for compensation purposes. The Parties agree that, to the extent such "non-Local" ISP calls are placed, that the rates, terms and conditions for IntraLATA and/or InterLATA calling shall apply, including but not limited to rating and routing according to the terminating parties' Exchange Access intrastate and/or interstate tariffs.
- 56.7. CLECINTRADO COMM will identify the Percent Local Usage (PLU) factor on each interconnection order to identify its "Local Traffic," as defined herein, for reciprocal compensation purposes. Embarq may request CLECINTRADO COMM's traffic study documentation of the PLU at any time to verify the factor, and may compare the documentation to studies developed by Embarq. Should the documentation indicate that the factor should be changed by Embarq; the Parties agree that any changes will be retroactive to traffic for the previous two years. Should the documentation indicate it is warranted such change in the factor may be back to the effective date of the Agreement. For non-local traffic, the Parties agree to exchange traffic and compensate one another based on the rates and elements included in each party's access tariffs. CLECINTRADO COMM will transmit calling party number (CPN) as required by FCC rules (47 CFR 64.1601).
- 56.7.1. To the extent technically feasible, each Party will transmit calling party number (CPN) for each call being terminated on the other's network. If the percentage of calls transmitted with CPN is greater than ninety percent (90%), all calls exchanged without CPN will be billed as local or intrastate in proportion to the MOUs of calls exchanged with CPN. If the percentage of calls transmitted with CPN is less than ninety percent (90%), all calls transmitted without CPN will be billed at intrastate access rates.
- 56.8. To the extent Embarq identifies, either through its own recording capabilities or through call detail records provided by another carrier, Local Traffic that is originated by CLECINTRADO COMM and terminated indirectly to Embarq through an intermediary carrier (transit carrier), Embarq shall bill CLECINTRADO COMM terminating compensation according to Section **Error! Reference source not found.** ~~Error! Reference source not found.~~56. In addition, CLECINTRADO COMM will reimburse Embarq for any transit charges billed by the intermediary carrier for Local Traffic or ISP-bound Traffic originated by Embarq.
- 56.9. Each Party shall take steps to ensure that all traffic that it delivers to the receiving Party include a call record, and that such call records are transmitted intact to the receiving Party. Neither Party shall: (1) remove call records, (ii) alter or replace call records, (ii) alter or replace jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Using reasonable efforts and to the extent technically feasible, each Party also shall undertake steps to ensure that any service provider who hands off traffic for delivery to the other Party does not: (i) remove call records, (ii) alter or replace call records, (ii) alter or replace

jurisdictional information or (iv) insert or add any call record information except as specifically allowed by industry guidelines or as mutually agreed to by the Parties. Neither Party shall knowingly and intentionally (a) strip or alter call records to disguise the jurisdiction of the a call or (b) permit third parties to do so for traffic the Party delivers to the other Party.

56.10. Either Party may request an audit of the traffic types exchanged between the Parties. Each Party will provide upon request traffic study documentation of traffic being delivered to the other Party. Audit periods may include the period beginning with the month after the last audit or the Effective Date of the Agreement through, and including, the month prior to the audit request. Traffic study documentation can include records produced either from Embarq or CLECINTRADO COMM internal recording and monitoring systems or from third party vendors that record intercarrier traffic SS7 call records. These audit rights are in addition to the audit rights in Part A of this Agreement

56.11. E9-1-1 calls shall not be billed at reciprocal compensation rates, access rates, or transit rates.

57. SIGNALING NETWORK INTERCONNECTION

57.1. Embarq will offer interconnection to its signaling transfer points (STPs) for CLECINTRADO COMM switches which connect to Embarq's STPs via "A" links or for CLECINTRADO COMM's "B" or "D" links which are dedicated to the transport of signaling for local interconnection. Embarq's signaling service will be charged at tariff rates to CLECINTRADO COMMS that order such service.

57.2. Signaling protocol. The parties will interconnect their networks using SS7 signaling where technically feasible and available as defined in FR 905 Telcordia Standards including ISDN User Part (ISUP) for trunk signaling and TCAP for CCS-based features in the interconnection of their networks. All Network Operations Forum (NOF) adopted standards shall be adhered to.

57.3. Standard interconnection facilities shall be Extended Superframe (ESF) with B8ZS line code. Where ESF/B8ZS is not available, CLECINTRADO COMM will use other interconnection protocols on an interim basis until the standard ESF/B8ZS is available. Embarq will provide anticipated dates of availability for those areas not currently ESF/B8ZS compatible.

57.4. Where CLECINTRADO COMM is unwilling to utilize an alternate interconnection protocol, CLECINTRADO COMM will provide Embarq an initial forecast of 64 Kbps clear channel capability ("64K CCC") trunk quantities within thirty (30) Days of the Effective Date consistent with the forecasting agreements between the parties. Upon receipt of this forecast, the parties will begin joint planning for the engineering, procurement, and installation of the segregated 64K CCC Local Interconnection Trunk Groups, and the associated

ESF facilities, for the sole purpose of transmitting 64K CCC data calls between ~~CLECINTRADO COMM~~ and Embarq. Where additional equipment is required, such equipment would be obtained, engineered, and installed on the same basis and with the same intervals as any similar growth job for IXC, ~~CLECINTRADO COMM~~, or Embarq internal customer demand for 64K CCC trunks.

57.5. Signaling Systems

57.5.1. Signaling Link Transport

- (a) Signaling Link Transport is a set of two or four dedicated 56 Kbps transmission paths between ~~CLECINTRADO COMM~~-designated Signaling Points of Interconnection (SPOI) that provides appropriate physical diversity and a cross connect at an Embarq STP site.
- (b) Technical Requirements. Signaling Link transport shall consist of full duplex mode 56 Kbps transmission paths.

57.5.2. Signaling Transfer Points (STPs)

STPs provide functionality that enables the exchange of SS7 messages among and between switching elements, databases and third party signaling transfer points.

- 57.6. Technical Requirements. STPs provide interconnection to the functions of signaling networks or to third party SS7 networks connected to the Embarq SS7 network. These functions include:

- 57.6.1. Embarq local switching or Tandem Switching;
- 57.6.2. Embarq Service Control Points (SCPs)/Databases if arranged for under separate agreements;
- 57.6.3. Third-party local or Tandem Switching systems subject to any additional conditions or terms of the Third Party and
- 57.6.4. Third party provider STPs subject to any additional conditions or terms of the Third Party.

- 57.7. Interface Requirements. Embarq shall provide the following STP options to connect ~~CLECINTRADO COMM~~ or ~~CLECINTRADO COMM~~-designated local switching systems or STPs to the Embarq SS7 network:

- 57.7.1. An A-link interface from ~~CLECINTRADO COMM~~ local switching systems; and
- 57.7.2. B- or D-link interface from ~~CLECINTRADO COMM~~ STPs.
- 57.7.3. Each type of interface shall be provided by one or more sets (layers) of signaling links, as follows:

- (a) An A-link layer shall consist of two (2) links,
 - (b) A B- or D-link layer shall consist of four (4) links,
- 57.8. Signaling Point of Interconnection (SPOI) for each link shall be located at a cross-connect element, such as a DSX-1, in the Central Office (CO) where the Embarq STP is located. Interface to Embarq's STP shall be the 56kb rate. The 56kb rate can be part of a larger facility, and CLECINTRADO COMM shall pay multiplexing/demultiplexing and channel termination, plus mileage of any leased facility.

58. TRUNK FORECASTING

- 58.1. CLECINTRADO COMM shall provide forecasts for traffic utilization over trunk groups. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as facilities and/or equipment are available. Embarq shall make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate orders when facilities are not available. Company forecast information must be provided by CLECINTRADO COMM to Embarq twice a year. The initial trunk forecast meeting should take place soon after the first implementation meeting. A forecast should be provided at or prior to the first implementation meeting. The semi-annual forecasts shall project trunk gain/loss on a monthly basis for the forecast period, and shall include:
- 58.1.1. Semi-annual forecasted trunk quantities (which include baseline data that reflect actual Tandem and end office Local Interconnection and meet point trunks and Tandem-subtending Local Interconnection end office equivalent trunk requirements) for no more than two years (current plus one year);
 - 58.1.2. The use of Common Language Location Identifier (CLLI-MSG), which are described in Telcordia documents BR 795-100-100 and BR 795-400-100;
 - 58.1.3. Description of major network projects that affect the other Party will be provided in the semi-annual forecasts. Major network projects include but are not limited to trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities by CLECINTRADO COMM that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.
 - 58.1.4. Parties shall meet to review and reconcile the forecasts if forecasts vary significantly.
- 58.2. CLECINTRADO COMM shall provide an updated trunk forecast when ordering or requesting additional trunks from Embarq anytime after the initial trunk implementation.
- 58.3. Each Party shall provide a specified point of contact for planning forecasting and trunk servicing purposes.

- 58.4. Trunking can be established to Tandems or end offices or a combination of both via either one-way or two-way trunks. Trunking will be at the DS0, DS1, DS3/OC3 level, or higher, as agreed upon by ~~CLEC~~INTRADO COMM and Embarq.
- 58.5. The parties agree to abide by the following if a forecast cannot be agreed to: local interconnection trunk groups will be provisioned to the higher forecast. A blocking standard of one percent (1%) during the average busy hour shall be maintained. Should the Parties not agree upon the forecast, and the Parties engineer facilities at the higher forecast, the Parties agree to abide by the following:
- 58.5.1. In the event that ~~CLEC~~INTRADO COMM over-forecasts its trunking requirements by twenty percent (20%) or more, and Embarq acts upon this forecast to its detriment, Embarq may recoup any actual and reasonable expense it incurs.
- 58.5.2. The calculation of the twenty percent (20%) over-forecast will be based on the number of DS1 equivalents for the total traffic volume to Embarq.
- 58.5.3. Expenses will only be recouped for non-recoverable facilities that cannot otherwise be used at any time within twelve (12) months after the initial installation for another purpose including but not limited to: other traffic growth between the Parties, internal use, or use with another party.
- 58.6. Grade of Service. An overall blocking standard of one percent (1%) during the average busy hour, as defined by each Party's standards, for final trunk groups between a ~~CLEC~~INTRADO COMM end office and an Embarq access Tandem carrying meet point traffic shall be maintained. All other Tandem trunk groups are to be engineered with a blocking standard of one percent (1%). Direct end office trunk groups are to be engineered with a blocking standard of one percent (1%).
- 58.7. Trunk Servicing. Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an ASR, RASR or other industry standard format as specified by Embarq for trunk ordering.

59. NETWORK MANAGEMENT

- 59.1. Protective Protocols. Either Party may use protective network traffic management controls such as 7-digit and 10-digit code gaps on traffic toward each other's network, when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload. ~~CLEC~~INTRADO COMM and Embarq will immediately notify each other of any protective control action planned or executed.
- 59.2. Expansive Protocols. Where the capability exists, originating or terminating traffic reroutes may be implemented by either party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes

will not be used to circumvent normal trunk servicing. Expansive controls will only be used when mutually agreed to by the parties.

- 59.3. Mass Calling. CLECINTRADO COMM and Embarq shall cooperate and share pre-planning information, where available, regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes, to prevent or mitigate the impact of these events on the public switched network.

60. INDIRECT TRAFFIC

60.1. Interconnection

60.1.1. The Parties may send each other Indirect Traffic.

60.1.2. For purposes of exchanging Indirect Traffic there is no physical or direct point of interconnection between the Parties, therefore neither Party is required to construct new facilities or make mid-span meet arrangements available to the other Party for Indirect Traffic.

60.1.3. Indirect interconnection with SprintEmbarq shall only be allowed to the extent CLECINTRADO COMM is interconnected at the tandem switch which SprintEmbarq's end office subtends.

60.1.4. Interconnection to CLECINTRADO COMM will provide SprintEmbarq with access to CLECINTRADO COMM's end-users and to other companies which are likewise connected to CLECINTRADO COMM for local and toll service purposes.

60.1.5. Notwithstanding any other provision to the contrary, once the Indirect Traffic volume between CLECINTRADO COMM and a SprintEmbarq end office exceeds a DS1 equivalent of traffic, SprintEmbarq will no longer allow indirect interconnection and CLECINTRADO COMM must establish a direct interconnection with SprintEmbarq's end office for the mutual exchange of traffic. Within sixty (60) days of when the indirect traffic exceeds a DS1, CLECINTRADO COMM shall establish a direct interconnection with SprintEmbarq's end office.

60.2. Exchange Of Traffic

60.2.1. Each Party acknowledges that it is the originating Party's responsibility to enter into transiting arrangements with the third party providing the transit services.

60.2.2. Each terminating Party is responsible for billing the originating company for traffic terminated on its respective network. For this Indirect Traffic, the originating Party will provide the originating billing information to the terminating Party, if technically feasible. If the originating Party cannot provide the originating billing information to the terminating Party, then the terminating Party must obtain the originating billing information from the third-party transit company. Any direct costs incurred by the

terminating Party to obtain the records from a third party will be billed back to the originating Party.

60.2.3. It is each Party's responsibility to enter into appropriate contractual arrangements with the third-party transit company in order to obtain the originating billing information from the transit company.

60.2.4. Until Indirect traffic exceeds a DS1, each Party is responsible for the payment of transit charges for its originating traffic assessed by the transiting party. After Indirect traffic exceeds a DS1, if CLECINTRADO COMM has not established a direct end office trunking 60 days after Embarq notifies CLECINTRADO COMM in accordance with section 20, CLECINTRADO COMM will reimburse Embarq for any transit charges billed by an intermediary carrier for Local Traffic or ISP-Bound Traffic originated by Embarq.

60.3. Compensation for Indirect Traffic

60.3.1. Non-Local and Non-ISP-Bound Indirect Traffic

60.3.1.1. Compensation for the termination of non-Local traffic, non-ISP-Bound Traffic and the origination of 800 traffic between the interconnecting Parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations.

60.3.1.2. Toll traffic, switched access, and special access traffic, if separately chargeable, shall be charged the appropriate rate out of the terminating LEC's tariff or via other appropriate meet point access arrangements. Where exact transport mileage is not available, an average, arrived at by mutual agreement of the Parties, will be used.

60.3.2. Local Traffic and ISP-Bound Traffic. The rates set forth on Table One shall apply, in accordance with Part F of this Agreement.

61. USAGE MEASUREMENT

61.1. Each Party shall calculate terminating interconnection minutes of use based on standard AMA recordings made within each Party's network, these recordings being necessary for each Party to generate bills to the other Party. In the event either Party cannot measure minutes terminating on its network where technically feasible, the other Party shall provide the measuring mechanism or the Parties shall otherwise agree on an alternate arrangement.

61.2. Measurement of minutes of use over Local Interconnection trunk groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection trunk group will be totaled for the entire monthly bill period and then rounded to the next whole minute.

61.3. Prior to the commencement of billing for interconnection, each Party shall provide to the other, the PLU of the traffic terminated to each other over the Local Interconnection trunk groups.

61.3.1. The Parties agree to review the accuracy of the PLU on a regular basis. If the initial PLU is determined to be inaccurate by more than twenty percent (20%), the Parties agree to implement the new PLU retroactively to the Effective Date of the contract.

62. RESPONSIBILITIES OF THE PARTIES

62.1. Embarq and ~~CLEC~~INTRADO COMM will review engineering requirements consistent with the Implementation Plan described in Part B, Part C, Part F and as otherwise set forth in this Agreement.

62.2. ~~CLEC~~INTRADO COMM and Embarq shall share responsibility for all Control Office functions for Local Interconnection Trunks and Trunk Groups, and both parties shall share the overall coordination, installation, and maintenance responsibilities for these trunks and trunk groups.

62.3. ~~CLEC~~INTRADO COMM and Embarq shall:

62.3.1. Provide trained personnel with adequate and compatible test equipment to work with each other's technicians.

62.3.2. Notify each other when there is any change affecting the service requested, including the due date.

62.3.3. Coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure its interconnection trunks/trunk groups are installed per the interconnection order, meet agreed-upon acceptance test requirements, and are placed in service by the due date.

62.3.4. Perform sectionalization to determine if a trouble is located in its facility or its portion of the interconnection trunks prior to referring the trouble to each other.

62.3.5. Advise each other's Control Office if there is an equipment failure which may affect the interconnection trunks.

62.3.6. Provide each other with a trouble reporting/repair contact number that is readily accessible and available twenty-four (24) hours/seven (7) days a week. Any changes to this contact arrangement must be immediately provided to the other party.

62.3.7. Provide to each other test-line numbers and access to test lines.

62.3.8. Cooperatively plan and implement coordinated repair procedures for the meet point and Local Interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.

PART G – LOCAL NUMBER PORTABILITY

63. INTRODUCTION

- 63.1. Upon implementation of LNP, both Parties agree to conform and provide such LNP pursuant to FCC regulations and compliance with the Industry Forum Guidelines. To the extent consistent with the FCC and Industry Guidelines as amended from time to time, the requirements for LNP shall include the following:
- 63.2. End users must be able to change local service providers and retain the same telephone number(s) within the serving rate center utilizing the portability method as defined by the FCC.
- 63.3. The LNP network architecture shall not subject Parties to any degradation of service in any relevant measure, including transmission quality, switching and transport costs, increased call set-up time and post-dial delay.
 - 63.3.1. Parties agree that when an NXX is defined as portable, it shall also be defined as portable in all LNP capable switches serving the rate center.
 - 63.3.2. When an end user ports to another service provider and has previously secured a reservation of line numbers from the donor provider under contract or tariff for possible activation at some future point, these reserved but inactive numbers shall port along with the active numbers being ported by the end user.
 - 63.3.3. NXX Availability. Not all NXXs in each CO may be available for porting.
 - 63.3.4. LERG Reassignment. Portability for an entire NXX shall be provided by utilizing reassignment of the NXX to ~~CLEC~~INTRADO COMM through the LERG.
 - 63.3.5. Coordination of service order work outside normal business hours (8:00 a.m. to 5:00 p.m.) shall be at requesting Party's expense. Premium rates will apply for service order work performed outside normal business hours, weekends, and holidays.
 - 63.3.6. Mass Calling Events. Parties will notify each other at least seven (7) Days in advance where ported numbers are utilized. Parties will only port mass calling numbers using switch translations and a choke network for call routing. Porting on mass calling numbers will be handled outside the normal porting process and comply with any applicable federal regulatory requirements or industry guidelines developed for mass calling numbers.

64. TESTING

- 64.1. An Interconnection Agreement (or Memorandum of Understanding, or Porting Agreement) detailing conditions for LNP must be in effect between the Parties prior to testing.
- 64.2. Testing and operational issues will be addressed in the implementation plans as described in Part B, Section 33 of the agreement.
- 64.3. ~~CLECINTRADO COMM~~ must be NPAC certified and have met Embarq testing parameters prior to activating LNP. After initial LNP implementation by a ~~CLECINTRADO COMM~~/CMRS provider testing and porting will be done at ~~CLECINTRADO COMM~~'s expense.
- 64.4. Parties will cooperate to ensure effective maintenance testing through activities such as routine testing practices, network trouble isolation processes and review of operational elements for translations, routing and network fault isolation.
- 64.5. Parties shall cooperate in testing performed to ensure interconnectivity between systems. All LNP providers shall notify each connected provider of any system updates that may affect the ~~CLECINTRADO COMM~~ or Embarq network. Each LNP provider shall, at each other's request, jointly perform tests to validate the operation of the network. Additional testing requirements may apply as specified by this Agreement or in the Implementation Plan.

65. ENGINEERING AND MAINTENANCE

- 65.1. Each LNP provider will monitor and perform effective maintenance through testing and the performance of proactive maintenance activities such as routine testing, development of and adherence to appropriate network trouble isolation processes and periodic review of operational elements for translations, routing and network faults.
- 65.2. It will be the responsibility of the Parties to ensure that the network is stable and maintenance and performance levels are maintained in accordance with state commission requirements. It will be the responsibility of the Parties to perform fault isolation in their network before involving other providers.
- 65.3. Additional engineering and maintenance requirements shall apply as specified in this Agreement or the Implementation Plan.

66. E911/911

- 66.1. When a subscriber ports to another service provider, the donor provider shall unlock the information in the 911/ALI database. The porting provider is responsible for updating the 911 tandem switch routing tables and 911/ALI database to correctly route, and provide accurate information to the PSAP call centers.

- 66.2. Prior to implementation of LNP, the Parties agree to develop, implement, and maintain efficient methods to maintain 911 database integrity when a subscriber ports to another service provider. The Parties agree that the customer shall not be dropped from the 911 database during the transition.

67. BILLING FOR PORTED NUMBERS

- 67.1. When an IXC terminates an InterLATA or IntraLATA toll call to either party's local exchange customer whose telephone number has been ported from one party to the other, the parties agree that the party to whom the number has been ported shall be entitled to revenue from the IXC for those access elements it actually provides including, but not limited to end office switching, local transport, RIC, and CCL. The party from whom the number has been ported shall be entitled to receive revenue from the IXC for those access elements it actually provides including, but not limited to any entrance facility fees, access tandem fees and appropriate local transport charges.
- 67.2. Non-Payment. Customers lose the right to the ported telephone number upon suspension of service. Embarq will not port telephone numbers of customers whose service has been suspended.

PART H – LINE SHARING

68. LINE SHARING

68.1. General Terms

- 68.1.1. Under this Agreement, Embarq will not provide access to the HFPL for line sharing by CLECINTRADO COMM except pursuant to the following terms and conditions.
- 68.1.2. For HFPLs in service prior to 10/02/03, Embarq will continue to bill HFPL at the rate that was effective for that arrangement on 10/02/03 as long as that HFPL remains in service to the particular CLECINTRADO COMM end-user premises.
- 68.1.3. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLECINTRADO COMM end-user premises during the period 10/01/04 and 10/01/05, the rate billed for HFPL will be fifty percent (50%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.4. For HFPL ordered 10/02/03 to 10/01/04 and remaining in service to the particular CLECINTRADO COMM end-user premises during the period 10/02/05 and 10/01/06, the rate billed for HFPL will be seventy-five (75%) of the xDSL capable UNE Loop rate found in Table One.
- 68.1.5. After 10/01/06, CLECINTRADO COMM must order a stand-alone loop or negotiate a line splitting arrangement with another Telecommunications Carrier.
- 68.2. Embarq Line Sharing provided HFPL to CLECINTRADO COMM only those instances when Embarq is the provider of analog circuit-switched voice band service on that same Copper Loop to the same End User.
- 68.3. In the event that the end user being served by CLECINTRADO COMM via HFPL terminates its Embarq-provided retail voice service, or when Embarq provided retail voice service is disconnected due to “denial for non-pay,” Embarq shall provide reasonable notice to CLECINTRADO COMM prior to disconnect. CLECINTRADO COMM shall have the option of purchasing an entire stand-alone UNE digital loop if it wishes to continue to provide advanced services to that end user. If CLECINTRADO COMM notifies Embarq that it chooses this option, CLECINTRADO COMM and Embarq shall cooperate to transition DSL service from the HFPL to the stand-alone loop without any interruption of service pursuant to the provisions set forth below. If CLECINTRADO COMM declines to purchase the entire stand alone UNE digital loop, Embarq may terminate the HFPL.
- 68.4. Embarq will use reasonable efforts to accommodate the continued use by CLECINTRADO COMM as a stand-alone UNE digital loop of the Copper Loop

facilities over which CLECINTRADO COMM is provisioning advanced services at the time that the Embarq-provided retail voice service terminates; if:

68.4.1. adequate facilities are available to allow the provisioning of voice service over such other facilities, and

68.4.2. CLECINTRADO COMM agrees to pay any additional ordering charges associated with the conversion from the provisioning of HFPL to a stand alone unbundled digital loop as specified in Table One (excluding conditioning charges).

68.5. Any additional maintenance of service conducted at CLECINTRADO COMM's request by Embarq on behalf of the CLECINTRADO COMM solely for the benefit of the CLECINTRADO COMM's services will be paid for by CLECINTRADO COMM at prices negotiated by Embarq and CLECINTRADO COMM.

68.6. Deployment and Interference

68.6.1. In providing services utilizing the HFPL, Embarq shall allow CLECINTRADO COMM to deploy underlying technology that does not significantly interfere with other advanced services and analog circuit-switched voice band transmissions.

68.6.2. For any technology, CLECINTRADO COMM represents that its use of any Embarq network element, or of its own equipment or facilities in conjunction with any Embarq network element, will not materially interfere with or impair service over any facilities of Embarq, its affiliated companies or connecting and concurring carriers, cause damage to Embarq's plant, impair the privacy of any communications carried over Embarq's facilities or create hazards to employees or the public. Upon reasonable written notice and after a reasonable opportunity to cure, Embarq may discontinue service if CLECINTRADO COMM violates this provision. The termination of service will be limited to CLECINTRADO COMM's use of the element(s) causing the violation. Embarq will not disconnect the elements causing the violation if, after receipt of written notice and opportunity to cure, CLECINTRADO COMM demonstrates that their use of the network element is not the cause of the network harm.

PART I – NON-251 SERVICES

69. CALL-RELATED DATABASES

69.1. Embarq will offer access to call-related databases (non-251 services), including, but not limited to, Toll Free Calling database, Number Portability database, and Calling Name (CNAM) database. Embarq reserves the right to decline to offer access to certain AIN software that qualifies for proprietary treatment. The rates for access to these call-related databases are set forth on Table One.

69.1.1. The CNAM database is a transaction-oriented database accessible via the CCS network. CNAM provides the calling parties' name to be delivered and displayed to the terminating caller with 'Caller ID with Name'. Use of Embarq's CNAM Database by CLECINTRADO COMM and CLECINTRADO COMM's customers is limited to obtaining CNAM responses and using the information contained in those responses only on a call by call basis and only to support service related to a call in progress. CLECINTRADO COMM will not capture, cache, or store any information contained in a CNAM response.

69.1.2. The Toll Free Number Database provides functionality necessary for toll free (e.g., 800 and 888) number services by providing routing information and additional vertical features (i.e., time of day routing by location, by carrier and routing to multiple geographic locations) during call setup in response to queries from CLECINTRADO COMM's switch. Use of Embarq's Toll Free Database by CLECINTRADO COMM and its customers is limited to obtaining information, on a call-by-call basis, for proper routing of calls in the provision of toll free exchange access service or local toll free service.

69.1.3. Local Number Portability Local Routing Query Service. TCAP messages originated by CLECINTRADO COMM's SSPs and received by Embarq's database will be provided a response upon completion of a database lookup to determine the LRN. This information will be populated in industry standard format and returned to CLECINTRADO COMM so that it can then terminate the call in progress to the telephone number now residing in the switch designated by the LRN.

- (a) CLECINTRADO COMM agrees to obtain, prior to the initiation of any LNP query, a NPAC/SMS User Agreement with Neustar. CLECINTRADO COMM will maintain the NPAC/SMS User Agreement with Neustar, or its successor, as long as it continues to make LNP queries to the Embarq database. Failure to obtain and maintain the NPAC/SMS User Agreement is considered a breach of this Agreement and is cause for immediate termination of service. Embarq shall not be liable for any direct or consequential damages due to termination because of lack of a NPAC/SMS User Agreement.

- (b) Embarq's LNP Database service offering does not include the cost of any charges or assessments by Number Portability Administrative Centers, whether under the NPAC/SMS User Agreement with Lockheed, or otherwise, or any charges assessed directly against CLECINTRADO COMM as the result of the FCC LNP Orders or otherwise by any third-party. These costs include the costs assessed against telecommunications carriers to pay for NPAC functions as permitted by the FCC and applicable legal or regulatory bodies. Embarq shall have no liability to CLECINTRADO COMM or the NPAC for any of these fees or charges applicable to CLECINTRADO COMM, even though it may pay such charges for other Embarq companies.

70. TRANSIT TRAFFIC

- 70.1. Transit Service (non-251 service) means the delivery of Transit Traffic, i.e. Local Traffic or ISP-Bound Traffic originated by CLECINTRADO COMM terminated to a third party LEC, ILEC, or CMRS provider or originated by a third party and terminated to CLECINTRADO COMM using Embarq's tandem switch over the local/intraLATA interconnection trunks.
- 70.2. To the extent network and contractual arrangements exist with all necessary parties throughout the term of this Agreement, and where indirectly interconnected parties have an interconnection to the same Embarq tandem, Embarq will provide Transit Services for CLECINTRADO COMM's connection of its end user to a local end user of: (1) CLECINTRADO COMMS, (2) an ILEC other than Embarq, and (3) other CMRS carriers.
- 70.3. Embarq may require separate trunking for the delivery of such Transit Traffic in order to accurately measure and bill it.
- 70.4. Terms and Conditions
- 70.4.1. Each Party acknowledges that a third-party LEC may block transit traffic. To the extent the originated Party's traffic is blocked by a third party, Embarq shall have no obligation to resolve the dispute. CLECINTRADO COMM acknowledges that Embarq does not have any responsibility to pay any third-party Telecommunications Carrier charges for termination of any identifiable Transit Traffic from the originating Party. Each Party acknowledges that it is the originating Party's responsibility to enter into arrangements with each third party LEC, CLECINTRADO COMM, or CMRS provider for the exchange of transit traffic to that third party.
- 70.4.2. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between CLECINTRADO COMM and a third party exceeds a DS1 equivalent of traffic, Embarq will no longer provide transit service and CLECINTRADO COMM must establish a direct interconnection with the third party for the exchange of such traffic.

Within sixty (60) Days of when traffic exceeds this threshold, CLECINTRADO COMM shall establish a direct interconnection with such third party. After sixty (60) Days, if CLECINTRADO COMM has not established a direct interconnection and if CLECINTRADO COMM is exercising its best efforts to implement a direct connection with such third party, Embarq shall continue to transit the traffic. If Embarq disagrees that CLECINTRADO COMM is using its best efforts to implement a direct connection, Embarq may seek relief pursuant to the Dispute Resolution provisions.

70.5. Payment Terms and Conditions

70.5.1. The originating Party shall pay to Embarq a transit service charge as set forth in Table One.

70.5.2. CLECINTRADO COMM shall pay a transit rate as set forth in Table One of this Part when CLECINTRADO COMM uses an Embarq access tandem to terminate a local or ISP-bound call to a third party LEC, CLECINTRADO COMM or CMRS provider. CLECINTRADO COMM may be required to compensate Embarq for transit charges for traffic originated by an ILEC, transited by Embarq and terminated to CLECINTRADO COMM.

70.6. Billing Records and Exchange of Data

70.6.1. Parties will use their best efforts to convert all networks transporting transit traffic to deliver each call to the other Party's network with SS7 Common Channel Interoffice Signaling (CCIS) and other appropriate TCAP messages in order to facilitate full interoperability and billing functions. The Parties agree to send all message indicators, including originating telephone number, local routing number and CIC.

70.6.2. Upon request by the terminating Party and to the extent possible, Embarq agrees to provide the terminating Party information on traffic originated by a third party CLECINTRADO COMMs or CMRS provider. To the extent Embarq incurs additional cost in providing this billing information, CLECINTRADO COMM agrees to reimburse Embarq for its direct costs of providing this information.

70.6.3. To the extent that the industry adopts a standard record format for recording originating and/or terminating transit calls, both Parties agree to comply with the industry-adopted format to exchange records.

70.7. Notwithstanding any other provision to the contrary, once the Transit Traffic volume between CLECINTRADO COMM and a third party exceeds the equivalent of three (3) DS1s of traffic, Embarq may, but shall not be obligated to require CLECINTRADO COMM to establish a direct connection with the parties to whom they are sending traffic. Embarq also reserves the right to require CLECINTRADO COMM to establish a direct connection to the third party if, in Embarq's sole discretion, the tandem is at or approaching capacity limitations.

These limitations may include but are not limited to a lack of trunk port capacity or processor capacity based on the then existing tandem and network configuration. Within sixty (60) Days after Embarq notifies CLECINTRADO COMM of the requirement to direct connect, CLECINTRADO COMM shall establish a direct interconnection with such third party. After sixty (60) Days, if CLECINTRADO COMM has not established a direct interconnection, Embarq may thereafter charge CLECINTRADO COMM for such transit service at Intrastate Access rates, or discontinue providing transit service to CLECINTRADO COMM, at the sole discretion of Embarq, provided however, that Embarq shall exercise such discretion in a non-discriminatory manner.

PART J – GENERAL BUSINESS REQUIREMENTS**71. PROCEDURES****71.1. Contact with End Users**

- 71.1.1. Each Party at all times shall be the primary contact and account control for all interactions with its end users, except as specified by that Party. Subscribers include active end users as well as those for whom service orders are pending.
- 71.1.2. Each Party shall ensure that any of its personnel who may receive end user inquiries, or otherwise have opportunity for end user contact from the other Party's end user regarding the other Party's services: (i) provide appropriate referrals to subscribers who inquire about the other Party's services or products; (ii) do not in any way disparage or discriminate against the other Party, or its products or services; and (iii) do not provide information about its products or services during that same inquiry or end user contact.
- 71.1.3. Embarq shall not use CLECINTRADO COMM's request for end user information, order submission, or any other aspect of CLECINTRADO COMM's processes or services to aid Embarq's marketing or sales efforts.

71.2. Expedite and Escalation Procedures

- 71.2.1. Embarq and CLECINTRADO COMM shall develop mutually acceptable escalation and expedite procedures which may be invoked at any point in the Service Ordering, Provisioning, Maintenance, and Subscriber Usage Data transfer processes to facilitate rapid and timely resolution of disputes. In addition, Embarq and CLECINTRADO COMM will establish intercompany contacts lists for purposes of handling end user and other matters which require attention/resolution outside of normal business procedures within thirty (30) Days after CLECINTRADO COMM's request. Each party shall notify the other party of any changes to its escalation contact list as soon as practicable before such changes are effective.
 - 71.2.2. No later than thirty (30) Days after CLECINTRADO COMM's request Embarq shall provide CLECINTRADO COMM with contingency plans for those cases in which normal Service Ordering, Provisioning, Maintenance, Billing, and other procedures for Embarq's unbundled Network Elements, features, functions, and resale services are inoperable.
- 71.3. Subscriber of Record. Embarq shall recognize CLECINTRADO COMM as the Subscriber of Record for all Network Elements or services for resale ordered by

CLECINTRADO COMM and shall send all notices, invoices, and information which pertain to such ordered services directly to CLECINTRADO COMM. CLECINTRADO COMM will provide Embarq with addresses to which Embarq shall send all such notices, invoices, and information.

71.4. Service Offerings

71.4.1. Embarq shall provide CLECINTRADO COMM with access to new services, features and functions concurrent with Embarq's notice to CLECINTRADO COMM of such changes, if such service, feature or function is installed and available in the network or as soon thereafter as it is installed and available in the network, so that CLECINTRADO COMM may conduct market testing.

71.4.2. Essential Services. For purposes of service restoral, Embarq shall designate a CLECINTRADO COMM access line as an Essential Service Line (ESL) at Parity with Embarq's treatment of its own end users and applicable state law or regulation, if any.

71.4.3. Blocking Services. Upon request from CLECINTRADO COMM, employing Embarq-approved LSR documentation, Embarq shall provide blocking of 700, 900, and 976 services, or other services of similar type as may now exist or be developed in the future, and shall provide Billed Number Screening (BNS), including required LIDB updates, or equivalent service for blocking completion of bill-to-third party and collect calls, on a line, PBX, or individual service basis. Blocking shall be provided to the extent (a) it is an available option for the Telecommunications Service resold by CLECINTRADO COMM, or (b) it is technically feasible when requested by CLECINTRADO COMM as a function of unbundled Network Elements.

71.4.4. Training Support. Embarq shall provide training, on a non-discriminatory basis, for all Embarq employees who may communicate, either by telephone or face-to-face, with CLECINTRADO COMM end users. Such training shall include compliance with the branding requirements of this Agreement including without limitation provisions of forms, and unbranded "Not at Home" notices.

72. ORDERING AND PROVISIONING

72.1. Ordering and Provisioning Parity. Embarq shall provide necessary ordering and provisioning business process support as well as those technical and systems interfaces as may be required to enable CLECINTRADO COMM to provide the same level and quality of service for all resale services, functions, features, capabilities and unbundled Network Elements at Parity.

72.2. National Exchange Access Center (NEAC)

- 72.2.1. Embarq shall provide a NEAC or equivalent which shall serve as CLECINTRADO COMM's point of contact for all activities involved in the ordering and provisioning of Embarq's unbundled Network Elements, features, functions, and resale services.
- 72.2.2. The NEAC shall provide to CLECINTRADO COMM a nationwide telephone number (available from 6:00 a.m. to 8:00 p.m. Eastern Standard Time, Monday through Friday, and 8:00 am through 5:00 P.M. Eastern Standard Time on Saturday) answered by competent, knowledgeable personnel trained to answer questions and resolve problems in connection with the ordering and provisioning of unbundled Network Elements (except those associated with local trunking interconnection), features, functions, capabilities, and resale services.
- 72.2.3. Embarq shall provide, as requested by CLECINTRADO COMM, through the NEAC, provisioning and premises visit installation support in the form of coordinated scheduling, status, and dispatch capabilities during Embarq's standard business hours and at other times as agreed upon by the parties to meet end user demand.
- 72.3. Street Index Guide (SIG). Within thirty (30) Days of CLECINTRADO COMM's written request, Embarq shall provide to CLECINTRADO COMM the SIG data in the National Emergency Number Association Two (NENA2) format. A CDROM containing the SIG data will be shipped to the CLECINTRADO COMM's designated contact on a monthly basis until the request is cancelled.
- 72.4. CLASS and Custom Features. Where generally available in Embarq's serving area, CLECINTRADO COMM, at the tariff rate, may order the entire set of CLASS, CENTREX and Custom features and functions, or a subset of any one of such features.
- 72.5. Number Administration/Number Reservation
 - 72.5.1. Embarq shall provide testing and loading of CLECINTRADO COMM's NXX on the same basis as Embarq provides itself or its affiliates. Further, Embarq shall provide CLECINTRADO COMM with access to abbreviated dialing codes, and the ability to obtain telephone numbers, including vanity numbers, while a subscriber is on the phone with CLECINTRADO COMM. When CLECINTRADO COMM uses numbers from an Embarq NXX, Embarq shall provide the same range of number choices to CLECINTRADO COMM, including choice of exchange number, as Embarq provides its own subscribers. Reservation and aging of Embarq NXX's shall remain Embarq's responsibility.
 - 72.5.2. In conjunction with an order for service, Embarq shall accept CLECINTRADO COMM orders for vanity numbers and blocks of numbers for use with complex services including, but not limited to, DID, CENTREX, and Hunting arrangements, as requested by CLECINTRADO COMM.

72.5.3. For simple services number reservations and aging of Embarq's numbers, Embarq shall provide real-time confirmation of the number reservation when the Electronic Interface has been implemented. For number reservations associated with complex services, Embarq shall provide confirmation of the number reservation within twenty-four (24) hours of CLECINTRADO COMM's request. Consistent with the manner in which Embarq provides numbers to its own subscribers, no telephone number assignment is guaranteed until service has been installed.

72.6. Service Order Process Requirements

72.6.1. Service Migrations and New Subscriber Additions

- (a) For resale services, other than for a CLECINTRADO COMM order to convert "as is" a CLECINTRADO COMM subscriber, Embarq shall not disconnect any subscriber service or existing features at any time during the migration of that subscriber to CLECINTRADO COMM service without prior CLECINTRADO COMM agreement.
- (b) For services provided through UNEs, Embarq shall recognize CLECINTRADO COMM as an agent, in accordance with OBF developed processes, for the subscriber in coordinating the disconnection of services provided by another CLECINTRADO COMM or Embarq. In addition, Embarq and CLECINTRADO COMM will work cooperatively to minimize service interruptions during the conversion.
- (c) Unless otherwise directed by CLECINTRADO COMM and when technically capable, when CLECINTRADO COMM orders resale Telecommunications Services all trunk or telephone numbers currently associated with existing services shall be retained without loss of feature capability and without loss of associated ancillary services including, but not limited to, Directory Assistance and 911/E911 capability.
- (d) For subscriber conversions requiring coordinated cut-over activities, on a per order basis, Embarq, to the extent resources are readily available, and CLECINTRADO COMM will agree on a scheduled conversion time, which will be a designated time period within a designated date.
- (e) Any request made by CLECINTRADO COMM to coordinate conversions after normal working hours, or on Saturdays or Sundays or Embarq holidays shall be performed at CLECINTRADO COMM's expense.

- (f) A general Letter of Agency (LOA) initiated by CLECINTRADO COMM or Embarq will be required to process a PLC or PIC change order. Providing the LOA, or a copy of the LOA, signed by the end user will not be required to process a PLC or PIC change ordered by CLECINTRADO COMM or Embarq. CLECINTRADO COMM and Embarq agree that PLC and PIC change orders will be supported with appropriate documentation and verification as required by FCC and Commission rules. In the event of a subscriber complaint of an unauthorized PLC record change where the Party that ordered such change is unable to produce appropriate documentation and verification as required by FCC and Commission rules (or, if there are no rules applicable to PLC record changes, then such rules as are applicable to changes in long distance carriers of record), such Party shall be liable to pay and shall pay all nonrecurring and/or other charges associated with reestablishing the subscriber's local service with the original local carrier.

72.6.2. Intercept Treatment and Transfer Service Announcements. Embarq shall provide unbranded intercept treatment and transfer of service announcements to CLECINTRADO COMM's subscribers. Embarq shall provide such treatment and transfer of service announcement in accordance with local tariffs and as provided to similarly situated Embarq subscribers for all service disconnects, suspensions, or transfers.

72.6.3. Due Date

- (a) Embarq shall supply CLECINTRADO COMM with due date intervals to be used by CLECINTRADO COMM personnel to determine service installation dates.
- (b) Embarq shall use reasonable efforts to complete orders by the CLECINTRADO COMM requested DDD within agreed upon intervals.
- (c) Subscriber Premises Inspections and Installations
- (i) CLECINTRADO COMM shall perform or contract for all CLECINTRADO COMM's needs assessments, including equipment and installation requirements required beyond the Demarcation/NID, located at the subscriber premises.
- (ii) Embarq shall provide CLECINTRADO COMM with the ability to schedule subscriber premises installations at the same morning and evening commitment level of service offered Embarq's own customers. The parties shall mutually agree on an interim process to provide this functionality during the implementation planning process.

(d) Firm Order Confirmation (FOC)

- (i) Embarq shall provide to CLECINTRADO COMM, a Firm Order Confirmation (FOC) for each CLECINTRADO COMM order. The FOC shall contain the appropriate data elements as defined by the OBF standards.
- (ii) For a revised FOC, Embarq shall provide standard detail as defined by the OBF standards.
- (iii) Embarq shall provide to CLECINTRADO COMM the date that service is scheduled to be installed.

72.6.4. Order Rejections

- (a) Embarq shall reject and return to CLECINTRADO COMM any order that Embarq cannot provision, due to technical reasons, missing information, or jeopardy conditions resulting from CLECINTRADO COMM ordering service at less than the standard order interval. When an order is rejected, Embarq shall, in its reject notification, specifically describe all of the reasons for which the order was rejected. Embarq shall reject any orders on account of the customer Desired Due Date conflicts with published Embarq order provisioning interval requirements.

72.6.5. Service Order Changes

- (a) In no event will Embarq change a CLECINTRADO COMM initiated service order without a new service order directing said change. If an installation or other CLECINTRADO COMM ordered work requires a change from the original CLECINTRADO COMM service order in any manner, CLECINTRADO COMM shall initiate a revised service order. If requested by CLECINTRADO COMM, Embarq shall then provide CLECINTRADO COMM an estimate of additional labor hours and/or materials.
- (b) When a service order is completed, the cost of the work performed will be reported promptly to CLECINTRADO COMM.
- (c) If a CLECINTRADO COMM subscriber requests a service change at the time of installation or other work being performed by Embarq on behalf of CLECINTRADO COMM, Embarq, while at the subscriber premises, shall direct the CLECINTRADO COMM subscriber to contact CLECINTRADO COMM, and CLECINTRADO COMM will initiate a new service order.

72.7. Network Testing. Embarq shall perform all its standard pre-service testing prior to the completion of the service order.

- 72.8. Service Suspensions/Restorations. Upon CLECINTRADO COMM's request through an Industry Standard, OBF, Suspend/Restore Order, or mutually agreed upon interim procedure, Embarq shall suspend or restore the functionality of any Network Element, feature, function, or resale service to which suspend/restore is applicable. Embarq shall provide restoration priority on a per network element basis in a manner that conforms with any applicable regulatory Rules and Regulations or government requirements.
- 72.9. Order Completion Notification. Upon completion of the requests submitted by CLECINTRADO COMM, Embarq shall provide to CLECINTRADO COMM a completion notification in an industry standard, OBF, or in a mutually agreed format. The completion notification shall include detail of the work performed, to the extent this is defined within OBF guidelines, and in an interim method until such standards are defined.
- 72.10. Specific Unbundling Requirements. CLECINTRADO COMM may order and Embarq shall provision unbundled Network Elements. However, it is CLECINTRADO COMM's responsibility to combine the individual network elements should it desire to do so.
- 72.11. Systems Interfaces and Information Exchanges
- 72.11.1. General Requirements
- (a) Embarq shall provide to CLECINTRADO COMM Electronic Interface(s) for transferring and receiving information and executing transactions for all business functions directly or indirectly related to Service Ordering and Provisioning of Network Elements, features, functions and Telecommunications Services, to the extent available.
 - (b) Until the Electronic Interface is available, Embarq agrees that the NEAC or similar function will accept CLECINTRADO COMM orders. Orders will be transmitted to the NEAC via an interface or method agreed upon by CLECINTRADO COMM and Embarq.
 - (c) If the method of connectivity is File Transfer Protocol (FTP), the response(s) will be loaded to the server every hour and it is the responsibility of CLECINTRADO COMM to retrieve their response(s) from the server.
 - (d) It is the responsibility of CLECINTRADO COMM to provide Embarq with the LOA (Letter of Authorization) when another party is involved and is working on their behalf.
- 72.11.2. For any prospective CLECINTRADO COMM subscriber, Embarq shall provide CLECINTRADO COMM with access to that subscriber's CPNI without requiring CLECINTRADO COMM to produce a signed LOA, subject to applicable rules, orders, and decisions, and based on

CLECINTRADO COMM's blanket representation that subscriber has authorized CLECINTRADO COMM to obtain such CPNI.

- (a) The preordering Electronic Interface includes the provisioning of CPNI from Embarq to CLECINTRADO COMM. The Parties agree to request end user CPNI only when the end user has specifically given permission to receive CPNI. The Parties agree that they will conform to FCC and/or state regulations regarding the provisioning of CPNI between the parties, and regarding the use of that information by the requesting party.
- (b) The requesting Party will document end user permission obtained to receive CPNI, whether or not the end user has agreed to change local service providers. With respect to end users whose CPNI has been received by CLECINTRADO COMM, Embarq may request documentation from CLECINTRADO COMM to substantiate that CLECINTRADO COMM has requested and received permission from all such end users. If CLECINTRADO COMM is not able to provide adequate documentation reflecting such permission from at least ninety-five (95%) of such end users, Embarq reserves the right to immediately disconnect the preordering Electronic Interface.
- (c) The Parties agree to execute carrier changes as specified by the FCC in 47 CFR 64.1120. Documentation reflecting the request for a carrier change and verification in the form set forth in 47 CFR 64.1120 may be requested by the Party whose CPNI has been accessed in connection with such requested carrier change to investigate possible slamming incidents, and for other reasons agreed to by the Parties. A Party's failure to obtain and maintain adequate documentation of the request for a carrier change and verification of the same in the form set forth in 47 CFR 64.1120 before changing service from the other Party, or failure to produce documentation of such request and verification upon request of the other Party shall be considered a breach of the Agreement. A Party can cure the breach by submitting to the other Party a copy of such documentation within three (3) Business Days of notification of the breach.
- (d) If CLECINTRADO COMM is not able to provide the LOA for ninety-five percent (95%) of the end users requested by Embarq, or if Embarq determines that an LOA is inadequate, CLECINTRADO COMM will be considered in breach of the agreement. CLECINTRADO COMM can cure the breach by submitting to Embarq evidence of an LOA for each inadequate or omitted LOA within three (3) Business Days of notification of the breach.

- (e) Should CLECINTRADO COMM not be able to cure the breach in the timeframe noted above, Embarq will discontinue processing new service orders until, in Embarq's determination, CLECINTRADO COMM has corrected the problem that caused the breach.
- (f) Embarq will resume processing new service orders upon Embarq's timely review and acceptance of evidence provided by CLECINTRADO COMM to correct the problem that caused the breach.
- (g) If CLECINTRADO COMM and Embarq do not agree that CLECINTRADO COMM has appropriate documentation or verification of a requested carrier change by a specific end user, or that Embarq has erred in not accepting proof of such carrier change request, the Parties may immediately request dispute resolution in accordance with Part B. Embarq will not disconnect the preordering Electronic Interface during the Alternate Dispute Resolution process.

72.12. CLECINTRADO COMM may use Embarq's ordering process (IRES) to:

72.12.1. to assign telephone number(s) (if the subscriber does not already have a telephone number or requests a change of telephone number) at Parity.

- (a) to schedule dispatch and installation appointments at Parity.
- (b) to access Embarq subscriber information systems which will allow CLECINTRADO COMM to determine if a service call is needed to install the line or service at Parity.
- (c) to access Embarq information systems which will allow CLECINTRADO COMM to provide service availability dates at Parity.
- (d) transmit status information on service orders, including acknowledgement, firm order confirmation, and completion at Parity.

72.13. Standards

72.13.1. General Requirements. CLECINTRADO COMM and Embarq shall agree upon the appropriate ordering and provisioning codes to be used for UNEs. These codes shall apply to all aspects of the unbundling of that element and shall be known as data elements as defined by the Telecommunications Industry Forum Electronic Data Interchange Service Order Subcommittee (TCIF-EDI-SOSC).

73. PROVISION OF USAGE DATA

73.1. This Section sets forth the terms and conditions for Embarq's provision of Recorded Usage Data (as defined in this Part) to ~~CLECINTRADO COMM~~ and for information exchange regarding long distance and access billing. The parties agree to record call information for interconnection in accordance with this Section. To the extent technically feasible, each party shall record all call detail information associated with completed calls originated by or terminated to the other Party's local exchange subscriber, and long distance calls transited through one Party's network to the terminating provider. Embarq shall record for ~~CLECINTRADO COMM~~ the messages that Embarq records for and bills to its end users and records for billing of interexchange carriers. These records shall be provided at a party's request and shall be formatted pursuant to Telcordia's EMI standards and the terms and conditions of this Agreement. These records shall be transmitted to the other party on non-holiday Business Days in EMI format via CDN, or provided on a cartridge. Embarq and ~~CLECINTRADO COMM~~ agree that they shall retain, at each party's sole expense, copies of all EMI records transmitted to the other party for at least forty-five (45) Days after transmission to the other party.

73.2. General Procedures

73.2.1. Embarq shall comply with various industry and OBF standards referred to throughout this Agreement.

73.2.2. Embarq shall comply with OBF standards when recording and transmitting Usage Data.

73.2.3. Embarq shall record all usage originating from ~~CLECINTRADO COMM~~ end users using resold services ordered by ~~CLECINTRADO COMM~~, where Embarq records those same services for Embarq end users. Recorded Usage Data includes, but is not limited to, the following categories of information:

- (a) Use of CLASS/LASS/Custom Features that Embarq records and bills for its end users on a per usage basis.
- (b) Calls to Information Providers (IP) reached via Embarq facilities will be provided in accordance with Section ~~73.2.773.2.772.2.7~~
- (c) Calls to Directory Assistance where Embarq provides such service to a ~~CLECINTRADO COMM~~ end user.
- (d) Calls completed via Embarq-provided Operator Services where Embarq provides such service to ~~CLECINTRADO COMM~~'s local service end user and where Embarq records such usage for its end users using Industry Standard Telcordia EMI billing records.
- (e) Access records related to long distance calling.

(f) For Embarq-provided Centrex Service, station level detail.

- 73.2.4. Retention of Records. Embarq shall maintain a machine readable back-up copy of the message detail provided to CLECINTRADO COMM for a minimum of forty-five (45) Days. During the forty-five (45) day period, Embarq shall provide any data back-up to CLECINTRADO COMM upon the request of CLECINTRADO COMM. If the forty-five (45) day period has expired, Embarq may provide the data back-up at CLECINTRADO COMM's expense.
- 73.2.5. Embarq shall provide to CLECINTRADO COMM Recorded Usage Data for CLECINTRADO COMM end users. Embarq shall not submit other CLECINTRADO COMM local usage data as part of the CLECINTRADO COMM Recorded Usage Data.
- 73.2.6. Embarq shall not bill directly to CLECINTRADO COMM subscribers any recurring or non-recurring charges for CLECINTRADO COMM's services to the end user except where explicitly permitted to do so within a written agreement between Embarq and CLECINTRADO COMM.
- 73.2.7. Embarq will record 976/N11 calls and transmit them to the IP for billing. Embarq will not bill these calls to either the CLECINTRADO COMM or the CLECINTRADO COMM's end user.
- 73.2.8. Embarq shall provide Recorded Usage Data to CLECINTRADO COMM billing locations as agreed to by the Parties.
- 73.2.9. Embarq shall provide a single point of contact to respond to CLECINTRADO COMM call usage, data error, and record transmission inquiries.
- 73.2.10. Embarq shall provide CLECINTRADO COMM with a single point of contact and remote identifiers (IDs) for each sending location.
- 73.2.11. CLECINTRADO COMM shall provide a single point of contact responsible for receiving usage transmitted by Embarq and receiving usage tapes from a courier service in the event of a facility outage.
- 73.2.12. Embarq shall bill and CLECINTRADO COMM shall pay the charges for Recorded Usage Data. Billing and payment shall be in accordance with the applicable terms and conditions set forth herein.

73.3. Charges

- 73.3.1. Access services, including revenues associated therewith, provided in connection with the resale of services hereunder shall be the responsibility of Embarq and Embarq shall directly bill and receive payment on its own behalf from an IXC for access related to interexchange calls generated by resold or rebranded customers.

73.3.2. Embarq will be responsible for returning EMI records to IXCs with the proper EMI Return Code along with the Operating Company Number (OCN) of the associated ANI, (*i.e.*, Billing Number).

73.3.3. Embarq will deliver a monthly statement for Wholesale Services in the medium (e.g.: NDM, paper, or CD-ROM) requested by CLECINTRADO COMM as follows:

- (a) Invoices will be provided in a standard Carrier Access Billing format or other such format as Embarq may determine;
- (b) Where local usage charges apply and message detail is created to support available services, the originating local usage at the call detail level in standard EMI industry format will be exchanged daily or at other mutually agreed upon intervals, and CLECINTRADO COMM will pay Embarq for providing such call detail;
- (c) The Parties will work cooperatively to exchange information to facilitate the billing of in and out collect and inter/intra-region alternately billed messages;
- (d) Embarq agrees to provide information on the end-user's selection of special features where Embarq maintains such information (e.g.: billing method, special language) when CLECINTRADO COMM places the order for service;
- (e) Monthly recurring charges for Telecommunications Services sold pursuant to this Agreement shall be billed monthly in advance.
- (f) Embarq shall bill for message provisioning and, if applicable data tape charges, related to the provision of usage records. Embarq shall also bill CLECINTRADO COMM for additional copies of the monthly invoice.

73.3.4. For billing purposes, and except as otherwise specifically agreed to in writing, the Telecommunications Services provided hereunder are furnished for a minimum term of one month. Each month is presumed to have thirty (30) Days.

73.4. Central Clearinghouse and Settlement

73.4.1. Embarq and CLECINTRADO COMM shall agree upon Clearinghouse and Incollect/Outcollect procedures.

73.4.2. Embarq shall settle with CLECINTRADO COMM for both intra-region and inter-region billing exchanges of calling card, bill-to-third party, and collect calls under separately negotiated settlement arrangements.

73.5. Lost Data

- 73.5.1. Loss of Recorded Usage Data. CLECINTRADO COMM Recorded Usage Data determined to have been lost, damaged or destroyed as a result of an error or omission by Embarq in its performance of the recording function shall be recovered by Embarq at no charge to CLECINTRADO COMM. In the event the data cannot be recovered by Embarq, Embarq shall estimate the messages and associated revenue, with assistance from CLECINTRADO COMM, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by Embarq and CLECINTRADO COMM. This estimate shall be used to adjust amounts CLECINTRADO COMM owes Embarq for services Embarq provides in conjunction with the provision of Recorded Usage Data.
- 73.5.2. Partial Loss. Embarq shall review its daily controls to determine if data has been lost. When there has been a partial loss, actual message and minute volumes shall be reported, if possible through recovery as discussed in Section 73.573.572.5 above. Where actual data are not available, a full day shall be estimated for the recording entity, as outlined in the following paragraphs. The amount of the partial loss is then determined by subtracting the data actually recorded for such day from the estimated total for such day.
- 73.5.3. Complete Loss. When Embarq is unable to recover data as discussed in Section 73.573.572.5 above estimated message and minute volumes for each loss consisting of an entire AMA tape or entire data volume due to its loss prior to or during processing, lost after receipt, degaussed before processing, receipt of a blank or unreadable tape, or lost for other causes, shall be reported.
- 73.5.4. Estimated Volumes. From message and minute volume reports for the entity experiencing the loss, Embarq shall secure message/minute counts for the four (4) corresponding days of the weeks preceding that in which the loss occurred and compute an average of these volumes. Embarq shall apply the appropriate average revenue per message ("arpm") agreed to by CLECINTRADO COMM and Embarq to the estimated message volume for messages for which usage charges apply to the subscriber to arrive at the estimated lost revenue.
- 73.5.5. If the day of loss is not a holiday but one (1) (or more) of the preceding corresponding days is a holiday, use additional preceding weeks in order to procure volumes for two (2) non-holidays in the previous two (2) weeks that correspond to the day of the week that is the day of the loss.
- 73.5.6. If the loss occurs on a weekday that is a holiday (except Christmas and Mother's day), Embarq shall use volumes from the two (2) preceding Sundays.
- 73.5.7. If the loss occurs on Mother's day or Christmas day, Embarq shall use volumes from that day in the preceding year multiplied by a growth

factor derived from an average of CLECINTRADO COMM's most recent three (3) month message volume growth. If a previous year's message volumes are not available, a settlement shall be negotiated.

73.6. Testing, Changes and Controls

73.6.1. The Recorded Usage Data, EMI format, content, and transmission process shall be tested as agreed upon by CLECINTRADO COMM and Embarq.

73.6.2. Control procedures for all usage transferred between Embarq and CLECINTRADO COMM shall be available for periodic review. This review may be included as part of an Audit of Embarq by CLECINTRADO COMM or as part of the normal production interface management function. Breakdowns which impact the flow of usage between Embarq and CLECINTRADO COMM must be identified and jointly resolved as they occur. The resolution may include changes to control procedures, so similar problems would be avoided in the future. Any changes to control procedures would need to be mutually agreed upon by CLECINTRADO COMM and Embarq.

73.6.3. Embarq Software Changes

- (a) When Embarq plans to introduce any software changes which impact the format or content structure of the usage data feed to CLECINTRADO COMM, designated Embarq personnel shall notify CLECINTRADO COMM no less than ninety (90) Days before such changes are implemented.
- (b) Embarq shall communicate the projected changes to CLECINTRADO COMM's single point of contact so that potential impacts on CLECINTRADO COMM processing can be determined.
- (c) CLECINTRADO COMM personnel shall review the impact of the change on the entire control structure. CLECINTRADO COMM shall negotiate any perceived problems with Embarq and shall arrange to have the data tested utilizing the modified software if required.
- (d) If it is necessary for Embarq to request changes in the schedule, content or format of usage data transmitted to CLECINTRADO COMM, Embarq shall notify CLECINTRADO COMM.

73.6.4. CLECINTRADO COMM Requested Changes:

- (a) CLECINTRADO COMM may submit a purchase order to negotiate and pay for changes in the content and format of the usage data transmitted by Embarq.

- (b) When the negotiated changes are to be implemented, ~~CLECINTRADO COMM~~ and/or Embarq shall arrange for testing of the modified data.

73.7. Information Exchange and Interfaces

- 73.7.1. Product/Service Specific. Embarq shall provide a Telcordia standard 42-50-01 miscellaneous charge record to support the Special Features Star Services if these features are part of Embarq's offering and are provided for Embarq's subscribers on a per usage basis.

73.8. Rejected Recorded Usage Data

- 73.8.1.1. Upon agreement between ~~CLECINTRADO COMM~~ and Embarq, messages that cannot be rated and/or billed by ~~CLECINTRADO COMM~~ may be returned to Embarq via CDN or other medium as agreed by the Parties. Returned messages shall be sent directly to Embarq in their original EMI format utilizing standard EMI return codes.
- 73.8.1.2. Embarq may correct and resubmit to ~~CLECINTRADO COMM~~ any messages returned to Embarq. Embarq will not be liable for any records determined by Embarq to be billable to a ~~CLECINTRADO COMM~~ end user. ~~CLECINTRADO COMM~~ will not return a message that has been corrected and resubmitted by Embarq. Embarq will only assume liability for errors and unguideables caused by Embarq.

74. GENERAL NETWORK REQUIREMENTS

- 74.1. Embarq shall provide repair, maintenance and testing for all resold Telecommunications Services and such UNEs that Embarq is able to test, in accordance with the terms and conditions of this Agreement.
- 74.2. During the term of this Agreement, Embarq shall provide necessary maintenance business process support as well as those technical and systems interfaces at Parity. Embarq shall provide ~~CLECINTRADO COMM~~ with maintenance support at Parity.
- 74.3. Embarq shall provide on a regional basis, a point of contact for ~~CLECINTRADO COMM~~ to report vital telephone maintenance issues and trouble reports twenty four (24) hours and seven (7) days a week.
- 74.4. Embarq shall provide ~~CLECINTRADO COMM~~ maintenance dispatch personnel on the same schedule that it provides its own subscribers.
- 74.5. Embarq shall cooperate with ~~CLECINTRADO COMM~~ to meet maintenance standards for all Telecommunications Services and unbundled network elements ordered under this Agreement. Such maintenance standards shall include, without limitation, standards for testing, network management, call gapping, and notification of upgrades as they become available.

- 74.6. All Embarq employees or contractors who perform repair service for CLECINTRADO COMM end users shall follow Embarq standard procedures in all their communications with CLECINTRADO COMM end users. These procedures and protocols shall ensure that:
- 74.6.1. Embarq employees or contractors shall perform repair service that is equal in quality to that provided to Embarq end users; and
- 74.6.2. Trouble calls from CLECINTRADO COMM shall receive response time priority that is equal to that of Embarq end users and shall be handled on a "first come first served" basis regardless of whether the end user is a CLECINTRADO COMM end user or an Embarq end user.
- 74.7. Embarq shall provide CLECINTRADO COMM with scheduled maintenance for resold lines, including, without limitation, required and recommended maintenance intervals and procedures, for all Telecommunications Services and network elements provided to CLECINTRADO COMM under this Agreement equal in quality to that currently provided by Embarq in the maintenance of its own network. CLECINTRADO COMM shall perform its own testing for UNEs.
- 74.8. Embarq shall give maximum advanced notice to CLECINTRADO COMM of all non-scheduled maintenance or other planned network activities to be performed by Embarq on any network element, including any hardware, equipment, software, or system, providing service functionality of which CLECINTRADO COMM has advised Embarq may potentially impact CLECINTRADO COMM end users.
- 74.9. Notice of Network Event. Each party has the duty to alert the other of any network events that can result or have resulted in service interruption, blocked calls, or negative changes in network performance.
- 74.10. On all misdirected calls from CLECINTRADO COMM end users requesting repair, Embarq shall provide such CLECINTRADO COMM end user with the correct CLECINTRADO COMM repair telephone number as such number is provided to Embarq by CLECINTRADO COMM. Once the Electronic Interface is established between Embarq and CLECINTRADO COMM, Embarq agrees that CLECINTRADO COMM may report troubles directly to a single Embarq repair/maintenance center for both residential and small business end users, unless otherwise agreed to by CLECINTRADO COMM.
- 74.11. Upon establishment of an Electronic Interface, Embarq shall notify CLECINTRADO COMM via such electronic interface upon completion of trouble report. The report shall not be considered closed until such notification is made. CLECINTRADO COMM will contact its end user to determine if repairs were completed and confirm the trouble no longer exists.
- 74.12. Embarq shall perform all testing for resold Telecommunications Services.

74.13. Embarq shall provide test results to CLECINTRADO COMM, if appropriate, for trouble clearance. In all instances, Embarq shall provide CLECINTRADO COMM with the disposition of the trouble.

74.14. If Embarq initiates trouble handling procedures, it will bear all costs associated with that activity. If CLECINTRADO COMM requests the trouble dispatch, and either there is no trouble found, or the trouble is determined to be beyond the end user demarcation point, then CLECINTRADO COMM will bear the cost.

75. MISCELLANEOUS SERVICES AND FUNCTIONS

75.1. General

75.1.1. The services described in Section 74 only apply shall only be available to the CLECINTRADO COMM under this Agreement (i) when Embarq is providing the service to itself, (ii) in areas where Embarq is providing such service to Embarq's end-user subscribers, and (iii) subject to the limitations specified herein. To the extent that Embarq does not provide the services described in this Section 74 to itself, or the requested service is not available to Embarq's end-user subscribers in such areas, CLECINTRADO COMM must secure any desired services under a separate commercial agreement with Embarq or another provider. .

75.2. Basic 911 and E911 Service

75.2.1. Basic 911 and E911 provides a caller access to the appropriate emergency service bureau by dialing a 3-digit universal telephone number (911).

75.2.2. Basic 911 and E911 functions shall only be provided to CLECINTRADO COMM for resale, and shall be at Parity with the support and services that Embarq provides to its subscribers for such similar functionality.

(a) Where it may be appropriate for Embarq to update the ALI database, Embarq shall update such database with CLECINTRADO COMM data in an interval at Parity with that experienced by Embarq end users.

(b) Embarq shall transmit to CLECINTRADO COMM daily all changes, alterations, modifications, and updates to the emergency public agency telephone numbers linked to all NPA NXXs. This transmission shall be electronic and be a separate feed from the subscriber listing feed.

75.2.3. In government jurisdictions where Embarq has obligations under existing agreements as the primary provider of the 911 System to the county (Host Embarq), CLECINTRADO COMM shall participate in the provision of the 911 System in accordance with applicable tariffs, or if no tariff is applicable, then pursuant to a separate commercial agreement

with Embarq.

75.2.4. If a third party is the primary provider of the 911 System to a government agency, CLECINTRADO COMM shall negotiate separately with such third party with regard to the provision of 911 service to the agency. All relations between such third party and CLECINTRADO COMM are totally separate from this Agreement and Embarq makes no representations on behalf of the third party.

75.2.5. Basic 911 and E911 Database Requirements

- (a) The ALI database shall be managed by Embarq, but is the property of Embarq and CLECINTRADO COMM for those records provided by CLECINTRADO COMM.
- (b) To the extent allowed by the governmental agency, and where available, copies of the SIG shall be provided within three Business Days from the time requested and provided on diskette, or in a format suitable for use with desktop computers.
- (c) CLECINTRADO COMM shall be solely responsible for providing CLECINTRADO COMM database records to Embarq for inclusion in Embarq's ALI database on a timely basis.
- (d) Embarq and CLECINTRADO COMM shall arrange for the automated input and periodic updating of the E911 database information related to CLECINTRADO COMM end users. Embarq shall work cooperatively with CLECINTRADO COMM to ensure the accuracy of the data transfer by verifying it against the SIG. Embarq shall accept electronically transmitted files that conform to NENA Version #2 format.
- (e) CLECINTRADO COMM shall assign an E911 database coordinator charged with the responsibility of forwarding CLECINTRADO COMM end user ALI record information to Embarq or via a third-party entity, charged with the responsibility of ALI record transfer. CLECINTRADO COMM assumes all responsibility for the accuracy of the data that CLECINTRADO COMM provides to Embarq.
- (f) CLECINTRADO COMM shall provide information on new subscribers to Embarq within one (1) business day of the order completion. Embarq shall update the database within two (2) Business Days of receiving the data from CLECINTRADO COMM. If Embarq detects an error in the CLECINTRADO COMM provided data, the data shall be returned to CLECINTRADO COMM within two (2) Business Days from when it was provided to Embarq. CLECINTRADO COMM shall respond to requests from Embarq to make corrections to database

record errors by uploading corrected records within two (2) Business Days. Manual entry shall be allowed only in the event that the system is not functioning properly.

- (g) Embarq agrees to treat all data on INTRADO COMM subscribers provided under this Agreement as confidential and to use data on INTRADO COMM subscribers only for the purpose of providing E911 services.

(h) Parties shall load and update pANI steering tables in the Embarq and Intrado Comm ALI Database to support PSAP to PSAP call transfer with ALI data for wireless and VoIP calls.

- (i) Embarq shall support the use of PSAP ALI Messaging (PAM) as the protocol for steering between the Intrado Comm ALI hosts and the Embarq ALI hosts. PAM protocol shall be made available with either No Record Found Steering (NRF) and/or Function of Change R (FOC-R) call routing.

(j) Embarq will provide the appropriate number of one-way outgoing 911/E911 trunks over diversely routed facilities that will accommodate the existing E911 software generic of the Embarq SR so as to enable Embarq to transfer a 911 call to PSAPs served by Intrado Comm's E911 routing network from PSAPs subtending the Embarq SR.

75.2.6 Inter-Tandem/Inter-Selective Router (Inter-SR) Trunking

(a) Intrado Comm and Embarq may deploy bi-directional inter-SR trunking using one way trunk configurations that will allow transfers between PSAPs subtending on Embarq selective routers and PSAPs subtending on the Intrado Comm SR.

(b) Intrado Comm will be responsible for deploying and maintaining one way trunks from the Intrado Comm's E911 routing network for PSAP call transfers from Intrado Comm subtending PSAPs to Embarq subtending PSAPS.

(c) Embarq will be responsible for deploying and maintaining one way trunks from the Embarq SR for PSAP call transfers from the Embarq subtending PSAPs to Intrado Comm subtending PSAPS.

(d) The configuration of these inter-selective router trunk groups shall be designed to support the existing E911 generic of the Embarq selective router tandem. Embarq will notify Intrado Comm of any upgrades to the Embarq E911 generic in the SR that would allow for a different trunking configuration to support inter-tandem transfer. This may include, but is not limited to:

- i. Establishment and maintenance of location specific route index dial plan translations to enable PSAP-to-PSAP inter-SR call transfers.
- ii. Establishment and maintenance of trunk routing translations to enable PSAP-to-PSAP call transfers; consistent with generic capabilities of the Embarq SR.

- iii. Notification to the connecting party of impending changes to call transfer translations and/or changes to the inter-tandem trunk group at least 30 days in advance of the activation date, as well as coordination of testing coincident with activation of the changes.
- (e) Each party will have a sufficient number of inter-tandem trunks to support simultaneous inter-tandem PSAP call transfers such that a P.01 grade of service is attained.
- (f) Embarq will alert Intrado Comm of any Embarq selective routing generic software modifications applied that will enable PSAP-to-PSAP call transfer applications for PSAPs served by an Embarq selective router that was formerly identified as being technically incapable of accommodating those call transfer arrangements as defined in Section 75.2.6 (d) (i) or (ii)
- (g) Where technically capable, each party will establish and maintain appropriate Selective Routing Database updates and/or trunk routing translations as necessary to support inter tandem E9-1-1 PSAP call transfer capability requested by the controlling 911 authority..
- (h) Each party will be responsible for alarming and monitoring their respective originating E9-1-1 inter-selective routing trunks. Each party shall notify the other of any service outages on their respective inter-selective routing trunk(s), and work cooperatively to restore service in accordance with federal, state and local 911 rules.

75.3. Directory Listings Service

- 75.3.1. These requirements pertain to Embarq's Listings Service Request process that enables CLECINTRADO COMM to (a) submit CLECINTRADO COMM subscriber information for inclusion in Directory Listings databases; (b) submit CLECINTRADO COMM subscriber information for inclusion in published directories; and (c) provide CLECINTRADO COMM subscriber delivery address information to enable Embarq to fulfill directory distribution obligations.
- 75.3.2. When implemented by the Parties, Embarq shall accept orders on a real-time basis via electronic interface in accordance with OBF Directory Service Request standards within three (3) months of the effective date of this Agreement. In the interim, Embarq shall create a standard format and order process by which CLECINTRADO COMM can place an order with a single point of contact within Embarq.
- 75.3.3. Embarq will provide to CLECINTRADO COMM the following Directory Listing Migration Options:
 - (a) Migrate with no Changes. Retain all white page listings for the subscriber in both DA and DL. Transfer ownership and billing for white page listings to CLECINTRADO COMM.
 - (b) Migrate with Additions. Retain all white page listings for the subscriber in DL. Incorporate the specified additional listings

order. Transfer ownership and billing for the white page listings to CLECINTRADO COMM.

- (c) Migrate with Deletions. Retain all white page listings for the subscriber in DL. Delete the specified listings from the listing order. Transfer ownership and billing for the white page listings to CLECINTRADO COMM.
- (d) To ensure accurate order processing, Embarq or its directory publisher shall provide to CLECINTRADO COMM the following information, with updates promptly upon changes:
 - (e) A matrix of NXX to central office;
 - (f) Geographical maps if available of Embarq service area;
 - (g) A description of calling areas covered by each directory, including but not limited to maps of calling areas and matrices depicting calling privileges within and between calling areas;
 - (h) Listing format rules;
 - (i) Standard abbreviations acceptable for use in listings and addresses;
 - (j) Titles and designations; and
 - (k) A list of all available directories and their Business Office close dates

75.3.4. Embarq shall update and maintain directory listings information to reflect which of the following categories CLECINTRADO COMM subscribers fall into:

- (a) "LISTED" means the listing information is available for all directory requirements;
- (b) "NON-LISTED" means the listing information is available for all directory requirements, but the information does not appear in the published street directory;
- (c) "NON-PUBLISHED" means that a directory service may confirm, by name and address, the presence of a listing, but the telephone number is not available. The listing information is not available in either the published directory or directory assistance.

75.3.5. Based on changes submitted by CLECINTRADO COMM, Embarq shall update and maintain directory listings data for CLECINTRADO COMM subscribers who:

- (a) Disconnect Service;
- (b) Change CLECINTRADO COMM;

- (c) Install Service;
 - (d) Change any service which affects DA information;
 - (e) Specify Non-Solicitation; and
 - (f) Change categories from Non-Published, Non-Listed, or Listed.
- 75.3.6. The charge for storage of CLECINTRADO COMM subscriber information in the DL systems is included in the rates where CLECINTRADO COMM is buying UNE Loops or resold services with respect to specific addresses. CLECINTRADO COMMs that are not buying UNE Loops or resold services shall pay for such storage services at the rate reflected on Table One.
- 75.3.7. CLECINTRADO COMM acknowledges that many directory functions including but not limited to directory proofing, and directory distribution are not performed by Embarq but rather are performed by and are under the control of the directory publisher, and Embarq shall not have any liability to CLECINTRADO COMM for any acts or omissions of the publisher. Embarq shall use reasonable efforts to assist CLECINTRADO COMM in obtaining an agreement with the directory publisher that treats CLECINTRADO COMM at Parity with the publisher's treatment of Embarq.
- 75.3.8. CLECINTRADO COMM acknowledges that for a CLECINTRADO COMM subscriber's name to appear in a directory, CLECINTRADO COMM must submit a Directory Service Request (DSR).
- 75.3.9. CLECINTRADO COMM shall provide directory listings to Embarq pursuant to the directory listing and delivery requirements in the approved OBF format, at a mutually agreed upon timeframe. Other formats and requirements shall not be used unless mutually agreed to by the parties.
- 75.3.10. Traditional White Pages Listings.
- (a) Embarq shall include in its master subscriber system database all white pages listing information for CLECINTRADO COMM subscribers whose information was properly submitted a DSR.
 - (b) One basic White pages listing for each CLECINTRADO COMM customer is included in the rates where CLECINTRADO COMM is buying UNE Loops or resold services at a specific address and additional listings for a specific address shall be provided at the rates reflected on Table 1. If CLECINTRADO COMM requests a listing for an address where CLECINTRADO COMM is not buying UNE Loops or resold services, CLECINTRADO COMM shall pay for all requested listings for such address at the rate reflected on Table One. A basic White Pages listing is defined as a

customer name, address and either the CLECINTRADO COMM assigned number for a customer or the number for which number portability is provided, but not both numbers. Basic White Pages listings of CLECINTRADO COMM customers will be interfiled with listings of Embarq and other LEC customers.

- (c) CLECINTRADO COMM agrees to provide customer listing information for CLECINTRADO COMM's subscribers, including without limitation directory distribution information, to Embarq, at no charge. Embarq will provide CLECINTRADO COMM with the appropriate format for provision of CLECINTRADO COMM customer listing information to Embarq. The parties agree to adopt a mutually acceptable electronic format for the provision of such information as soon as practicable. In the event OBF adopts an industry-standard format for the provision of such information, the parties agree to adopt such format.
- (d) Embarq agrees to provide White Pages database maintenance services to CLECINTRADO COMM. CLECINTRADO COMM will be charged a Service Order entry fee upon submission of Service Orders into Embarq's Service Order Entry (SOE) System, which will include compensation for such database maintenance services. Service Order entry fees apply when Service Orders containing directory records are entered into Embarq's SOE System initially, and when Service Orders are entered in order to process a requested change to directory records.
- (e) CLECINTRADO COMM customer listing information will be used solely for the provision of directory services, including the sale of directory advertising to CLECINTRADO COMM customers.
- (f) In addition to a basic White Pages listing, Embarq will provide, tariffed White Pages listings (e.g.: additional, alternate, foreign and non-published listings) for CLECINTRADO COMM to offer for resale to CLECINTRADO COMM's customers.
- (g) Embarq, or its directory publisher, will provide White Pages distribution services to CLECINTRADO COMM customers, in areas where Embarq is providing such service to Embarq's end-user subscribers, at no additional charge to CLECINTRADO COMM at times of regularly scheduled distribution to all customers. Embarq represents that the quality, timeliness, and manner of such distribution services will be at Parity with those provided to Embarq and to other CLECINTRADO COMM customers.
- (h) Embarq agrees to include critical contact information pertaining to CLECINTRADO COMM in the "Information Pages" of those of

its White Pages directories containing information pages, if CLECINTRADO COMM meets criteria established by its directory publisher. Critical contact information includes CLECINTRADO COMM's business office number, repair number, billing information number, and any other information required to comply with applicable regulations, but not advertising or purely promotional material. CLECINTRADO COMM will not be charged for inclusion of its critical contact information. The format, content and appearance of CLECINTRADO COMM's critical contact information must conform to applicable Embarq directory publisher's guidelines and will be consistent with the format, content and appearance of critical contact information pertaining to all CLECINTRADO COMMs in a directory.

- (i) Embarq will accord CLECINTRADO COMM customer listing information the same level of confidentiality that Embarq accords its own proprietary customer listing information. Embarq shall ensure that access to CLECINTRADO COMM customer proprietary listing information will be limited solely to those of Embarq and Embarq's directory publisher's employees, agents and contractors that are directly involved in the preparation of listings, the production and distribution of directories, and the sale of directory advertising. Embarq will advise its own employees, agents and contractors and its directory publisher of the existence of this confidentiality obligation and will take appropriate measures to ensure their compliance with this obligation. Notwithstanding any provision herein to the contrary, the furnishing of White Pages proofs to a CLECINTRADO COMM that contains customer listings of both Embarq and CLECINTRADO COMM will not be deemed a violation of this confidentiality provision.
- (j) Embarq will provide CLECINTRADO COMM's customer listing information to any third party to the extent required by Applicable Rules.

75.4. Other Directory Services.

- 75.4.1. Embarq will exercise reasonable efforts to cause its directory publisher to enter into a separate agreement with CLECINTRADO COMM which will address other directory services desired by CLECINTRADO COMM as described in this Section ~~75.475.474.4~~. Both parties acknowledge that Embarq's directory publisher is not a party to this Agreement and that the provisions contained in this Section ~~75.475.474.4~~ are not binding upon Embarq's directory publisher.
 - 75.4.2. Embarq will request that its publisher make available to CLECINTRADO COMM the provision of a basic Yellow Pages listing to CLECINTRADO COMM customers located within the geographic scope of publisher's Yellow Pages directories and distribution of Yellow Pages directories to CLECINTRADO COMM customers.
 - 75.4.3. Embarq will request that its publisher make directory advertising available to CLECINTRADO COMM customers on a nondiscriminatory basis and subject to the same terms and conditions that such advertising is offered to Embarq and other CLECINTRADO COMM customers. Directory advertising will be billed to CLECINTRADO COMM customers by directory publisher.
 - 75.4.4. Embarq will request that its publisher use commercially reasonable efforts to ensure that directory advertising purchased by customers who switch their service to CLECINTRADO COMM is maintained without interruption.
 - 75.4.5. Embarq will request that its publisher make available information pages, in addition to any information page or portion of an information page containing critical contact information as described above in Section ~~0074.3.9~~, subject to applicable directory publisher guidelines, criteria, and regulatory requirements.
 - 75.4.6. The directory publisher shall maintain full authority as publisher over its publishing policies, standards and practices, including decisions regarding directory coverage area, directory issue period, compilation, headings, covers, design, content or format of directories, and directory advertising sales.
- 75.5. Directory Assistance Data.
- 75.5.1. Directory Assistance Data consists of information within residential, business, and government subscriber records that can be used to create and maintain databases for the provision of live or automated operator assisted Directory Assistance.
 - 75.5.2. Under a separate agreement, Embarq will provide CLECINTRADO COMM with unbundled and non-discriminatory access to the residential, business and government subscriber records for the purpose of obtaining

Directory Assistance Data that is needed to enable telephone exchange CLECINTRADO COMMs to swiftly and accurately respond to requests by end-users for directory information, including, but not limited to name, address and phone numbers, The separate agreement shall provide for each of the following:

- (a) Subscriber records. CLECINTRADO COMM shall have access to the same subscriber record information that Embarq used to create and maintain its databases for the provision of live or automated operator assisted Directory Assistance.
- (b) Data Transfer. Embarq shall provide to CLECINTRADO COMM, at CLECINTRADO COMM's request, all published Subscriber List Information (including such information that resides in Embarq's master subscriber system/accounts master file for the purpose of publishing directories in any format as specified by the Act) via an electronic data transfer medium and in a mutually agreed to format, on the same terms and conditions and at the same rates that the Embarq provides Subscriber List Information to itself or to other third parties. All changes to the Subscriber List Information shall be provided to CLECINTRADO COMM pursuant to a mutually agreed format and schedule. Both the initial List and all subsequent Lists shall indicate for each subscriber whether the subscriber is classified as residence or business class of service.

PART K – REPORTING STANDARDS

76. GENERAL

76.1. Embarq shall satisfy all service standards, intervals, measurements, specifications, performance requirements, technical requirements, and performance standards and will pay any penalties for violation of the performance standards that are required by law or regulation. In addition, Embarq's performance under this agreement shall be provided to CLECINTRADO COMM at parity with the performance Embarq provides itself for like service(s).

PART L – COLLOCATION

77. SCOPE OF COLLOCATION TERMS

- 77.1. Embarq will provide Collocation to CLECINTRADO COMM in accordance with this Agreement for the purposes of Interconnection to Embarq pursuant to the Act (including 47 USC § 251(c)(2)) and for obtaining access to Embarq's UNEs pursuant to the Act (including 47 USC § 251(c)(3)). Collocation shall be provided on a nondiscriminatory basis, on a "first-come, first-served" basis, and otherwise in accordance with the requirements of the Act (including 47 USC § 251(c)(6)).
- 77.2. Prices and fees for collocation and other services under this Agreement are contained in Table Two. In the event Embarq files tariffs for pricing of collocation and other services covered by this agreement, such pricing in the tariffs will control over Table Two as of the date the tariff becomes effective. The terms and conditions of this Agreement will control over any terms and conditions in the tariff.
- 77.3. This Agreement states the general terms and conditions upon which Embarq will grant to CLECINTRADO COMM the non-exclusive right to gain access to and occupy the Collocation Space, and other associated facilities as may be necessary, for the sole and exclusive purpose of providing telecommunications service upon submission of an approved and provisioned Application for collocation service. Such service will be provided by installing, maintaining and operating CLECINTRADO COMM's equipment, which will interconnect with Telecommunications Services and facilities provided by Embarq or others in accordance with this Agreement.

78. TERMINATION OF COLLOCATION SPACE

- 78.1. CLECINTRADO COMM may terminate occupancy in a particular Collocation Space upon thirty (30) Days prior written notice to Embarq. Upon termination of such occupancy, CLECINTRADO COMM at its expense shall remove its equipment and other property from the Collocation Space. CLECINTRADO COMM shall have thirty (30) Days from the termination date to complete such removal, including the removal of all equipment and facilities of CLECINTRADO COMM's Guests; provided, however, that CLECINTRADO COMM shall continue payment of monthly fees to Embarq until such date as CLECINTRADO COMM has fully vacated the Collocation Space. CLECINTRADO COMM will surrender the Collocation Space to Embarq in the same condition as when first occupied by CLECINTRADO COMM, except for ordinary wear and tear.
- 78.2. CLECINTRADO COMM shall be responsible for the cost of removing any enclosure, together with all supporting structures (e.g., racking, conduits), of an

Adjacent Collocation arrangement at the termination of occupancy and restoring the grounds to their original condition.

- 78.3. Upon termination of CLECINTRADO COMM's right to possession of a Collocation Space, CLECINTRADO COMM shall surrender possession and vacate the Collocation Space within thirty (30) Days. Failure to surrender the Collocation Space within thirty (30) Days shall be considered abandonment and Embarq will have the right to remove the equipment and other property of CLECINTRADO COMM or the CLECINTRADO COMM's Guest at CLECINTRADO COMM's expense and with no liability for damage or injury to CLECINTRADO COMM's property.
- 78.4. Should Embarq under any Section of this Agreement remove any of CLECINTRADO COMM's equipment from its collocation space, Embarq will deliver to CLECINTRADO COMM any equipment removed by Embarq only upon payment by CLECINTRADO COMM of the cost of removal, storage and delivery, and all other amounts due Embarq under this Agreement. Should CLECINTRADO COMM fail to remove any of its equipment deemed abandoned, title thereto shall pass to Embarq under this Agreement as if by a Bill of Sale. Nothing herein shall limit Embarq from pursuing, at its option, any other remedy in law, equity, or otherwise related to CLECINTRADO COMM's occupancy in the Collocation Space, including any other remedy provided in this Agreement.
- 78.5. CLECINTRADO COMM shall surrender all keys, access cards and Embarq-provided photo identification cards to the Collocation Space and the Building to Embarq, and shall make known to Embarq the combination of all combination locks remaining on the Collocation Space.
- 78.6. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives available, Embarq shall have the right, for good cause shown, and upon thirty (30) Days prior notice, to reclaim the Collocation Space or any portion thereof, any Inner Duct, Outside Cable Duct, Cable Vault space or other Embarq-provided facility in order to fulfill its common carrier obligations, any order or rule of the state commission or the FCC, or Embarq's tariffs to provide Telecommunications Services to its end user customers. In such cases, Embarq will reimburse CLECINTRADO COMM for reasonable direct costs and expenses in connection with such reclamation.
- 78.7. If it becomes necessary in Embarq's reasonable judgment, and there are no other reasonable alternatives, to require CLECINTRADO COMM to move to equivalent space in the Premises upon receipt of sixty (60) Days written notice from Embarq, in which event, Embarq shall pay all moving costs, and the Collocation License Fee provided for herein shall remain the same.

79. COLLOCATION OPTIONS

- 79.1. Embarq will offer Collocation Space to allow CLECINTRADO COMM to collocate its equipment and facilities, and without requiring the construction of a

cage or similar structure. Embarq shall make cageless collocation available in single bay increments. For equipment requiring special technical considerations, CLECINTRADO COMM must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in Telcordia GR-63-Core and shall be responsible for constructing all special technical requirements associated with such equipment pursuant to this Agreement.

79.2. Embarq will authorize the enclosure of CLECINTRADO COMM's equipment and facilities at CLECINTRADO COMM's option. Embarq will provide guidelines and specifications upon request. Based on CLECINTRADO COMM's request, space and cage enclosures in amounts as small as that sufficient to house and maintain a single rack or bay or equipment will be made available. At CLECINTRADO COMM's option, Embarq will permit CLECINTRADO COMM to arrange with a third party vendor to construct a Collocation Arrangement enclosure at CLECINTRADO COMM's sole expense. CLECINTRADO COMM's third party vendor will be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. The third party vendor shall bill CLECINTRADO COMM directly for all work performed for CLECINTRADO COMM and Embarq will have no liability for nor responsibility to pay such charges imposed by the third party vendor. CLECINTRADO COMM must provide the local Embarq building contact with one Access key used to enter the locked enclosure. Except in case of emergency, Embarq will not access CLECINTRADO COMM's locked enclosure prior to notifying CLECINTRADO COMM and obtaining authorization.

79.2.1. Embarq has the right to review CLECINTRADO COMM's plans and specifications prior to allowing construction to start. Embarq will complete its review within fifteen (15) Days of receipt of such plans. Embarq has the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications. Embarq can require CLECINTRADO COMM to remove or correct, at its cost, any structure that does not meet these plans.

79.3. CLECINTRADO COMM may allow other telecommunications carriers to share its caged collocation arrangement pursuant to terms and conditions agreed to by CLECINTRADO COMM ("Host") and other telecommunications carriers ("Guests"). CLECINTRADO COMM will notify Embarq in writing upon execution of any agreement between the Host and its Guest within twelve (12) Days of its execution. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall contain a certification by CLECINTRADO COMM that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement.

79.3.1. As Host, CLECINTRADO COMM will be the sole interface and responsible party to Embarq for the purpose of submitting applications for initial and additional equipment placements of Guest (to the extent required under other Sections of this Agreement); for assessment and

payment of rates and charges applicable to the Collocations space; and for the purposes of ensuring that the safety and security requirements of this Agreement are fully complied with by the Guest, its employees and agents. In making shared cage arrangements, Embarq will not increase the cost of site preparation or nonrecurring charges above the cost of provisioning a similar caged arrangement to a CLECINTRADO COMM.

79.3.2. Embarq will not place unreasonable restrictions on CLECINTRADO COMM's use of a cage, and as such will allow CLECINTRADO COMM to contract with other CLECINTRADO COMMs to share the cage in a sublease type arrangement. If two (2) or more CLECINTRADO COMMs that have interconnection agreements with Embarq utilize a shared collocation cage, Embarq will permit each CLECINTRADO COMM to order UNEs and provision service from the shared collocation space, regardless of which CLECINTRADO COMM was the original collocator.

79.3.3. If Host terminates a Collocation Arrangement, Host will provide Guest thirty (30) Days notice. Guest will assume all obligations and rights of Host as to that Collocation Arrangement if Guest remains in the Collocation Space, including payment of all charges.

79.4. Embarq will provide adjacent collocation arrangements ("Adjacent Arrangement") where space within the Premises is legitimately exhausted, subject to technical feasibility. Both Parties will mutually agree on the location of the designated space on the Embarq property where the adjacent structure (such as a CEV or similar structure) will be placed. If a mutual agreement cannot be reached, Embarq will decide the location, subject to zoning or other state and local regulations and future use by Embarq or other requesting Telecommunications Carriers pursuant to an application submitted under Section ~~Error! Reference source not found.~~80.

79.4.1. CLECINTRADO COMM will provide a concrete pad, the structure housing the arrangement, HVAC, lighting, and all facilities that connect the structure (*i.e.*, racking, conduits, etc.) to the Embarq point of interconnection. Should CLECINTRADO COMM elect such an option, CLECINTRADO COMM must arrange with a third party vendor to construct an Adjacent Arrangement structure in accordance with this Agreement.

79.4.2. Embarq maintains the right to review CLECINTRADO COMM's plans and specifications prior to construction of an Adjacent Arrangement(s). Embarq will complete its review within thirty (30) Days of site selection and receipt of plans. Except that such time period may be extended if any delay is due to the actions of CLECINTRADO COMM. Embarq may inspect the Adjacent Arrangement(s) following construction and

prior to commencement to ensure the design and construction comply with submitted plans. Embarq may require CLECINTRADO COMM to correct any deviations from approved plans found during such inspection(s).

79.4.3. Embarq will provide AC power, as requested, subject to being technically feasible. At its option, CLECINTRADO COMM may choose to provide its own AC power to the adjacent structure as long as the AC power source is from the same provider as Embarq's.

79.4.4. Subject to CLECINTRADO COMM being on the waiting list, in the event that space in an Embarq Premises becomes available, Embarq will provide the option to the CLECINTRADO COMM to relocate its equipment from an Adjacent Facility into the Embarq Premises. In the event CLECINTRADO COMM chooses to relocate its equipment, appropriate charges will apply, including charges to vacate the adjacent collocation arrangement and charges applicable for collocation within the Embarq Premises.

79.5. To the extent possible, Embarq will provide CLECINTRADO COMM with contiguous space for any subsequent request for physical collocation space, but makes no assurances that contiguous space will be available.

79.6. Embarq will provide virtual collocation, subject to being technically feasible, if physical collocation is not practical for technical reasons or because of space limitations and in accordance with the Act (including 47 USC § 251(c)(6) and 47 CFR § 51.321).

79.6.1. CLECINTRADO COMM may lease to Embarq, at no cost to Embarq, equipment that meets applicable FCC requirements and in accordance with this Agreement, for the sole purpose of having Embarq install and maintain the equipment in accordance with terms and conditions mutually agreed upon by the Parties.

79.6.2. Virtually collocated equipment shall be purchased by CLECINTRADO COMM. Embarq does not assume any responsibility for the design, engineering, testing or performance for the end-to-end connection of CLECINTRADO COMM's equipment, arrangement or facilities.

79.6.3. Embarq will install, maintain, and repair CLECINTRADO COMM's collocated equipment within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of Embarq, Embarq's affiliates or third parties. The following services are not covered by this Agreement:

- (a) services to resolve software or hardware problems resulting from products provided by parties other than Embarq or causes beyond the control of Embarq;

- (b) service of attached, related, collateral or ancillary equipment or software not covered by this Section;
- (c) repairing damage caused to CLECINTRADO COMM's collocated equipment by persons other than Embarq, or its authorized contractors, or
- (d) repairing damage to other property or equipment caused by operation of CLECINTRADO COMM's collocated equipment and not caused by the sole negligence of Embarq.

79.6.4. CLECINTRADO COMM warrants that Embarq shall have quiet enjoyment of the equipment. Embarq will be entitled to the benefit of any applicable manufacturer's warranties and indemnities and, to the extent assignable, such warranties and indemnities are hereby assigned by CLECINTRADO COMM for the benefit of Embarq and CLECINTRADO COMM shall take all reasonable action to enforce such warranties and indemnities where available to Embarq. CLECINTRADO COMM shall execute, upon presentation, such documents and instruments as may be required to allow Embarq manufacturer's warranty coverage for any equipment. CLECINTRADO COMM warrants that it has full authority to lease the equipment under the terms and conditions set forth herein and that there are no restrictions, legal or otherwise, which would preclude it from so doing.

- (a) In the event Embarq's right to quiet enjoyment is breached, either by CLECINTRADO COMM's failure to make or cause to be made payment to the equipment manufacturer of the full purchase price for the equipment when such payment becomes due, or otherwise, Embarq may give written notice to CLECINTRADO COMM and all of Embarq's obligations relating to the affected equipment shall terminate immediately.

79.6.5. Embarq's preparation, if any, of the Premises (e.g., Power, environmental, etc.) for the Virtual Collocation equipment will be charged to CLECINTRADO COMM at rates on Table Two or as filed in a tariff and approved by the Commission.

80. DEMARCATION POINT

80.1. Embarq will designate the point of demarcation, unless otherwise mutually agreed to by the Parties, in or adjacent to its Collocation Space. At CLECINTRADO COMM's request, Embarq will identify the location(s) of other possible demarcation points available to CLECINTRADO COMM, and CLECINTRADO COMM will designate from these location(s) the point(s) of demarcation between its collocated equipment and Embarq's equipment. Embarq will use its best efforts to identify the closest demarcation point to CLECINTRADO COMM's equipment that is available.

- 80.2. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point.
- 80.3. At CLECINTRADO COMM's option and expense, a point of termination (POT) bay, frame or digital cross-connect may be placed in or adjacent to the Collocation Space that may, at CLECINTRADO COMM's option, serve as the demarcation point. If CLECINTRADO COMM elects not to provide a POT frame, Embarq will agree to handoff the interconnection cables to CLECINTRADO COMM at its equipment, at CLECINTRADO COMM's designated demarcation point. When CLECINTRADO COMM elects to install its own POT frame/cabinet, Embarq must still provide and install the required DC power panel.

81. APPLICATION PROCESS

- 81.1. Upon CLECINTRADO COMM's selection of a Premises in which it desires to collocate its Equipment, Embarq will provide a then current collocation application form (the "Application") to CLECINTRADO COMM. CLECINTRADO COMM will submit an Application when initially requesting Collocation Space, or modifying the use of the Collocation Space. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in CLECINTRADO COMM's Collocation Space(s), the amount of square footage required (or, in the case of Cageless Collocation, bay space) for the current year plus the next calendar year from the date of application, as well as the associated power requirements, floor loading, and heat release of each piece.
- 81.1.1. CLECINTRADO COMM will complete the Application, and return it, along with the appropriate Application Fee, to Embarq. The Application shall include complete details of the collocation and interconnection requested, including, but not limited to, specific floor space, power, and environmental conditioning requirements. Embarq will not process an Application until both the Application and the applicable Application fee are received.
- 81.1.2. In the event CLECINTRADO COMM desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Embarq, CLECINTRADO COMM will complete a subsequent Application detailing all information regarding the modification to the Collocation Space together with payment of the appropriate Application Augment Fee. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions.
- 81.1.3. Where CLECINTRADO COMM modifies the use of the Collocation Space or adds equipment that requires no additional engineering or

preparation work on the part of Embarq, Embarq will not impose additional charges or additional intervals that would delay CLECINTRADO COMM's operation. CLECINTRADO COMM will notify Embarq of the modifications or additional equipment prior to installation.

- 81.1.4. If Collocation Space is unavailable or CLECINTRADO COMM withdraws its request, the Application fee, less the costs incurred by Embarq (e.g. ,engineering record search and administrative activities required to process the Application) will be refunded.
- 81.2. If CLECINTRADO COMM wishes Embarq to consider multiple methods for collocation on a single Application, CLECINTRADO COMM will need to include in each Application a prioritized list of its preferred methods of collocating, e.g., caged, shared, or other, as well as adequate information, (e.g., specific layout requirements, cage size, number of bays, requirements relative to adjacent bays, etc.) for Embarq to process the Application for each of the preferred methods. If CLECINTRADO COMM provides adequate information and its preferences with its Application, Embarq may not require an additional Application, nor would CLECINTRADO COMM be required to restart the quotation interval should its first choice not be available in a requested Premises. Only one collocation arrangement will be provisioned per Application. Embarq will not select for CLECINTRADO COMM the type of collocation to be ordered.
- 81.3. Within ten (10) Days after receiving CLECINTRADO COMM's Application for collocation, Embarq will inform CLECINTRADO COMM whether the Application meets each of Embarq's established collocation standards. Should CLECINTRADO COMM submit a revised Application curing any deficiencies in an Application for collocation within ten Days after being informed of them, CLECINTRADO COMM shall retain its original position within any collocation queue that Embarq maintains. If Embarq informs CLECINTRADO COMM that there is a deficiency in an Application, Embarq will provide sufficient detail so that CLECINTRADO COMM has a reasonable opportunity to cure each deficiency.
- 81.4. All revisions to an initial request for a Physical Collocation Arrangement submitted by CLECINTRADO COMM must be in writing. A new interval for the Physical Collocation Arrangement will be established which shall not exceed two months beyond the originally established date. CLECINTRADO COMM will be required to pay any applicable Application fees.
- 81.5. Embarq shall provide confirmation of space availability within ten (10) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications submitted. Space availability response will be increased by five (5) Days for every five (5) additional Applications received.
 - 81.5.1. Embarq will notify CLECINTRADO COMM in writing as to whether its request for Collocation Space has been granted or denied due to lack

of space. The notification will also include a possible future space relief date, if applicable.

81.5.2. In order to increase the amount of space available for collocation, Embarq will, upon request, remove obsolete unused equipment, from its Premises to increase the amount of space available for collocation.

81.6. After notifying the CLECINTRADO COMM that Embarq has no available space for Physical Collocation in the requested Central Office ("Denial of Application"), Embarq will allow the CLECINTRADO COMM, upon request, to tour the entire Central Office within ten (10) Days, or other mutually agreeable timeframe, of such Denial of Application. In order to schedule said tour the request for a tour of the Central Office must be received by Embarq within five (5) Days of the Denial of Application.

81.6.1. If CLECINTRADO COMM contests Embarq's notice that there is not sufficient space for Physical Collocation in the Central Office, the parties agree to seek expedited resolution of the dispute at the Commission pursuant to § 251(c)(6) of the Act. If the Commission determines that space is not available, Embarq will not be required to conduct a review of floor space availability in the same central office more frequently than once every six months.

81.6.2. On a first come, first serve basis, Embarq will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate.

81.6.3. Embarq will simultaneously notify the telecommunications carriers on the waiting list when space becomes available if there is enough space to accommodate additional collocation. Subsequent to the granting of a Petition for Waiver, if CLECINTRADO COMM has been denied Physical Collocation space at an Embarq Premises and challenges Embarq on space availability at said Premises, CLECINTRADO COMM will be given priority for space assignment if, as a result of the challenge, space is found to be available. CLECINTRADO COMM will reaffirm its collocation request within thirty (30) Days of such notification; otherwise, it will be dropped to the bottom of the list. Upon request, Embarq will advise CLECINTRADO COMM as to its position on the list.

81.6.4. If CLECINTRADO COMM's Application for Physical Collocation is denied due to lack of space, Embarq will place CLECINTRADO COMM on the waiting list for collocation in particular Premises according to the date CLECINTRADO COMM submitted its Application and not the date of denial for lack of space.

81.6.5. Embarq will maintain on its Website a notification document that will indicate all Premises that are without available space. Embarq will

update such document within ten (10) Days of the date at which a Premises runs out of physical collocation space.

- 81.7. Embarq will provide a price quote within thirty (30) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications. Price quote response will be increased by five (5) Days for every five (5) additional Applications received. The quotation will include the applicable nonrecurring and recurring rates.
- 81.8. CLECINTRADO COMM has thirty (30) Days from receipt of the quotation to accept the quotation in writing. The quotation expires after thirty (30) Days. After thirty (30) Days, a new Application and Application fee are required. Collocation Space is not reserved until the quotation is accepted. Embarq need not meet the deadlines for provisioning Physical Collocation if, after receipt of any price quotation provided by Embarq, CLECINTRADO COMM does not notify Embarq that physical collocation should proceed.
- 81.9. CLECINTRADO COMM will indicate its intent to proceed with equipment installation in an Embarq Premises by accepting the price quote, which constitutes a Bona Fide Firm Order ("BFFO"). If CLECINTRADO COMM makes changes to its Application in light of Embarq's written Application Response, Embarq may be required to re-evaluate and respond to the change(s). In this event, CLECINTRADO COMM's Application will be treated as a Revision.
- 81.10. Space preparation for the Collocation Space will not begin until Embarq receives the BFFO and all applicable fees, including all non-recurring charges required by Embarq at the time of the BFFO.

82. SPACE RESERVATION

- 82.1. The parties may reserve physical collocation space for their own specific uses for the remainder of the current year, plus twelve (12) months in accordance with Section ~~Error! Reference source not found.~~~~Error! Reference source not found.~~~~80~~. Neither Embarq, nor any of its affiliates, will reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use.

83. PROVISIONING INTERVALS

- 83.1. Embarq will complete construction of Caged Physical (including Shared Caged), Cageless Physical, and Virtual Collocation arrangements within ninety (90) Days of receipt of a BFFO. If Embarq is unable to complete construction as provided herein, the parties may agree to a mutually acceptable interval or Embarq may petition the Commission for waiver.

84. CONSTRUCTION AND COMMENCEMENT OF BILLING

- 84.1. Embarq shall permit CLECINTRADO COMM or its designated subcontractor to perform the construction of physical collocation space, provided however, that

any such CLECINTRADO COMM subcontractor shall be subject to Embarq's security standards. Embarq reserves the right to reject any CLECINTRADO COMM subcontractor upon the same criteria that Embarq would use on its own subcontractors. CLECINTRADO COMM will notify Embarq in writing when construction of physical collocation space is complete.

- 84.2. Embarq shall have the right to inspect CLECINTRADO COMM's completed installation of equipment and facilities prior to CLECINTRADO COMM turning up such equipment and facilities. CLECINTRADO COMM shall provide written notification to Embarq when CLECINTRADO COMM has completed its installation of equipment and facilities in the Collocation space, and Embarq shall, within five (5) Business Days of receipt of such notice, either (i) inspect such Collocation space or (ii) notify CLECINTRADO COMM that Embarq is not exercising its right to inspect such Collocation space at that time and that CLECINTRADO COMM may turn up its equipment and facilities. Failure of Embarq to either inspect the Collocation space or notify CLECINTRADO COMM of its election not to inspect such space within the foregoing five (5) Business Day period shall be deemed an election by Embarq not to inspect such Collocation space. CLECINTRADO COMM shall have the right to be present at such inspection, and if CLECINTRADO COMM is found to be in non-compliance with the terms and conditions of this Agreement that relate to the installation and use of CLECINTRADO COMM's Collocated equipment and facilities, CLECINTRADO COMM shall modify its installation to achieve compliance prior to turning up its equipment and facilities.
- 84.3. To the extent Embarq performs the construction of the Physical Collocation Arrangement, Embarq shall construct the Collocated Space in compliance with a mutually agreed to collocation request. Any deviation to CLECINTRADO COMM's order must thereafter be approved by CLECINTRADO COMM. The Parties acknowledge that CLECINTRADO COMM approved deviations may require additional construction time and may incur additional CLECINTRADO COMM expenses. CLECINTRADO COMM shall pay the incremental cost incurred by Embarq as the result of any Revision to the Collocation request. CLECINTRADO COMM will pay all applicable fees, including any nonrecurring charges required by Embarq, prior to Embarq commencing construction of the collocation space.
- 84.4. CLECINTRADO COMM will be responsible for all extraordinary costs, as determined in accordance with the Act, incurred by Embarq to prepare the Collocation space for the installation of CLECINTRADO COMM's equipment and for extraordinary costs to maintain the Collocation space for CLECINTRADO COMM's equipment on a going-forward basis. Extraordinary costs may include costs for such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, increasing the DC power system infrastructure capacity, increasing the capacity of the standby AC system (if available) or the existing commercial power facility, conversion of non-Collocation space, compliance with federal and state requirements, or other modifications required by local ordinances. Embarq will

charge for these extraordinary costs on a time-sensitive or time-and-materials basis and will allocate the costs fairly among itself, CLECINTRADO COMM and other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to CLECINTRADO COMM prior to commencing such work. Extraordinary costs will only be billed to CLECINTRADO COMM if such costs have been authorized by CLECINTRADO COMM. Embarq must advise CLECINTRADO COMM if extraordinary costs will be incurred.

- 84.5. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents.
- 84.6. Embarq will notify CLECINTRADO COMM when construction of a Collocation Space is complete. The Parties will complete an acceptance walk through of each provisioned Collocation Space. Embarq will commence to correct any deviations to CLECINTRADO COMM's original or jointly amended requirements within five (5) Days after the walk through. If CLECINTRADO COMM does not conduct an acceptance walk through within fifteen (15) Days of the notification that the Collocation Space construction is complete, CLECINTRADO COMM will be deemed to have accepted the Collocation Space and billing will commence.
- 84.7. CLECINTRADO COMM must submit a written request to cancel its order for Physical, Caged, Shared Cage, Adjacent Space, or Virtual Collocation. CLECINTRADO COMM will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.

85. EQUIPMENT

- 85.1. CLECINTRADO COMM may only locate equipment necessary for interconnection to Embarq or accessing Embarq's unbundled network elements in accordance with Applicable Rules, including but not limited to 47 USC 251(C)(3), 47 USC 251(C)(2), and 47 CFR 51.323(b-c).
- 85.2. CLECINTRADO COMM's equipment and facilities shall not be placed or operated in such a manner that creates hazards or causes physical harm to any individual or the public. CLECINTRADO COMM is responsible for the shipping delivery of all equipment or materials associated with the collocation arrangement, and CLECINTRADO COMM shall instruct equipment vendors to ship equipment or materials directly to the CLECINTRADO COMM or their Embarq approved contractor on the CLECINTRADO COMM's behalf. No CLECINTRADO COMM equipment or supplies may be delivered (other than by CLECINTRADO COMM or their Embarq approved contractor) to a Premises containing the Collocation Space, nor shall such equipment or supplies be stored or staged outside of the licensed Collocation Space.

- 85.3. All equipment to be collocated must meet Level 1 safety requirements as set forth in Telcordia Network Equipment and Building Specifications ("NEBS"), but Embarq will not impose safety requirements on CLECINTRADO COMM that are more stringent than the safety requirements it imposes on its own equipment. If Embarq denies collocation of CLECINTRADO COMM's equipment, citing safety standards, Embarq must provide to CLECINTRADO COMM within five (5) Business Days of the denial a list of all equipment that Embarq locates within the Premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that Embarq contends the competitor's equipment fails to meet. In the event that Embarq believes that the collocated equipment is not necessary for interconnection or access to unbundled network elements or determines that CLECINTRADO COMM's equipment does not meet NEBS Level 1 safety requirements, CLECINTRADO COMM will be given ten (10) Days to comply with the requirements or remove the equipment from the collocation space. If the parties do not resolve the dispute, the Parties may file a complaint at the Commission seeking a formal resolution of the dispute. While the dispute is pending, CLECINTRADO COMM will not install said equipment.
- 85.4. CLECINTRADO COMM must notify Embarq in writing that collocation equipment installation is complete and is operational with Embarq's network. If CLECINTRADO COMM fails to place operational telecommunications equipment in the collocated space and either interconnect to Embarq or install UNEs to its collocation arrangement (per 47 USC 251 §251(c)(6)) within one-hundred-eighty (180) Days of CLECINTRADO COMM's acceptance of Embarq's price quote, or other time period mutually agreed to by the CLECINTRADO COMM and Embarq, Embarq may terminate the applicable Collocation Space upon written notice. CLECINTRADO COMM will reimburse Embarq for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs.
- 85.5. If CLECINTRADO COMM has provisioned services to any customers without being in compliance with ~~85.485.484.4~~ above, CLECINTRADO COMM will be billed access rates for all services for the period beginning with the installation of the services until the collocation arrangement is decommissioned or until it is brought into compliance.

86. AUGMENTS AND ADDITIONS

- 86.1. When CLECINTRADO COMM modifies the Collocation Arrangement or adds equipment that requires no additional space preparation work on the part of Embarq, Embarq may not impose additional charges or additional intervals that would delay the CLECINTRADO COMM's operation. CLECINTRADO COMM will notify Embarq of the modifications or additional equipment prior to installation.
- 86.2. In the event CLECINTRADO COMM desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or

preparation work by Embarq, CLECINTRADO COMM will complete a subsequent Application detailing all information regarding the modification to the Collocation Space. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions. A major or minor Augments fee will apply. Major Augments include adding or removing power cables, entrance cables, cross-connect cables and switchboard cables. Minor Augments include changes to DC power fuses and extensions of occasional use AC power circuits used temporarily for outlets and light.

- 86.3. CLECINTRADO COMM must submit an Application and applicable Application fee to obtain a price quote. CLECINTRADO COMM must provide an accurate front equipment view (a.k.a. rack elevation drawing) specifying bay(s) for the CLECINTRADO COMM's point of termination. The price quote will contain the charges and the construction interval for that application. The construction interval for augments will not exceed ninety (90) Days from BFFO. If special or major construction is required, Embarq will work cooperatively with CLECINTRADO COMM to negotiate mutually agreeable construction intervals for augments.

87. USE OF COMMON AREAS

- 87.1. CLECINTRADO COMM, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by Embarq from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas for vehicles of persons while working for or on behalf of CLECINTRADO COMM at the Collocation Space; provided, however, that Embarq shall have the right to reserve parking spaces for Embarq's exclusive use or use by other occupants of the Building. Embarq does not guarantee that there is or will be sufficient parking spaces in parking areas to meet CLECINTRADO COMM's needs. Embarq does not guarantee that restroom facilities or water will be available. All common areas shall remain under the exclusive control and management of Embarq, and Embarq shall have the right to change the level, location and arrangement of parking areas and other common areas, as Embarq may deem necessary. Use of all common areas shall be subject to such reasonable rules and regulations as Embarq may from time to time impose, consistent with CLECINTRADO COMM's right to access its Collocation Space.
- 87.2. Embarq, where water is available for its own use, shall furnish running water from regular Building outlets for drinking, lavatory and toilet purposes drawn through fixtures installed by Embarq, for the non-exclusive use of CLECINTRADO COMM, Embarq and any other building occupant. CLECINTRADO COMM shall not waste or permit the waste of water.
- 87.3. Embarq shall furnish Building and Premises security in accordance with its normal business practices. Other than the locks on the entrances to the

Collocation Space, Embarq shall provide no security specific to CLECINTRADO COMM's Collocation Space. Embarq shall not be liable to CLECINTRADO COMM or any other party for loss of or damage to the Collocation Space or CLECINTRADO COMM equipment unless Embarq has failed to provide Building and Premises security in accordance with its normal business practices.

- 87.4. Embarq shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which CLECINTRADO COMM has access pursuant to the terms of this Agreement twenty-four (24) hours a day, seven (7) days a week. Freight elevator service when used by CLECINTRADO COMM's contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Embarq.

88. CO-CARRIER CROSS CONNECTION

- 88.1. Co-carrier cross-connects ("CCXCs") are connections between CLECINTRADO COMM and another collocated Telecommunications Carrier other than Embarq, and are only available when both collocation arrangements (either caged, cageless, and/or virtual) being interconnected are within the same Embarq Premises, provided that the collocated equipment is also used for interconnection with Embarq and/or for access to Embarq's unbundled Network Elements. Embarq shall provide such CCXCs from CLECINTRADO COMM's collocation arrangement to the collocation arrangement of another Telecommunications Carrier in the same Embarq premises under the terms and conditions of this Agreement. CCXC is provided at the same transmission level from CLECINTRADO COMM to another Telecommunications Carrier.

- 88.1.1. Embarq will provide such CCXCs for non-adjacent collocation arrangements at the expense of CLECINTRADO COMM per CLECINTRADO COMM's request. Embarq will provide connections between CLECINTRADO COMM's own non-adjacent virtual and/or physical collocation arrangements within the same central office at the expense of CLECINTRADO COMM and provisioned per CLECINTRADO COMM's order.

- 88.1.2. Embarq, at its sole discretion, shall permit CLECINTRADO COMM to self-provision CCXCs to interconnect its network with that of another adjacently collocated Telecommunications Carrier in the same Embarq Premises without application.

- 88.1.3. In those cases where CLECINTRADO COMM's Virtual and/or Physical Collocation space is adjacent in the Central Office, CLECINTRADO COMM may have the option, at Embarq's sole discretion, of using CLECINTRADO COMM's own technicians to deploy direct connections ("DCs") using either electrical or optical facilities between the collocation spaces and constructing its own dedicated cable support structure according to Embarq's technical and safety standards.

- 88.2. The term “Adjacent” in this Section ~~Error! Reference source not found.~~⁸⁷ refers to collocation arrangements in the same Premises that have a common border; and is not referring to the form of Physical Collocation as described in 47 CFR 51.323(k)(3).

89. RATES

- 89.1. The rates for collocation are listed on Table Two.
- 89.2. If CLECINTRADO COMM is the first collocater in the Embarq premises, CLECINTRADO COMM will not be responsible for the entire cost of site preparation and security. However, ancillary charges for unique collocater requests for collocation options directly attributable to the requesting collocater will not be prorated. Examples include power arrangements, remote switch module related options and POT bay-related options.
- 89.3. The rates and charges in this Agreement do not include costs for any Americans with Disability Act (ADA) construction generated or caused by the physical collocation space request. If required, ADA construction will be provided on an ICB. If Embarq is required to upgrade a Premises, or portion of the Premises to comply with the ADA which arises as a direct result of CLECINTRADO COMM's Collocation Arrangement, Embarq will prorate the total forward-looking economic cost of the upgrade, and allocate the charge to each CLECINTRADO COMM collocated within the Premises, based on the total space utilized by each collocated CLECINTRADO COMM. Should Embarq benefit in any way whatsoever from the ADA upgrades, it shall share in the proration of costs. Should Embarq be the sole beneficiary of an upgrade (e.g., an upgrade would have had to be made regardless of whether or not a CLECINTRADO COMM was collocated in the Premises), Embarq shall absorb all of the costs related to such an upgrade.
- 89.4. Facility Modifications
- 89.4.1. To the extent that a modification is made for the specific benefit of any particular party, costs of modification are to be proportionately born by those who directly benefit including the ILEC. The cost is allocated using the proportion of the new space occupied to the total new space made available.
- 89.4.2. If a non-requesting party benefits from the modification, e.g., using the opportunity to bring their equipment or arrangement into compliance with certain standards, or making adjustments leading to improvement, then the party will be deemed to be sharing. This party will be responsible for its share of the modification costs.
- 89.4.3. None of the costs will be allocated to a third party that gains incidental benefit, but did not cause the modification or modify their facilities.

- 89.4.4. If a current user of space subsequently initiates new uses of the modified facility by other parties to avoid modification costs or if new entrants use the facility, they will share in the modification costs. The modifying party(s) may recover a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. If measurable depreciation has occurred as a result of the modification, the subsequent party may pay a lower cost.
- 89.4.5. Parties requesting or joining in a modification also will be responsible for resulting costs to maintain the facility on an ongoing basis.

90. EMBARQ SERVICES AND OBLIGATIONS

90.1. Embarq shall furnish air conditioning and/or other environmental controls for the area in which the Collocation Space is located in a manner consistent with those provided elsewhere in the building. Embarq shall furnish air conditioning and/or other environmental controls for the Collocation Space based on information provided by CLECINTRADO COMM to Embarq in its Application which CLECINTRADO COMM hereby represents to Embarq is sufficient to allow the CLECINTRADO COMM equipment to function without risk of harm or damage to the Collocation Space, the building or any equipment or facilities of Embarq or any other occupant of the building. These environmental conditions shall adhere to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed upon standards.

90.1.1. If CLECINTRADO COMM locates equipment or facilities in the Collocation Space which Embarq determines, in the exercise of its sole discretion, affect the temperature or other environmental conditions otherwise maintained by Embarq in the building, Embarq reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Collocation Space, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by CLECINTRADO COMM's equipment or facilities shall be paid by CLECINTRADO COMM to Embarq. If supplementary air conditioning units or other environmental control devices are required for more than one CLECINTRADO COMM each CLECINTRADO COMM will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation.

90.2. If Embarq, in the exercise of its reasonable business judgment, determines that the electricity provided to CLECINTRADO COMM pursuant to this Section is insufficient to support the activity being carried on by the CLECINTRADO COMM in the Collocation Space, Embarq may require the installation of additional electrical circuits to provide CLECINTRADO COMM with additional electricity and CLECINTRADO COMM shall reimburse Embarq for any expenses incurred in making such additional electrical circuits available to

CLECINTRADO COMM's Collocation Space. CLECINTRADO COMM shall also pay for additional electricity provided via these circuits.

90.2.1. CLECINTRADO COMM covenants and agrees that Embarq shall not be liable or responsible to CLECINTRADO COMM for any loss, damage or expense which CLECINTRADO COMM may sustain or incur if either the quality or character of electrical service is changed or is no longer suitable for CLECINTRADO COMM's requirements.

90.2.2. CLECINTRADO COMM agrees to request in writing, via a complete and accurate Application, all electrical needs to power its equipment. The Application shall contain the total power needs, the date needed, and the exact location where termination of the electrical power shall occur. Actual power usage of the CLECINTRADO COMM's equipment shall not exceed the requested capacity.

90.2.3. Central office power supplied by Embarq into the CLECINTRADO COMM equipment area shall be supplied in the form of power feeders (cables) on cable racking into the designated CLECINTRADO COMM equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of CLECINTRADO COMM equipment. The termination location shall be as agreed by the parties.

90.2.4. Embarq shall provide power as requested by CLECINTRADO COMM to meet CLECINTRADO COMM's need for placement of equipment, interconnection, or provision of service.

90.2.5. Embarq power equipment supporting CLECINTRADO COMM's equipment shall:

- (a) Comply with applicable industry standards (e.g., Telcordia, NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout or at minimum, at Parity with that provided for similar Embarq equipment;
- (b) Have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for CLECINTRADO COMM equipment, or, at minimum, at parity with that provided for similar Embarq equipment;
- (c) Provide, upon CLECINTRADO COMM's request and at CLECINTRADO COMM's expense, the capability for real time access to power performance monitoring and alarm data that impacts (or potentially may impact) CLECINTRADO COMM traffic;
- (d) Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of

CLECINTRADO COMM equipment plus or minus two (2) feet to the left or right of CLECINTRADO COMM's final request; and

- (f) Provide feeder cable capacity and quantity to support the ultimate equipment layout for CLECINTRADO COMM's equipment in accordance with CLECINTRADO COMM's collocation request.

90.2.6. Embarq shall provide cabling that adheres to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;

90.2.7. Embarq shall provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines.

90.2.8. Embarq will provide CLECINTRADO COMM with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to CLECINTRADO COMM equipment located in Embarq facility. Embarq shall provide CLECINTRADO COMM immediate notification by telephone of any emergency power activity that would impact CLECINTRADO COMM's equipment.

90.3. Embarq shall provide fire protection systems in Embarq buildings and on Embarq premises as required by Federal and State regulatory rules and in full compliance with local ordinances. Embarq shall furnish fire or smoke detection systems designed to comply with the National Fire Protection Association (NFPA) Standards on Automatic Fire Detectors.

90.3.1. Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Embarq as required by applicable fire codes.

90.3.2. Embarq and Embarq's insurance carriers will perform regular inspections of fire protection systems, and CLECINTRADO COMM hereby agrees to provide Embarq and Embarq's insurance carriers access to the Collocation Space for purposes of such inspections, via pass key or otherwise. Embarq agrees to provide CLECINTRADO COMM with notice of its intent to access CLECINTRADO COMM's Collocation Space where, in Embarq's sole discretion, such notice is practicable; provided, however, that no failure of Embarq to give such notice will affect Embarq's right of access or impose any liability on Embarq. Embarq will, at its expense, maintain and repair the fire and smoke detection systems unless maintenance or repair is required due to the act or omission of CLECINTRADO COMM, its employees, agents or invitees, in which case CLECINTRADO COMM shall reimburse Embarq for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, the CLECINTRADO COMM shall, if at fault, and at Embarq's option, replace Halon or other

fire extinguishing material discharged as a result of CLECINTRADO COMM's act or omission. CLECINTRADO COMM shall have no duty to inspect fire protection systems outside the Collocation Space; provided, however, if CLECINTRADO COMM is aware of damage to the fire protection systems it shall promptly notify Embarq.

90.3.3. CLECINTRADO COMM is aware the Collocation Space will contain a fire detection system and may contain a fire suppression system. In the event of discharge, Embarq is relieved of all liability for damage to equipment or personal injury except in cases where such damage to equipment or personal injury is due to the willful misconduct of Embarq, its officers, agents or employees.

90.4. Embarq shall, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishment or decorating to the Collocation Space, building and Premises, in a manner consistent with Embarq's normal business practices.

90.4.1. Embarq shall not be obligated to inspect the Collocation Space, make any repairs or perform any maintenance unless first notified of the need in writing by CLECINTRADO COMM. If Embarq shall fail to commence the repairs or maintenance within twenty (20) Days after written notification, provided that the delay are not caused by CLECINTRADO COMM, CLECINTRADO COMM's sole right and remedy shall be, after further notice to Embarq, to make such repairs or perform such maintenance and to deduct that cost and expenses from the physical collocation fees payable; provided, however, that the amount of such deduction shall not exceed the reasonable value of such repairs or maintenance.

90.4.2. Embarq shall, where practical, provide CLECINTRADO COMM with twenty-four (24) hours prior notice before making repairs and/or performing maintenance on the Collocation Space; provided, however, that Embarq shall have no obligation to provide such notice if Embarq determines, in the exercise of its sole discretion, that such repair or maintenance must be done sooner in order to preserve the safety of the Building or the Collocation Space, or if required to do so by any court or governmental authority. Work shall be completed during normal working hours or at other times identified by Embarq. CLECINTRADO COMM shall pay Embarq for overtime and for any other expenses incurred if such work is done during other than normal working hours at CLECINTRADO COMM's request. CLECINTRADO COMM shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.

90.4.3. The cost of all repairs and maintenance performed by or on behalf of Embarq to the Collocation Space which are, in Embarq's reasonable judgment, beyond normal repair and maintenance, or are made necessary

as a result of misuse or neglect by CLECINTRADO COMM or CLECINTRADO COMM's employees, invitees or agents, shall be paid by CLECINTRADO COMM to Embarq within ten (10) Days after being billed for the repairs and maintenance by Embarq.

90.5. Embarq shall provide CLECINTRADO COMM with notice via email three (3) Business Days prior to those instances where Embarq or its subcontractors perform work which is known to be a service affecting activity. Embarq will inform CLECINTRADO COMM by e-mail of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Embarq learns that such outage has occurred.

90.6. Embarq reserves the right to stop any service when Embarq deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Embarq agrees to use its best efforts not to interfere with CLECINTRADO COMM's use of Collocation Space. Embarq does not warrant that any service will be free from interruptions caused by labor controversies, accidents, inability to obtain fuel, water or supplies, governmental regulations, or other causes beyond the reasonable control of Embarq.

90.6.1. No such interruption of service shall be deemed an eviction or disturbance of CLECINTRADO COMM's use of the Collocation Space or any part thereof, or render Embarq liable to CLECINTRADO COMM for damages, by abatement of CLECINTRADO COMM Fees or otherwise, except as set forth in the Tariff, or relieve CLECINTRADO COMM from performance of its obligations under this Agreement. CLECINTRADO COMM hereby waives and releases all other claims against Embarq for damages for interruption or stoppage of service.

90.7. For physical collocation, subject to reasonable building rules and any applicable Security Arrangements, CLECINTRADO COMM shall have the right of entry twenty-four (24) hours per day seven (7) days a week to the building, common areas, Collocation Space and common cable space.

90.7.1. Embarq reserves the right to close and keep locked all entrance and exit doors of the Premises during hours Embarq may deem advisable for the adequate protection of the Premises. Use of the Premises at any time it is unattended by appropriate Embarq personnel, or on Sundays and state and federal or other holidays recognized by Embarq, or, if CLECINTRADO COMM's Collocation Space is not fully segregated from areas of the Premises containing Embarq equipment, shall be subject to such reasonable rules and regulations as Embarq may from time to time prescribe for its own employees and third party contractors.

90.7.2. Embarq reserves the right to require all persons entering or leaving the Premises during such hours as Embarq may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to leave or enter,

and to exclude or expel any solicitor or person at any time from the Collocation Space or the Premises. Embarq is not responsible and shall not be liable for any damage resulting from the admission or refusal to admit any unauthorized person or from the admission of any authorized person to the Premises.

90.8. Embarq shall have access to CLECINTRADO COMM's Physical Collocation Space at all times, via pass key or otherwise, to allow Embarq to react to emergencies, to maintain the space (not including CLECINTRADO COMM's equipment), and to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Embarq, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. If a secure enclosure defining the location of the CLECINTRADO COMM's Collocation Space has been established, and if conditions permit, Embarq will provide CLECINTRADO COMM with notice (except in emergencies) of its intent to access the Collocation Space, thereby providing CLECINTRADO COMM the option to be present at the time of access. CLECINTRADO COMM shall not attach, or permit to be attached, additional locks or similar devices to any door or window, nor change existing locks or the mechanism thereof.

90.8.1. Embarq may enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Embarq deems necessary. CLECINTRADO COMM hereby waives any claim for damage, injury, interference with CLECINTRADO COMM's business, any loss of occupancy or quiet enjoyment of the Collocation Space, and any other loss occasioned by the exercise of Embarq's access rights, except in the event such damages result solely from the willful misconduct of Embarq.

90.8.2. Embarq may use any means Embarq may deem proper to open Collocation Space doors or enclosures in an emergency. Entry into the Collocation Space obtained by Embarq by any such means shall not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of CLECINTRADO COMM from the Collocation Space or any portion thereof.

91. CLECINTRADO COMM'S OBLIGATIONS

91.1. CLECINTRADO COMM shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. CLECINTRADO COMM shall promptly notify Embarq of any damage to the Collocation Space or of the need to perform any repair or maintenance of the Collocation Space, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical, and other mechanical facilities in the Collocation Space). CLECINTRADO COMM shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.

91.2. CLECINTRADO COMM agrees to abide by all of Embarq's security practices for non-Embarq employees with access to the building, including, without limitation:

91.2.1. CLECINTRADO COMM must obtain non-employee photo identification cards for each CLECINTRADO COMM employee or vendor. Temporary identification cards may otherwise be provided by Embarq for employees or agents, contractors and invitees of CLECINTRADO COMM who may require occasional access to the Collocation Space.

91.2.2. CLECINTRADO COMM will supply to Embarq the completed access form for employees or approved vendors who require access to the Premises. Embarq may reasonably deny access to any person into the building. Embarq's objections will be consistent with the grounds for denying access to personnel of its own contractors or for denying employment directly with Embarq. Embarq may issue security cards, codes, or keys to CLECINTRADO COMM's listed employees or vendors where such systems are available and their use by CLECINTRADO COMM will not otherwise compromise building security. The rate for the issuance of security cards is listed on Table Two.

91.2.3. CLECINTRADO COMM is responsible for returning identification and security cards, codes, or keys of its terminated employees or its employees who no longer require access to the Collocation Space. All cards, codes, or keys must be returned upon termination of the applicable Collocation Space. CLECINTRADO COMM will reimburse Embarq actual costs due to unreturned or replacement cards, codes, or keys.

91.2.4. In the event that a key is lost, CLECINTRADO COMM is responsible for costs associated with recoring locks and reissuing keys to Embarq and other parties authorized to access the Premise.

91.2.5. CLECINTRADO COMM's employees, agents, invitees and vendors must display identification cards at all times.

91.2.6. CLECINTRADO COMM will assist Embarq in validation and verification of identification of its employees, agents, invitees and vendors by providing a telephone contact available twenty-four (24) hours a day, seven (7) days a week to verify identification.

91.2.7. Removal of all furniture, equipment or similar articles will be based on local Embarq security practices. These security practices will not be more stringent for CLECINTRADO COMM than Embarq requires for its own employees or Embarq's contractors.

91.2.8. Before leaving the Collocation Space unattended, CLECINTRADO COMM shall close and securely lock all doors and windows and shut off

unnecessary equipment in the Collocation Space. Any injury to persons or damage to the property of Embarq or any other party with equipment in the Building resulting from CLECINTRADO COMM's failure to do so shall be the responsibility of CLECINTRADO COMM. CLECINTRADO COMM will defend and indemnify Embarq from and against any claim by any person or entity resulting in whole or in part from CLECINTRADO COMM's failure to comply with this Section.

91.2.9. CLECINTRADO COMM agrees that Embarq may provide a security escort for physical collocation, at no cost or undue delay to CLECINTRADO COMM, to CLECINTRADO COMM personnel while on Embarq Premises. While such escort shall not be a requirement to CLECINTRADO COMM's entry into the Building, CLECINTRADO COMM must allow the security escort to accompany CLECINTRADO COMM personnel at all times and in all areas of the Building, including the Collocation Space, if so requested.

91.2.10. CLECINTRADO COMM shall post in a prominent location visible from the common building area, the names and telephone numbers of emergency contact personnel along with names and telephone numbers of their superiors for 24 hour emergency use by Embarq. CLECINTRADO COMM shall promptly update this information as changes occur.

91.3. CLECINTRADO COMM will provide Embarq with written notification within ten (10) Business Days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Embarq equipment located in CLECINTRADO COMM facility. CLECINTRADO COMM shall provide Embarq immediate notification by telephone of any emergency power activity that would impact Embarq equipment.

91.4. CLECINTRADO COMM shall not provision and/or install Uninterruptible Power Supply ("UPS") systems within the Embarq premises. The customer is permitted to install Inverted Power Systems if and only if documented compliance with National Equipment Building Standards (NEBS) III and Listing by Underwriters Laboratory (UL) has been met.

91.5. CLECINTRADO COMM shall not place Electro-Chemical Storage Batteries of any type inside the Collocation Space.

91.6. CLECINTRADO COMM shall provide Embarq with written notice three (3) Business Days prior to those instances where CLECINTRADO COMM or its subcontractors perform work, which is to be a known service affecting activity. CLECINTRADO COMM will inform Embarq by e-mail of any unplanned service outages. The parties will then agree upon a plan to manage the outage so as to minimize customer interruption. Notification of any unplanned service outage shall be made as soon as practicable after CLECINTRADO COMM learns that such outage has occurred so that Embarq can take any action required to monitor or protect its service.

- 91.7. CLECINTRADO COMM may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by CLECINTRADO COMM and at CLECINTRADO COMM's expense, Embarq will provide basic telephone service with a connection jack in the Collocation Space.
- 91.8. CLECINTRADO COMM shall, with the prior written consent of Embarq, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that CLECINTRADO COMM may not install or use sprinklers or carbon dioxide fire suppression systems within the building or the Collocation Space.
- 91.8.1. If any governmental bureau, department or organization or Embarq's insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the building in which the Collocation Space of CLECINTRADO COMMs in general are located, such changes, modifications, or additions shall be made by Embarq and CLECINTRADO COMM shall reimburse Embarq for the cost thereof in the same proportion as the size of the CLECINTRADO COMM's Collocation Space as compared to the total available collocation space in the affected portion of the building.
- 91.9. CLECINTRADO COMM shall identify and shall notify Embarq in writing of any Hazardous Materials CLECINTRADO COMM may bring onto the Premises, and will provide Embarq copies of any inventories or other data provided to State Emergency Response Commissions ("SERCs"), Local Emergency Planning Committees ("LEPCs"), or any other governmental agencies if required by the Emergency Planning and Community Right to Know Act (41 USC 11001, *et seq.*). CLECINTRADO COMM, its agents and employees shall transport, store and dispose of Hazardous Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. CLECINTRADO COMM will promptly notify Embarq of any releases of Hazardous Materials and will copy Embarq on any notification of or correspondence with any governmental agency which may be required by any environmental law as a result of such release.
- 91.9.1. CLECINTRADO COMM shall provide Embarq copies of all Material Safety Data Sheets ("MSDSs") for materials or chemicals regulated under the OSHA Hazard Communication Standard (29 CFR 1910.1200) that are brought onto the property. All such materials shall be labeled in accordance with 29 CFR 1910.1200 and applicable state regulations if such regulations are more stringent.
- 91.9.2. If Embarq discovers that CLECINTRADO COMM has brought onto Embarq's Premises Hazardous Materials without notification, or is storing or disposing of such materials in violation of any applicable environmental law, Embarq may, at Embarq's option and without

penalty, terminate the applicable Collocation Space or, in the case of pervasive violation, this Agreement or suspend performance hereunder. CLECINTRADO COMM shall be responsible for, without cost to Embarq, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. CLECINTRADO COMM shall also be responsible for removing and disposing of all Hazardous Materials on its Collocation Space at the termination of the applicable Collocation Space or this Agreement. If Embarq elects to terminate the applicable Collocation Space or this Agreement or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials contrary to the terms of this Agreement, CLECINTRADO COMM shall have no recourse against Embarq and shall be responsible for all costs and expenses associated with such termination or suspension of service in addition to being responsible for any remedies available to Embarq for defaults under this Agreement.

91.9.3. CLECINTRADO COMM shall indemnify and hold harmless Embarq, its successors and assigns against, and in respect of, any and all damages, claims, losses, liabilities and expenses, including, without limitation, all legal, accounting, consulting, engineering and other expenses, which may be imposed upon, or incurred by, Embarq or asserted against Embarq by any other party or parties (including, without limitation, Embarq's employees and/or contractors and any governmental entity) arising out of, or in connection with, CLECINTRADO COMM's use, storage or disposal of Hazardous Materials.

91.9.4. For purposes of this Section, "Hazardous Materials" shall mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation, asbestos) as defined in, or pursuant to, the OSHA Hazard Communication Standard (29 CFR Part 1910, Subpart Z), the Resource Conservation and Recovery Act of 1976 (42 USC Section 6901, et seq.), or regulations adopted pursuant to those statutes, the Toxic Substances Control Act (15 USC Section 2601, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Section 9601, et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall survive the termination, cancellation, modification or recession of this Agreement.

91.10. CLECINTRADO COMM shall not do or permit anything to be done upon the Collocation Space, or bring or keep anything thereon which is in violation of any federal, state or local laws or regulations (including environmental laws or regulations not previously described), or any rules, regulations or requirements of the local fire department, Fire Insurance Rating Organization, or any other similar authority having jurisdiction over the building. CLECINTRADO COMM shall not do or permit anything to be done upon the Collocation Space which may in

any way create a nuisance, disturb, endanger, or otherwise interfere with the Telecommunications Services of Embarq, any other occupant of the building, their patrons or customers, or the occupants of neighboring property, or injure the reputation of the Premises.

- 91.10.1. CLECINTRADO COMM shall not exceed the Uniformly Distributed Live Load Capacity. Embarq shall evaluate and determine Live Load Capacity rating on a site specific basis prior to equipment installation. CLECINTRADO COMM agrees to provide Embarq with equipment profile information prior to installation authorization.
- 91.10.2. CLECINTRADO COMM shall not paint, display, inscribe or affix any sign, trademark, picture, advertising, notice, lettering or direction on any part of the outside or inside of the building, or on the Collocation Space, without the prior written consent of Embarq.
- 91.10.3. CLECINTRADO COMM shall not use the name of the building or Embarq for any purpose other than that of the business address of CLECINTRADO COMM, or use any picture or likeness of the building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Embarq.
- 91.10.4. CLECINTRADO COMM shall not exhibit, sell or offer for sale, rent or exchange in the Collocation Space or on the Premises any article, thing or service except those ordinarily embraced within the use of the Collocation Space specified in Sections 3 and 11 of this Agreement without the prior written consent of Embarq.
- 91.10.5. CLECINTRADO COMM shall not place anything or allow anything to be placed near the glass of any door, partition or window which Embarq determines is unsightly from outside the Collocation Space; take or permit to be taken in or out of other entrances of the building, or take or permit to be taken on any passenger elevators, any item normally taken through service entrances or elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, or shipping platform. CLECINTRADO COMM shall lend its full cooperation to keep such areas free from all obstruction and in a clean and neat condition, move all supplies, furniture and equipment directly to the Collocation Space as soon as received, and move all such items and waste, other than waste customarily removed by employees of the building.
- 91.10.6. CLECINTRADO COMM shall not, without the prior written consent of Embarq install or operate any lead-acid batteries, refrigerating, heating or air conditioning apparatus or carry on any mechanical business in the Collocation Space. Embarq may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.

- 91.10.7. ~~CLECINTRADO~~ COMM shall not use the Collocation Space for housing, lodging or sleeping purposes.
- 91.10.8. ~~CLECINTRADO~~ COMM shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space.
- 91.10.9. ~~CLECINTRADO~~ COMM shall not permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Collocation Space or permit the presence of any animals except those used by the visually impaired.
- 91.11. ~~CLECINTRADO~~ COMM, its employees, agents, contractors, and business invitees shall:
 - 91.11.1. comply with all rules and regulations which Embarq may from time to time adopt for the safety, environmental protection, care, cleanliness and/or preservation of the good order of the building, the Premises and the Collocation Space and its tenants and occupants, and
 - 91.11.2. comply, at its own expense, with all ordinances which are applicable to the Collocation Space and with all lawful orders and requirements of any regulatory or law enforcement agency requiring the correction, prevention and abatement of nuisances in or upon the Collocation Space during the Term of this Agreement or any extension hereof.
- 91.12. ~~CLECINTRADO~~ COMM shall not make installations, alterations or additions in or to the Collocation Space without submitting plans and specifications to Embarq and securing the prior written consent of Embarq in each instance. Embarq's consent shall not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Collocation Space that do not adversely affect the building's appearance, value, structural strength and mechanical integrity. Such work shall be done at the sole expense of ~~CLECINTRADO~~ COMM.
 - 91.12.1. All installations, alterations and additions shall be constructed in a good and workmanlike manner and only new and good grades of material shall be used, and shall comply with all insurance requirements, governmental requirements, and terms of this Agreement. Work shall be performed at such times and in such manner as to cause a minimum of interference with Embarq's transaction of business. ~~CLECINTRADO~~ COMM shall permit Embarq to inspect all construction operations within the Collocation Space.
 - 91.12.2. All installations, alterations and additions which take the form of fixtures, except trade fixtures, placed in the Collocation Space by and at the expense of ~~CLECINTRADO~~ COMM or others shall become the property of Embarq, and shall remain upon and be surrendered with the Collocation Space. Upon termination of this Agreement, however, Embarq shall have the right to require ~~CLECINTRADO~~ COMM to

remove such fixtures and installations, alterations or additions at CLECINTRADO COMM's expense, and to surrender the Collocation Space in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.

91.12.3. All fixtures and other equipment to be used by CLECINTRADO COMM in, about or upon the Collocation Space shall be subject to the prior written approval of Embarq, which shall not be unreasonably withheld.

91.13. Fireproofing Policy. CLECINTRADO COMM shall not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Collocation Space or the Building, outside or inside, without the prior written consent of Embarq. If CLECINTRADO COMM desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of CLECINTRADO COMM. Embarq shall have the right of prior approval of such utility or service connections, and shall direct where and how all connections and wiring for such service shall be introduced and run. In all cases, in order to maintain the integrity of the Halon space for proper Halon concentration, and to ensure compliance with Embarq's fireproofing policy, any penetrations by CLECINTRADO COMM, whether in the Collocation Space, the building or otherwise, shall be sealed as quickly as possible by CLECINTRADO COMM with Embarq-approved fire barrier sealants, or by Embarq at CLECINTRADO COMM's cost.

91.14. Equipment Grounding. CLECINTRADO COMM equipment shall be connected to Embarq's grounding system.

91.15. Representations and Warranties. CLECINTRADO COMM hereby represents and warrants that the information provided to Embarq in any Application or other documentation relative to CLECINTRADO COMM's request for telecommunications facility interconnection and Central Office building collocation as contemplated in this Agreement is and shall be true and correct, and that CLECINTRADO COMM has all necessary corporate and regulatory authority to conduct business as a telecommunications carrier. Any violation of this Section shall be deemed a material breach of this Agreement.

92. BUILDING RIGHTS

92.1. Embarq may, without notice to CLECINTRADO COMM:

92.1.1. Change the name or street address of the Premises;

92.1.2. Install and maintain signs on the exterior and interior of the Premises or anywhere on the Premises;

92.1.3. Designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverages, foods, towels, vending machines or toilet supplies used or consumed in the Collocation Space;

- 92.1.4. Have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding CLECINTRADO COMM's safes;
- 92.1.5. Reduce heat, light, water and power as required by any mandatory or voluntary conservation programs;
- 92.1.6. Approve the weight, size and location of safes, computers and all other heavy articles in and about the Collocation Space and the Building, and to require all such items and other office furniture and equipment to be moved in and out of the Building or Collocation Space only at such times and in such a manner as Embarq shall direct and in all events at CLECINTRADO COMM's sole risk and responsibility;
- 92.1.7. At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Collocation Space, the Premises, or any part thereof (including, without limitation, the permanent or temporary relocation of any existing facilities such as parking lots or spaces), and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through the Collocation Space or any part of the Premises all material and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities. Embarq shall limit inconvenience or annoyance to CLECINTRADO COMM as reasonably possible under the circumstances;
- 92.1.8. Do or permit to be done any work in or about the Collocation Space or the Premises or any adjacent or nearby building, land, street or alley;
- 92.1.9. Grant to anyone the exclusive right to conduct any business or render any service on the Premises, provided such exclusive right shall not operate to exclude CLECINTRADO COMM from the use expressly permitted by this Agreement, unless Embarq exercises its right to terminate this Agreement with respect to all or a portion of the Collocation Space;
- 92.1.10. Close the Building at such reasonable times as Embarq may determine, under such reasonable regulations as shall be prescribed from time to time by Embarq subject to CLECINTRADO COMM's right to access.
- 92.2. If the owner of the Building or Embarq sells, transfers or assigns any interest in the Building, or there is any material change in the Lease to which the Building is subject, and such sale, transfers assignment or material change in the Lease gives rise to an obligation which is inconsistent with this Agreement, Embarq's performance under this Agreement shall be excused to the extent of the inconsistency. Embarq hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation shall in no way obligate Embarq to incur any out of pocket expenses in its efforts to avoid such inconsistencies.

- 92.3. This Agreement shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments) that may be placed on the Collocation Space and CLECINTRADO COMM agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

93. INDEMNIFICATION

- 93.1. CLECINTRADO COMM shall indemnify and hold Embarq harmless from any and all claims arising from:

- 93.1.1. CLECINTRADO COMM's use of the Collocation Space;
- 93.1.2. the conduct of CLECINTRADO COMM's business or from any activity, work or things done, permitted or suffered by CLECINTRADO COMM in or about the Collocation Space or elsewhere;
- 93.1.3. any and all claims arising from any breach or default in the performance of any obligation on CLECINTRADO COMM's part to be performed under the terms of this Agreement; and
- 93.1.4. any negligence of the CLECINTRADO COMM, or any of CLECINTRADO COMM's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.

- 93.2. If any action or proceeding is brought against Embarq by reason of any such claim, CLECINTRADO COMM, upon notice from Embarq, shall defend same at CLECINTRADO COMM's expense employing counsel satisfactory to Embarq.

- 93.3. CLECINTRADO COMM shall at all times indemnify, defend, save and hold harmless Embarq from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of CLECINTRADO COMM, or out of any work performed, material furnished, or obligations incurred by CLECINTRADO COMM in, upon or otherwise in connection with the Collocation Space. CLECINTRADO COMM shall give Embarq written notice at least ten (10) Business Days prior to the commencement of any such work on the Collocation Space in order to afford Embarq the opportunity of filing appropriate notices of non-responsibility. However, failure by Embarq to give notice does not reduce CLECINTRADO COMM's liability under this Section.

- 93.3.1. If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, CLECINTRADO COMM shall give Embarq written notice thereof as soon as CLECINTRADO COMM obtains such knowledge.
- 93.3.2. CLECINTRADO COMM shall, at its expense, within thirty (30) Days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Embarq, at the cost and

for the account of CLECINTRADO COMM, from obtaining such discharge and release if CLECINTRADO COMM fails or refuses to do the same within the thirty-day period.

- 93.3.3. If CLECINTRADO COMM has first discharged the lien as provided by law, CLECINTRADO COMM may, at CLECINTRADO COMM's expense, contest any mechanic's lien in any manner permitted by law.

94. PARTIAL DESTRUCTION

- 94.1. If the Collocation Space or a portion thereof sufficient to make the Collocation Space substantially unusable shall be destroyed or rendered unoccupiable by fire or other casualty, Embarq may, at its option, restore the Collocation Space to its previous condition. CLECINTRADO COMM's rights to the applicable Collocation Space shall not terminate unless, within ninety (90) Days after the occurrence of such casualty, Embarq notifies CLECINTRADO COMM of its election to terminate CLECINTRADO COMM's rights to the applicable Collocation Space. If Embarq does not elect to terminate CLECINTRADO COMM's rights to the applicable Collocation Space, Embarq shall repair the damage to the Collocation Space caused by such casualty.
- 94.2. Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of CLECINTRADO COMM, its agents, employees, contractors, CLECINTRADO COMMS, customers or business invitees, unless Embarq otherwise elects, the CLECINTRADO COMM's rights to the applicable Collocation Space shall not terminate, and, if Embarq elects to make such repairs, CLECINTRADO COMM shall reimburse Embarq for the cost of such repairs, or CLECINTRADO COMM shall repair such damage, including damage to the building and the area surrounding it, and the License Fee shall not abate.
- 94.3. If the building shall be damaged by fire or other casualty to the extent that portions are rendered unoccupiable, notwithstanding that the Collocation Space may be directly unaffected, Embarq may, at its election within ninety (90) Days of such casualty, terminate CLECINTRADO COMM's rights to the applicable Collocation Space by giving written notice of its intent to terminate CLECINTRADO COMM's rights to the applicable Collocation Space. The termination as provided in this paragraph shall be effective thirty (30) Days after the date of the notice.

95. EMINENT DOMAIN

- 95.1. If the Premises, or any portion thereof which includes a substantial part of the Collocation Space, shall be taken or condemned by any competent authority for any public use or purpose, CLECINTRADO COMM's rights to the applicable Collocation Space shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of

the Premises, or if the grade of any street or alley adjacent to the Premises is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the Premises to conform to the changed grade, Embarq shall have the right to terminate CLECINTRADO COMM's rights to the applicable Collocation Space upon not less than 30 Days notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Embarq to CLECINTRADO COMM for such cancellation, and the CLECINTRADO COMM shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

96. BANKRUPTCY

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

97. ASBESTOS

97.1. CLECINTRADO COMM is aware the Premises in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and CLECINTRADO COMM is hereby notified that the Premises in which the Collocation Space is located may contain asbestos or asbestos containing building material (ACBM). CLECINTRADO COMM agrees that it is responsible for contacting the appropriate Embarq manager responsible for the Premises to determine the presence, location and quantity of asbestos or ACBM that CLECINTRADO COMM's employees, agents, or contractors may reasonably expect to encounter while performing activities in the Premises. CLECINTRADO COMM shall not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with, or resulting from the disturbance of asbestos or ACBM in the Premises unless such disturbance arises out of or in connection with, or results from CLECINTRADO COMM's use of the Collocation Space or placement of equipment onto ACBM or into areas containing asbestos identified by Embarq. Embarq agrees to provide CLECINTRADO COMM reasonable notice prior to undertaking any asbestos control, abatement, or other activities which may disturb asbestos or ACBM that could potentially affect CLECINTRADO COMM's equipment or operations in the Collocation Space, including but not limited to the contamination of such equipment. Embarq will not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with the presence of asbestos in Embarq Premises.

98. MISCELLANEOUS

- 98.1. CLECINTRADO COMM warrants that it has had no dealings with any broker or agent in connection with this Agreement, and covenants to pay, hold harmless and indemnify Embarq from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Agreement or the negotiation thereof.
- 98.2. Submission of this instrument for examination or signature by Embarq does not constitute a reservation of or option for license and it is not effective, as a license or otherwise, until execution and delivery by both Embarq and CLECINTRADO COMM.
- 98.3. Neither Embarq nor its agents have made any representation or warranties with respect to the Collocation Space of this Agreement except as expressly set forth herein; no rights, easements, or licenses shall be acquired by CLECINTRADO COMM by implication or otherwise unless expressly set forth herein.
- 98.4. In the event of work stoppages, Embarq may establish separate entrances for use by personnel of CLECINTRADO COMM. CLECINTRADO COMM shall comply with any emergency operating procedures established by Embarq to deal with work stoppages.
- 98.5. The individuals executing this Agreement on behalf of CLECINTRADO COMM represent and warrant to Embarq they are fully authorized and legally capable of executing this Agreement on behalf of CLECINTRADO COMM.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed and accepted by its duly authorized representatives.

“Customer”

“Embarq”

By: Intrado Communications Inc.

By: _____

Name : Thomas W. Hicks

Name: William E. Cheek

Title: Director – Carrier Relations

Title: President Wholesale Markets

Date: _____

Date: _____

TABLE ONE [WHERE ARE THE PRICE LISTS?]

TABLE TWO

EXHIBIT A

From: Hicks, Thomas
Sent: Wednesday, October 10, 2007 2:26 PM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: RE: Intrado Edited Embarq 251 Interconnection Agreement w-T&C red lines

Great and timely feedback Kathryn. I will pass it along to our legal team for consideration and get back to you soon.

Thanks,

Tom Hicks, ENP
Intrado Inc.
Director- Regulatory Affairs
Tel: (972) 772-5883
Mob: (972) 342-4482
Email: thomas.hicks@intrado.com

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@Embarq.com]
Sent: Wednesday, October 10, 2007 2:13 PM
To: Hicks, Thomas
Subject: RE: Intrado Edited Embarq 251 Interconnection Agreement w-T&C red lines

Here is Embarq's feed back on the insurance mods.

- 10.4 OK as amended
- 12.6 OK as this is what is intended in the loss payable provision anyway
- 12.7 Although this is redundant to the concept of unlimited indemnification elsewhere in the contract, I prefer this phrase be retained as there should be no limitation of otherwise accepted responsibility solely due to the amount of insurance purchased.
- 12.8 OK as amended as this is the target of the concern anyway
- 12.9 Although the standard COI form uses the phrase "endeavor to" notify, this is unacceptable as there is no requirement to do so. The policy can be amended to confirm notice of cancellation with a corresponding certificate amendment to cross out the words "endeavor to" on the form.

From: Hicks, Thomas [mailto:Thomas.Hicks@Intrado.com]
Sent: Monday, October 08, 2007 12:17 PM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: Intrado Edited Embarq 251 Interconnection Agreement w-T&C red lines

Kathryn,

We have now concluded our review of the "Terms and Conditions" and have made the following edits in the attached version of our red lines. The added text is in **Blue**, and the deleted text is in **Red**

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@Embarq.com]
Sent: Wednesday, October 10, 2007 2:13 PM
To: Hicks, Thomas
Subject: RE: Intrado Edited Embarq 251 Interconnection Agreement w-T&C red lines

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- 12.7 Although this is redundant to the concept of unlimited indemnification elsewhere in the contract, I prefer this phrase be retained as there should be no limitation of otherwise accepted responsibility solely due to the amount of insurance purchased.
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- 12.9 Although the standard COI form uses the phrase "endeavor to" notify, this is unacceptable as there is no requirement to do so. The policy can be amended to confirm notice of cancellation with a corresponding certificate amendment to cross out the words "endeavor to" on the form.

From: Hicks, Thomas [mailto:Thomas.Hicks@Intrado.com]
Sent: Monday, October 08, 2007 12:17 PM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: Intrado Edited Embarq 251 Interconnection Agreement w-T&C red lines

Kathryn,

We have now concluded our review of the "Terms and Conditions" and have made the following edits in the attached version of our red lines. The added text is in **Blue**, and the deleted text is in **Red**

10.4 "EMBARQ SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF CLEC'S EQUIPMENT AND OTHER PREMISES **ONLY TO THE EXTENT** IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY EMBARQ'S **[SOLE]** NEGLIGENCE OR WILLFULL MISCONDUCT."

12. Insurance

12.6. "All Risk" property insurance on a full replacement cost basis insuring INTRADO COMM's property situated on or within the Property, naming Embarq as loss payee **to the extent Embarq can demonstrate financial interest in said property**. INTRADO COMM may elect to insure business interruption and contingent business interruption, as it is agreed that Embarq has no liability for loss of profit or revenues should an interruption of service occur.

12.7. Deleted "Nothing contained in this Section shall limit INTRADO COMM's liability to Embarq to the limits of insurance certified or carried."

12.8. All policies required of the INTRADO COMM shall contain evidence of the insurer's waiver of the right of subrogation against Embarq for any insured loss covered thereunder **with respect to property only**. All policies of

From: Hicks, Thomas
Sent: Wednesday, October 24, 2007 8:59 AM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: RE: Intrado-Embarq Negotiations

Thank you Kathryn.

We look forward to your response, and please feel free to call me if you should need any clarification of our proposed edits.

Tom Hicks, ENP
Intrado Inc.
Director-Carrier Relations
Tel: (972) 772-5883
Mob: (972) 342-4482
Email: thomas.hicks@intrado.com

From: Feeney, Kathryn L [EQ] [<mailto:Kathryn.L.Feeney@Embarq.com>]
Sent: Wednesday, October 24, 2007 8:55 AM
To: Hicks, Thomas
Subject: Negotiations

Tom - I just wanted to touch base with you. We are working on a response to you, but it is taking longer than anticipated. I hope to have something for your review by early next week.

Kathryn L. Feeney
Manager - Contract Management
9300 Metcalf
Overland Park, KS 66212
Mailstop: KSOPKB0402-4674
(v) 913-534-2313
(f) 913-534-7833
Kathryn.L.Feeney@embarq.com

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@embarq.com]
Sent: Thursday, November 01, 2007 2:38 PM
To: Hicks, Thomas
Subject: Negotiations

Tom:

Embarq's regulatory policy and legal departments have reviewed your request for interconnection under §251(c)(2) of the Act. The database network arrangements Intrado has requested are for the exchange of data or information, not for the transmission of local telephone exchange and exchange access telecommunications. As such, they are not subject to the interconnection obligations of §251(c)(2) of the Act. However, we may be able to work out an arrangement under a commercial agreement and would like to get some more details from you. We are available for a call November 13th, 14th or 15th from 4 to 5 CST. Does that time on one of those days work for you?

Kathryn L. Feeney
Manager - Contract Management
9300 Metcalf
Overland Park, KS 66212
Mailstop: KSOPKB0402-4674
(v) 913-534-2313
(f) 913-534-7833
Kathryn.L.Feeney@embarq.com

From: Feeney, Kathryn L [EQ] [mailto:Kathryn.L.Feeney@embarq.com]

Sent: Thursday, November 01, 2007 3:26 PM

To: Hicks, Thomas

Subject:

Tom - I got your vm and am trying to get some times together for a meeting tomorrow or early next week. I have been asked to clarify one point in my earlier email to you. We do believe that parts of the request fall under 251a but not 251b and 251c so arbitration doesn't apply. We take the position that a 251a agreement is a commercial agreement.

Kathryn L. Feeney
Manager - Contract Management
9300 Metcalf
Overland Park, KS 66212
Mailstop: KSOPKB0402-4674
(v) 913-534-2313
(f) 913-534-7833
Kathryn.L.Feeney@embarq.com

From: Hicks, Thomas
Sent: Thursday, November 01, 2007 4:09 PM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: RE: Conference call

Thank you Kathryn. I will be joined by Rebecca Ballesteros, attorney, Carl Smith, product management, and Cindy Clugy, our interconnection consultant.

Have a nice weekend,

Tom Hicks, ENP
Intrado Inc.
Director-Carrier Relations
Tel: (972) 772-5883
Mob: (972) 342-4482
Email: thomas.hicks@intrado.com

From: Feeney, Kathryn L [EQ] [<mailto:Kathryn.L.Feeney@embarq.com>]
Sent: Thursday, November 01, 2007 3:52 PM
To: Hicks, Thomas
Subject: RE: Conference call

I scheduled us for Friday, Nov. 9th from 1 to 2:30 CST. My bridge is 866-459-9589 Code 913-315-7858#. We will have Bill Watkins, attorney; Mike Maples, regulatory policy; Jennifer Trowbridge and Cindy Richartz, product management on the call.

From: Hicks, Thomas [<mailto:Thomas.Hicks@Intrado.com>]
Sent: Thursday, November 01, 2007 3:41 PM
To: Feeney, Kathryn L [EQ]
Cc: Hicks, Thomas
Subject: RE: Conference call

Either of these dates will work great for us. I will reserve both time slots for our team and will await your response for which appointment time may work best for you and your team.

Thank you,

Tom Hicks, ENP
Intrado Inc.
Director-Carrier Relations
Tel: (972) 772-5883
Mob: (972) 342-4482
Email: thomas.hicks@intrado.com

From: Feeney, Kathryn L [EQ] [<mailto:Kathryn.L.Feeney@embarq.com>]
Sent: Thursday, November 01, 2007 3:28 PM
To: Hicks, Thomas
Subject: Conference call

How about Nov. 8 3:30 to 5 or Nov. 9th 12-3 CST?

Kathryn L. Feeney
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9300 Metcalf
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(v) 913-534-2313
(f) 913-534-7833
Kathryn.L.Feeney@embarq.com