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Legal Brlm 7/3/01

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S.C. PUBLIC SERVICE COMMISSION
RECEIVED
JUN 18 2001

June 14, 2001

S.C. PUBLIC SERVICE COMMISSION
RECEIVED
JUN 1 2001
UTILITIES DEPARTMENT

Mr. Gary E. Walsh, Executive Director
South Carolina Public Service Commission
Synergy Business Park
101 Executive Center Drive
Post Office Drawer 11649
Columbia, South Carolina 29210

2001-296-C

POSTED 7/3/01

RE: MASTER RESALE AGREEMENT BETWEEN UNITED TELEPHONE COMPANY OF THE CAROLINAS AND AMERICAN FIBER NETWORK, INC.

Dear Mr. Walsh:

Pursuant to Section 252 (e) of the Telecommunications Act of 1996, United Telephone Company of the Carolinas ("United") and American Fiber Network, Inc. hereby submit their Master Resale Agreement with an Effective Date of March 13, 2001 for approval by the South Carolina Public Service Commission. An original of the Agreement, and one diskette containing a copy of the Agreement are enclosed.

Section 252 (e) of the Act provides that the Commission shall approve or reject the Agreement within 90 days after its submission. The Act provides that the Commission may reject an Agreement if the Commission finds that the Agreement or any portion discriminates against a telecommunications carrier not party to the Agreement, or that implementation of the Agreement or any portion would not be in the public interest. United and American Fiber Network, Inc. believe that neither of the foregoing conditions exist with respect to the Agreement they have negotiated. Accordingly, United and American Fiber Network, Inc. respectfully request that the Commission approve this Agreement.

Under cover of this letter a copy of the Agreement is being served upon American Fiber Network, Inc. and upon the Consumer Advocate.

United Telephone Company of the Carolinas is represented by local counsel in this matter. (Mr. Scott Elliott; ELLIOTT & ELLIOTT, P.A.; 721 Olive Street; Columbia, South Carolina 29205; Telephone 803-771-0555.) Please contact either me or Mr. Elliott if there are any questions.

Sincerely yours,

Robert Carl Voigt

Robert Carl Voigt

RCV:cw

Enclosures

Copy: Mr. Robert E. Heath, Executive VP
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721 Olive Street
Columbia, SC 29205

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Copy: Mr. Martin H. Bocock, Jr., Director Governmental Affairs
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MASTER RESALE AGREEMENT
FOR THE STATE OF SOUTH CAROLINA

March 13, 2001

American Fiber Network, Inc.

and

United Telephone Company of the Carolinas

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MASTER RESALE AGREEMENT

This Agreement is between American Fiber Network, Inc. ("Carrier") and United Telephone Company of the Carolinas ("Sprint") hereinafter collectively, "the Parties", entered into this 13th day of March, 2001, for the State of South Carolina.

WHEREAS, the Parties wish to establish terms and conditions for the purposes of allowing the Carrier to have access to Sprint services for the purpose of resale; 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 South Carolina Public Service Commission (the "Commission"); and

WHEREAS, the Parties wish to replace any and all other prior agreements, both written and oral, applicable to the state of South Carolina;

THEREFORE, the Parties hereby agree as follows:

PART A -- DEFINITIONS

1. DEFINED TERMS

1.1. Capitalized terms defined in this Article shall have the meanings as set forth herein. Other terms used but not defined herein 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. "Act" means the Communications Act of 1934, as amended.

1.3. "Affiliate" is as defined in the Act.

1.4. "Central Office Switches" ("COs") - are switching facilities within the public switched telecommunications network, including, but not limited to:

1.4.1. "End Office Switches" ("EOs") are switches from which end user Telephone Exchange Services are directly connected and offered.

1.4.2. "Tandem Switches" are switches that are used to connect and switch trunk circuits between and among Central Office Switches.

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1.4.3. "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.

1.5. "CLEC 911 Database Records" are the CLEC subscriber records to be provided by CLEC to Sprint for inclusion in Sprint's E911 database.

1.6. "Commission" means the South Carolina Public Service Commission.

1.7. "Common Transport" provides a local interoffice transmission path between the Sprint Tandem Switch and a Sprint or CLEC end office switch. Common Transport is shared between multiple customers and is required to be switched at the Tandem.

1.8. "Confidential and/or Proprietary Information" has the meaning set forth in Article 11 of Part B -- General Terms and Conditions.

1.9. "Contract Year" means a twelve- (12) month period during the term of the contract commencing on the Effective Date and each anniversary thereof.

1.10. "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.

1.11. "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.

1.12. "Customer Proprietary Network Information (CPNI)" is as defined in the Act.

1.13. "Database Management System (DBMS)" is a computer process used to store, sort, manipulate and update the data required to provide selective routing and ALI.

1.14. "Dedicated Transport" provides a local interoffice transmission path between Sprint and/or CLEC central offices. Dedicated Transport is limited to the use of a single customer and does not require switching at a Tandem.

1.15. "Directory Assistance Database" refers to any subscriber record used by Sprint in its provision of live or automated operator-assisted directory assistance including but not limited to 411, 555-1212, NPA-555-1212.

1.16. "Directory Assistance Services" provides listings to callers. Directory Assistance Services may include the option to complete the call at the caller's direction.

1.17. "Discloser" means that Party to this Agreement which has disclosed Confidential Information to the other Party.

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1.18. "DSLAM" means a Digital Subscriber Line Access Multiplexer.

1.19. "Duct" is a single enclosed path to house facilities to provide telecommunications services.

1.20. "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.

1.21. "E911 Message Trunk" is a dedicated line, trunk or channel between two central offices or switching devices which provides a voice and signaling path for E911 calls.

1.22. "Effective Date" is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.

1.23. "Electronic Interfaces" means access to operations support systems consisting of pre-ordering, ordering, provisioning, maintenance and repair and billing functions.

1.24. "End Date" is the date this Agreement terminates as referenced in paragraph 4.2.

1.25. "FCC" means the Federal Communications Commission.

1.26. "Incumbent Local Exchange Carrier (ILEC)" is as defined in the Act.

1.27. "Interexchange Carrier (IXC)" means a provider of interexchange telecommunications services.

1.28. "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.

1.29. "Local Traffic," for the purposes of this Agreement the Parties shall agree that "Local Traffic" means traffic (excluding CMRS traffic) that is originated and terminated within Sprint's local calling area, or mandatory expanded area service (EAS) area, as defined by State commissions or, if not defined by State commissions, then as defined in existing Sprint tariffs. For this purpose, Local Traffic does not include any traffic that is transmitted to or returned from the Internet at any point during the duration of the transmission between the Parties. Neither Party waives its' rights to participate and fully present its' respective positions in any proceeding dealing with the compensation for Internet traffic.

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1.30. "Multiple Exchange Carrier Access Billing (MECAB)" refers to the document prepared by the Billing Committee of the Alliance for Telecommunications Industry Solutions' (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.

1.31. "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 Ordering and Billing Forum (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 Bellcore 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.

1.32. "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.

1.33. "National Emergency Number Association (NENA)" is an association with a mission to foster the technological advancement, availability and implementation of 911 nationwide.

1.34. "Network Element" is as defined in the Act.

1.35. "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.

1.36. "NXX," "NXX Code," "NNX," "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.

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1.37. "OBF" means the Ordering and Billing Forum, which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS).

1.38. "Operator Systems" is the Network Element that provides operator and automated call handling with billing, special services, subscriber telephone listings, and optional call completion services.

1.39. "Operator Services" provides for:

1.39.1. operator handling for call completion (e.g., collect calls);

1.39.2. operator or automated assistance for billing after the subscriber has dialed the called number (e.g., credit card calls); and

1.39.3. special services (e.g., BLV/BLI, Emergency Agency Call).

1.40. "Parity" means, subject to the availability, development and implementation of necessary industry standard Electronic Interfaces, the provision by Sprint 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 Sprint, its Affiliates or any other entity that obtains such services, Network Elements, functionality or telephone numbering resources . Until the implementation of necessary Electronic Interfaces, Sprint 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.

1.41. "Parties" means, jointly, United Telephone Company of the Carolinas and American Fiber Network, Inc., and no other entity, affiliate, subsidiary or assign.

1.42. "Party" means either United Telephone Company of the Carolinas or American Fiber Network, Inc., and no other entity, affiliate, subsidiary or assign.

1.43. "Recipient" means that party to this Agreement (a) to which Confidential Information has been disclosed by the other party or (b) who has obtained Confidential Information in the course of providing services under this Agreement.

1.44. "Rebranding" occurs when CLEC purchases a wholesale service from Sprint when CLEC's brand is substituted for the Sprint brand.

1.45. "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

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required or voluntary and may or may not be specifically approved by the Commission or FCC.

1.46. "Technically Feasible" refers solely to technical or operational concerns, rather than economic, space, or site considerations.

1.47. "Telecommunications" is as defined in the Act..

1.48. "Telecommunications Carrier" is as defined in the Act.

1.49. "Telecommunication Services" is as defined in the Act.

1.50. "Wholesale Service" means Telecommunication Services that Sprint provides at retail to subscribers who are not telecommunications carriers as set forth in 47 USC § 251(c)(4) which Sprint provides to resellers at a wholesale rate..

1.51. "Wire Center" denotes a building or space within a building which serves as an aggregation point on a given carrier's network, where transmission facilities and circuits are connected or switched. Wire center can also denote a building in which one or more central offices, used for the provision of Basic Exchange Services and access services, are located.

PART B – GENERAL TERMS AND CONDITIONS

2. SCOPE OF THIS AGREEMENT

2.1. This Agreement specifies the rights and obligations of each party with respect to the establishment of rates for resale of local telecommunications services.

2.2. Sprint may discontinue any Telecommunications Service resold hereunder after providing CLEC reasonable notice, as required by law, of such discontinuation of such service. Sprint 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.

2.3. Sprint 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.

3. REGULATORY APPROVALS

3.1. 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. Sprint and CLEC shall use their best efforts to obtain approval of

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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.

3.2. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment 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 to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

3.3. Notwithstanding any other provision of this Agreement to the contrary § 2.2 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 deemed to have been 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.

3.3.1. On July 18, 2000, the United States Court of Appeals for the Eighth Circuit issued a decision in *Iowa Utilities Board v. FCC, Case No. 96-3321* relating to, among other things, the costing/pricing rules and the combining UNE rules adopted by the FCC in its First Report and Order, *In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* 11 FCC Rcd 15499 (1996) (e.g., Section 51.501, et seq.), upon review and remand from the United States Supreme Court, in *AT&T Corp. v. Iowa Utilities Bd.,* 119 S. Ct. 721 (1999) (the "Eighth Circuit Decision"). The Eighth Circuit Decision specifically vacated FCC rules 47 CFR §§51.505(b)(1) and 51.609. The Eighth Circuit

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Decision is/will be effective upon issuance of a Mandate. The Eighth Circuit Decision affects certain provisions of this Agreement, including many of the rates and/or the wholesale discount(s) contained in this Agreement.

3.3.2. Pursuant to paragraphs 2.2 and 2.3 of this Agreement, either Party may require that the affected provisions of this Agreement be renegotiated in good faith and amended to reflect the Eighth Circuit Decision, such changes to be effective as of the effective date of the Eighth Circuit Decision. The rates and terms currently in the Agreement that are affected by the Eighth Circuit Decision shall be treated as interim, subject to true-up to the effective date of the Eighth Circuit Decision.

4. TERM AND TERMINATION

4.1. This Agreement shall be deemed effective upon the Effective Date, provided however that if CLEC has any outstanding past due obligations to Sprint, this Agreement will not be effective until such time as any past due obligations with Sprint are paid in full. No order or request for services under this Agreement shall be processed before the Effective Date, except as may otherwise be agreed in writing between the Parties, provided CLEC has established a customer account with Sprint and has completed the Implementation Plan described in Article 32 hereof.

4.2. Except as provided herein, Sprint and CLEC agree to provide service to each other on the terms of this Agreement for a period from the Effective Date through and including March 13, 2003 (the "End Date").

4.3. 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 provided that 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.

4.4. 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 herein to survive termination.

4.5. Notwithstanding the above, should Sprint sell or trade substantially all the assets in an exchange or group of exchanges that Sprint uses to provide

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Telecommunications Services, then Sprint 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.

5. POST EXPIRATION INTERIM SERVICE ARRANGEMENTS

5.1. In the event that this Agreement expires under §4.2, 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 either Party's default under §4.3, or for termination upon sale under §4.5, Interconnection services that had been available under this Agreement and exist as of the End Date may continue uninterrupted after the End Date at the written request of either Party only under the terms of:

5.1.1. a new agreement voluntarily entered into by the Parties, pending approval by the Commission; or

5.1.2. such standard terms and conditions or tariffs approved by and made generally available by the Commission, if they exist at the time of expiration; or

5.1.3. an existing agreement between Sprint and another carrier, adopted by CLEC for the remaining term of that agreement.

5.2. In the event that this Agreement expires under §4.2, and at the time of expiration, the Parties are actually in arbitration or mediation before the appropriate Commission or FCC under §252 of the Act, then at the request of either Party, the Parties shall provide each other Interconnection services after the End Date under the same terms as the expired Agreement. Service under these terms will continue in effect only until the issuance of an order, whether a final non-appealable order or not, by the Commission or FCC, resolving the issues set forth in such arbitration or mediation request.

6. CHARGES AND PAYMENT

6.1. In consideration of the services provided by Sprint under this Agreement, CLEC shall pay the charges set forth in Exhibit 1 subject to the provisions of §§ 3.2 and 3.3 hereof.

6.2. Subject to the terms of this Agreement, the Parties shall pay invoices by the due date shown on the invoice. For invoices not paid when due, late payment charges will be assessed under §6.4. If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the next business day.

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6.3. Itemized, written disputes must be filed with Sprint's National Exchange Access Center ("NEAC") no later than the due date of the related invoice. A copy of the dispute must be sent with the remittance of the remainder of the invoice. CLEC will pay the invoice in full pending the dispute. If the dispute is upheld, Sprint will refund any amount found in favor of CLEC with interest at the rate in §6.4 from the date the payment was received by Sprint. If the dispute is resolved in favor of Sprint, CLEC will pay any amounts due, plus interest at the rate in Section 6.4 from the original due date of the invoice.

6.4. Sprint will assess late payment charges to CLEC equal to the lesser of one and one-half percent (1.5%)per month or the maximum rate allowed by law for commercial transactions, of the balance due, until the amount due is paid in full.

7. AUDITS AND EXAMINATIONS

7.1. As used herein "Audit" shall mean a comprehensive review of services performed under this Agreement; "Examination" shall mean an inquiry into a specific element of or process related to services performed under this Agreement billed amounts. Either party (the "Requesting Party") may perform one (1) Audit per twelve (12) month period commencing with the Effective Date. 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.

7.2. 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 or Examination, during normal business hours, of any records, accounts and processes which contain information bearing upon the provision of the services provided and performance standards agreed to 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).

7.3. 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 § 7.3, 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

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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.

7.4. 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 receipt of 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 § 5.5 above.

7.5. 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.

7.6. This Article 7 shall survive expiration or termination of this Agreement for a period of one (1) year after expiration or termination of this Agreement.

8. INTELLECTUAL PROPERTY RIGHTS

8.1. Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, 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.

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

8.3. Following notice of an infringement claim against either Party based on the use by the other Party of a service or facility, the other Party shall at its

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expense, procure from the appropriate third parties the right to continue to use the alleged infringing intellectual property.

9. LIMITATION OF LIABILITY

9.1. Except as otherwise set forth in this Agreement, 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, provided that the foregoing shall not limit a Party's obligation under Article 10 to indemnify, defend, and hold the other Party harmless against amounts payable to third parties. Notwithstanding the foregoing, in no event shall Sprint's liability to CLEC for a service outage exceed an amount equal to the proportionate charge for the service(s) provided for the period during which the service was affected.

10. INDEMNIFICATION

10.1. 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.

10.2. CLEC shall indemnify and hold harmless Sprint from all claims by CLEC's subscribers.

10.3. Sprint shall indemnify and hold harmless CLEC from all claims by Sprint's subscribers.

10.4. The indemnifying Party under this Article 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.

10.5. 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 Article and to cooperate in every reasonable way to facilitate defense or settlement of claims.

10.6. 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 Article 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

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liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.

10.7. 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.

10.8. 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

10.8.1. 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

10.8.2. Consequential Damages (as defined in Article 8.3 above).

11. BRANDING

11.1. 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 Sprint may directly communicate with CLEC subscribers. In those instances where CLEC requests that Sprint personnel interface with CLEC subscribers, such Sprint personnel shall inform the CLEC subscribers that they are representing CLEC, or such brand as CLEC may specify.

11.2. Other business materials furnished by Sprint to CLEC subscribers shall bear no corporate name, logo, trademark or tradename.

11.3. 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.

11.4. Sprint shall share pertinent details of Sprint's training approaches related to branding with CLEC to be used by Sprint to assure that Sprint meets the branding requirements agreed to by the Parties.

11.5. This Article 11 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.

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12. REMEDIES

12.1. 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.

13. CONFIDENTIALITY AND PUBLICITY

13.1. 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 including but 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 and/or Proprietary Information").

13.2. During the term of this Agreement, and for a period of one (1) year thereafter, Recipient shall

13.2.1. use it only for the purpose of performing under this Agreement,

13.2.2. hold it 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

13.2.3. safeguard it from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.

13.3. Recipient shall have no obligation to safeguard Confidential Information

13.3.1. which was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party,

13.3.2. which becomes publicly known or available through no breach of this Agreement by Recipient,

13.3.3. which is rightfully acquired by Recipient free of restrictions on its Disclosure, or

13.3.4. which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.

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13.4. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, provided that Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient agrees to comply with any protective order that covers the Confidential Information to be disclosed.

13.5. Each Party agrees that in the event of a breach of this Article 13 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.

13.6. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, or 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 §13.5 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.

13.7. 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.

13.8. Except as otherwise expressly provided in this Article 13, 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.

14. DISCLAIMER OF WARRANTIES

14.1. 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

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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.

15. ASSIGNMENT AND SUBCONTRACT

15.1. 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 Sprint 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.

15.2. Except as provided in § 15.1, 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.

16. GOVERNING LAW

16.1. 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 State of South Carolina, without regard to its conflicts of laws principles, shall govern.

17. RELATIONSHIP OF PARTIES

17.1. 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.

18. NO THIRD PARTY BENEFICIARIES

18.1. 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,

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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.

19. NOTICES

19.1. Except as otherwise provided herein, all notices or other communication hereunder shall be given by personal delivery, facsimile, courier, overnight mail, certified mail, postage prepaid, return receipt requested to the following addressees:

If to Sprint:	**If to CLEC:**
Director	Robert E. Heath
Local Carrier Markets	Executive VP
Sprint	American Fiber Network, Inc.
6480 Sprint Parkway	9401 Indian Creek Pkwy
Overland Park, KS 66251	Ste 140
	Overland Park KS 66210
	972 470 9015 – Voice
	877 670 4926 – Fax
With a copy to:	**With a copy to:**

19.2. 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 Article 19.

20. WAIVERS

20.1. 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.

20.2. 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.

20.3. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

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21. SURVIVAL

21.1. 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 §§7, 8, 8.3, 10, 11, 13, 16, 19, 23, 25, and 27.

22. FORCE MAJEURE

22.1. 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 Article 22 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 Article 4 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 Sprint, Sprint agrees to resume performance in a nondiscriminatory manner and not favor its own provision of Telecommunications Services above that of CLEC.

23. DISPUTE RESOLUTION

23.1. The Parties recognize and agree that the Commission has continuing jurisdiction to implement and enforce all terms and conditions of this Agreement. Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties themselves cannot resolve may be submitted to the Commission for resolution. The Parties agree to seek expedited resolution by the Commission, and shall request that resolution occur in no event later than sixty (60) days from the date of submission of such dispute. 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. 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.

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This provision shall not preclude the Parties from seeking relief available in any other forum.

23.2. If any matter is subject to a bona fide dispute between the Parties, the disputing Party shall within thirty (30) days of the event giving rise to the dispute, give written notice to the other Party of the dispute and include in such notice the specific details and reasons for disputing each item.

23.3. If the Parties are unable to resolve the issues related to the dispute in the normal course of business within thirty (30) days after delivery of notice of the Dispute, to the other Party, the dispute shall be escalated to a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet 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, but in no event shall such resolution exceed 60 days from the initial notice. The specific format for such discussions will be left to the discretion of the designated representatives, provided, however, that all reasonable requests for relevant information made by one Party to the other Party shall be honored.

23.4. After such period either Party may file a complaint with the FCC or Commission to resolve such issues.

24. COOPERATION ON FRAUD

24.1. 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.

25. TAXES

25.1. Any Federal, state or local excise, license, sales, use, or other taxes or tax-like charges (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes is placed upon the other Party. Any such taxes shall be shown as separate items on applicable billing documents between the Parties. The Party obligated to collect and remit taxes shall do so unless the other Party provides such Party with the required evidence of exemption. The Party so obligated to pay any such taxes may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such party

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shall not permit any lien to exist on any asset of the other party by reason of the contest. The Party obligated to collect and remit taxes shall cooperate fully in any such contest by the other Party by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest.

26. AMENDMENTS AND MODIFICATIONS

26.1. 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.

27. SEVERABILITY

27.1. Subject to §3.2, if any part of this Agreement becomes or is held to be invalid 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.

28. HEADINGS NOT CONTROLLING

28.1. The headings and numbering of Articles, Sections, Parts and Attachments 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.

29. ENTIRE AGREEMENT

29.1. This Agreement, including all Parts and Attachments and subordinate documents attached hereto or referenced herein, all of which are hereby incorporated by reference, 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.

30. COUNTERPARTS

30.1. This Agreement may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

31. SUCCESSORS AND ASSIGNS

31.1. This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

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32. IMPLEMENTATION PLAN

32.1. This Agreement sets forth the overall standards of performance for 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") that shall develop and identify those processes, guidelines, specifications, standards and additional terms and conditions necessary to support the terms of this Agreement. Each Party shall designate, in writing, no more than four (4) persons to be permanent members of the Implementation Team; provided that either Party may include in meetings or activities such technical specialists or other individuals as may be reasonably required to address a specific task, matter or subject. Each Party may replace its representatives by delivering written notice thereof to the other Party.

32.2. The agreements reached by the Implementation Team shall be documented in an operations manual (the "Implementation Plan") within one hundred-twenty (120) days of both Parties having designated members of the Implementation Team. The Implementation Plan shall address the following matters, and may include any other matters agreed upon by the Implementation Team:

32.2.1. the respective duties and responsibilities of the Parties with respect to the administration and maintenance of the interconnections (including signaling) specified in Attachment 3 and the trunk groups specified in Attachment 4 and, including standards and procedures for notification and discoveries of trunk disconnects;

32.2.2. disaster recovery and escalation provisions;

32.2.3. access to Operations Support Systems functions provided hereunder, including gateways and interfaces;

32.2.4. escalation procedures for ordering, provisioning, billing, and maintenance;

32.2.5. single points of contact for ordering, provisioning, billing, and maintenance;

32.2.6. service ordering and provisioning procedures, including provision of the trunks and facilities;

32.2.7. provisioning and maintenance support;

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32.2.8. conditioning and provisioning of collocation space and maintenance of Virtually Collocated equipment;

32.2.9. procedures and processes for Directories and Directory Listings;

32.2.10. billing processes and procedures;

32.2.11. network planning components including time intervals;

32.2.12. joint systems readiness and operational readiness plans;

32.2.13. appropriate testing of services, equipment, facilities and Network Elements;

32.2.14. monitoring of inter-company operational processes;

32.2.15. procedures for coordination of local PIC changes and processing;

32.2.16. physical and network security concerns;

32.2.17. Completion of CLEC Checklist and supporting documentation to establish a billing account; and

32.2.18. such other matters specifically referenced in this Agreement that are to be agreed upon by the Implementation Team and/or contained in the Implementation Plan.

32.3. The Implementation Plan may be amended from time to time by the Implementation Team, as the team deems appropriate. Unanimous written consent of the permanent members of the Implementation Team shall be required for any action of the Implementation Team. If the Implementation Team is unable to act, the existing provisions of the Implementation Plan shall remain in full force and effect.

33. FEDERAL JURISDICTIONAL AREAS

33.1. CLEC understands and agrees that this agreement serves as actual notice that Sprint and its Affiliates have entered into a binding contract to provide exclusive telecommunications services for the Army and Air Force Exchange Service ("AAFES") during the term of this agreement. The AAFES contract specifies, among other things, that Sprint shall provide all telecommunications services to officer and enlisted temporary living facilities (commonly named Bachelor Officer Quarters and Bachelor Enlisted Quarters) on United States Army bases. Sprint will be entitled to refuse to resell telecommunications services where such sale would be contrary to the AAFES agreement. CLEC is entitled to communicate to any potential CLEC customer that CLEC is unable to provide the customer telecommunications services because of the AAFES agreement.

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PART C – PROVISIONS RELATING TO RESALE

34. RESALE OF LOCAL SERVICES

34.1. Scope

34.1.1. Sprint retail Telecommunications Services shall be available for resale at wholesale prices pursuant to 47 USC § 251(c)(4). Services that are not retail Telecommunications Services and, thus, not covered by this Agreement and not available for resale at wholesale prices include, but are not limited to, Voice Mail/MessageLine, Paging, Inside Wire Installation and Maintenance, CMRS services, Lifeline services and similar government programs (underlying Telecommunications Service will be resold but CLEC must qualify its offering for these programs), promotions of ninety (90) days or less and Employee Concessions.

34.1.2. COCOT lines or Pay Telephone Access Lines will not be resold at wholesale prices under this Agreement.

34.1.3. Except as set forth above and as may be allowed by the FCC or Commission, Sprint 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 90-days or less in length. In addition, CLEC shall be prohibited from marketing its products using the Sprint product name (i.e., CLEC may purchase the features package called "Sprint Essential" but shall be prohibited from reselling this product using the Sprint brand name or the Sprint 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. Sprint will make wholesale telecommunications service offerings available for all new regulated services at the same time the retail service becomes available.

34.1.4. Sprint will continue to provide existing databases and signaling support for wholesale services at no additional cost.

34.1.5. Sprint will make any service grandfathered to an end-user or any Individual Case Basis ("ICB") service available to CLEC for resale to that same end-user at the same location(s). Should Sprint discontinue any grandfathered or ICB service Sprint will provide to CLEC any legally required notice as soon as practicable and at least equal in quality and timeliness to that which is provided to Sprint's own customers, prior to the effective date of changes in or

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discontinuation of any product or service that is available for resale under this Subsection.

34.1.6. Sprint will continue to provide Primary Interexchange Carrier ("PIC") processing for those end-users obtaining resold service from CLEC. Sprint will bill and CLEC will pay any PIC change charges. Sprint will only accept said requests for PIC changes from CLEC and not from CLEC's end users.

34.1.7. Sprint shall allow CLEC customers to retain their current telephone number when technically feasible within the same Sprint Wire Center and shall install CLEC customers at Parity unless CLEC customers currently subscribe to Vacation Service only or are currently in the process of having their service suspended for non-pay. In such cases Sprint will treat the CLEC customer as a new installation at the request of the CLEC.

34.2. Charges and Billing

34.2.1. Access services, including revenues associated therewith, provided in connection with the resale of services hereunder shall be the responsibility of Sprint and Sprint 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.

34.2.2. Sprint will be responsible for returning EMI/EMR records to IXCs with the proper EMR Return Code along with the Operating Company Number ("OCN") of the associated Automatic Number Identification ("ANI"), (i.e., Billing Number).

34.2.3. Sprint will deliver a monthly statement for wholesale services as follows:

34.2.3.1. Invoices will be provided in a standard CLEC access billing format or other such format as Sprint may determine;

34.2.3.2. Originating local usage, at the call detail level and in standard EMR industry format, will be exchanged daily or at other mutually agreed upon intervals in those instances in which CLEC and the user choose Sprint provided services that are local usage sensitive and create message detail;

34.2.3.3. The Parties will work cooperatively to exchange information to facilitate the billing of in and out collect and inter/intra-region alternately billed messages;

34.2.3.4. Sprint agrees to provide information on the end-user's selection of special features where Sprint maintains such

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information (e.g., billing method, special language) when CLEC places the order for service;

34.2.3.5. Monthly recurring charges for Telecommunications Services sold pursuant to this Agreement shall be billed monthly in advance.

34.2.4. 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. Sprint shall bill for message provisioning, data tape charges, and for additional copies of the monthly invoice.

34.3. Pricing

34.3.1. Pricing shall be developed based on 47 USC § 252(d)(3), as now enacted or as hereafter amended, where wholesale prices are retail prices less avoided costs, net of any additional costs imposed by wholesale operations, unless otherwise ordered by the Commission. The wholesale rate shall be as set forth on Attachment I. Additional rates for new or additional services shall be added at the time said new or additional services are offered.

34.4. Provisioning and Installation

34.4.1. Electronic Interfaces for the exchange of ordering information will be adopted and made available to CLEC in accordance with Sprint operating procedures.

34.4.2. CLEC and Sprint may order Primary Local Carrier ("PLC") and PIC records changes using the same order process and on a unified order (the "LSR").

34.4.3. A general Letter of Agency ("LOA") initiated by CLEC or Sprint will be required to process a PLC or PIC change order. No LOA signed by the end-user will be required to process a PLC or PIC change ordered by CLEC or Sprint. CLEC and Sprint 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 shall apply, such Party shall be liable to pay and shall pay all nonrecurring charges associated with

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reestablishing the subscriber's local service with the original local carrier as well as an Unauthorized Local Service Provider Change Charge as detailed in the applicable State Local Access Tariff.

34.4.4. Each Party will provide the other, if requested, as agent of the end-user customer, at the time of the PLC order, current "As Is" pre-ordering/ordering information relative to the end-user consisting of local features, products, services, elements, combinations, and any customer status qualifying the customer for a special service (e.g., DA exempt, lifeline, etc.) provided by the Party to that end-user. Each Party is responsible for ordering the Telecommunications Services desired by the end-user customer.

34.4.5. Sprint shall provide CLEC the ability to obtain telephone numbers, including vanity numbers from Sprint where Sprint offers these services to its end users, and to assign these numbers with the CLEC customer. Reservation and aging of numbers remain the responsibility of the Sprint. CLEC shall pay Sprint the reasonable administrative costs of this function, and the monthly recurring charges listed in the appropriate State Local Access Tariff.

34.4.6. Sprint shall provide CLEC the ability to order all available features on its switches at parity with what Sprint offers to its own end user customers (e.g., call blocking of 900 and 976 calls by line or trunk).

34.4.7. Sprint will direct customer to CLEC for requests changing their CLEC service. Sprint shall process all PIC changes provided by CLEC on behalf of IXCs. If PIC changes are received by Sprint directly from IXCs, Sprint shall reject the PIC change back to the IXC with the OCN of CLEC in the appropriate field of the industry standard CARE record.

35. NETWORK MAINTENANCE AND MANAGEMENT

35.1. General Requirements

35.1.1. The Parties will exchange appropriate network maintenance information (e.g., maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, etc.).

35.1.2. Each Party shall provide a 24-hour contact number for network service issues. A fax number must also be provided to facilitate event notifications for planned mass calling events. The Parties shall agree upon appropriate network service control capabilities.

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35.1.3. Voice response units, similar technologies, intercept solutions or live referrals should be used, where available to refer/transfer calls from customers to the proper Telecommunications Carrier for action. Neither Party shall market to end-users during a call when that customer contacts the Party solely as a result of a misdirected call.

35.1.4. Notice of Network Event. Each party has the duty to alert the other to any network events that can result or have resulted in service interruption, blocked calls, or negative changes in network performance as follows:

35.1.4.1. Any cable or electronics outage that affects 50% or more of the in-service lines of a central office or 1000 access lines, whichever is less with a duration of two (2) minutes or more.

35.1.4.2. Toll or EAS isolation of an entire exchange with duration of two (2) minutes or more.

35.1.4.3. Any digital cross-connect or fiber optic complete system failure lasting two (2) minutes or more.

35.1.5. Notice of Network Change. The Parties agree to provide each other reasonable notice of changes including the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as other changes that would affect the interoperability of those facilities and networks. Correct Local Exchange Routing Guide (LERG) data is considered part of this requirement.

35.1.6. Sprint will close all trouble reports with CLEC. CLEC will close all trouble reports with its end-user.

35.1.7. Sprint shall perform all testing for resold Telecommunications Services.

35.1.8. Sprint shall provide test results to CLEC, if appropriate, for trouble clearance. In all instances, Sprint shall provide CLEC with the disposition of the trouble.

35.1.9. If Sprint initiates trouble handling procedures, it will bear all costs associated with that activity. If CLEC requests the trouble dispatch, then CLEC will bear the cost.

35.1.10. A non-branded, customer-not-at-home card shall be left by Sprint at the customer's premises when a CLEC customer is not at home for an appointment and Sprint performs repair or installation services on behalf of CLEC.

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35.2. Transfer of Service Announcements. When an end-user who continues to be located within the local calling area changes from Sprint to CLEC and does not retain its original telephone number which was provided by Sprint, Sprint will provide a new number announcement on the inactive telephone number upon request, for a minimum period of ninety (90) days (or some shorter reasonable period, as permitted by the Commission, when numbers are in short supply), at no charge to the end-user or the CLEC unless Sprint has a Tariff on file to charge end-users. This announcement will provide details on the new number to be dialed to reach this customer where available.

35.3. Repair Calls. CLEC and Sprint will employ the following procedures for handling misdirected repair calls:

35.3.1. CLEC and Sprint will educate their respective customers as to the correct telephone numbers to call in order to access their respective repair bureaus.

35.3.2. To the extent the correct provider can be determined, misdirected repair calls will be referred to the proper provider of local exchange service in a courteous manner, at no charge, and the end-user will be provided the correct contact telephone number. In responding to repair calls, neither Party shall make disparaging remarks about the other, nor shall they use these repair calls as the basis for internal referrals or to solicit customers or to market services. Either Party may respond with accurate information in answering customer questions.

35.3.3. CLEC and Sprint will provide their respective repair contact numbers to one another on a reciprocal basis.

35.4. Restoration of Service in the Event of Outages. Sprint restoration of service in the event of outages due to equipment failures, human error, fire, natural disaster, acts of God, or similar occurrences shall be performed in accordance with the following priorities. First, restoration priority shall be afforded to those services affecting its own end-users and identified CLEC end-users relative to national security or emergency preparedness capabilities and those affecting public safety, health, and welfare, as those elements and services are identified by the appropriate government agencies. Second, restoration priority shall be afforded between Sprint and CLEC in general. Third, should Sprint be providing or performing Tandem Switching functionality for CLEC, third level priority restoration should be afforded to any trunk. Lastly, all service shall be restored as expeditiously as practicable and in a non-discriminatory manner.

35.5. Service Projections. CLEC shall make available to Sprint periodic service projections, on a semiannual basis.

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35.6. Quality of Service

35.6.1. Upon deployment of Electronic Interfaces, Sprint shall provide CLEC with the same intervals and level of service provided by Sprint to its end-users or other CLECs at any given time.

35.6.2. Upon deployment of Electronic Interfaces, Sprint shall provide CLEC maintenance and repair services in a manner that is timely, consistent with service provided to Sprint end-users and/or other CLECs.

36. ADDITIONAL SERVICES

36.1. 911/E911

36.1.1. Where Sprint is the owner or operator of the 911/E911 database, Sprint will maintain daily updating of 911/E911 database information related to CLEC end-users.

36.1.2. Sprint will provide CLEC a default arrangement/disaster recovery plan including an emergency back-up number in case of massive trunk failures.

36.2. Directory Listings and Distribution

36.2.1. White Page Directories; Distribution; Use of Listing Information

36.2.1.1. Sprint agrees to include one basic White Pages listing for each CLEC customer located with the geographic scope of its White Pages directories, at no additional charge to CLEC. 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 listing of CLEC customers will be interfiled with listings of Sprint and other CLECs' customers.

36.2.1.2. CLEC agrees to provide CLEC customer listing information, including without limitation directory distribution information, to Sprint at no charge. Sprint will provide CLEC with the appropriate format for provision of CLEC customer listing information and service order updates to Sprint.

36.2.1.3. Sprint 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 Sprint's Service Order Entry System, which will include

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compensation for such database maintenance services. Service Order entry fees apply when Service Orders containing directory records are entered in Sprint's Service Order Entry System initially, and when Service Orders are entered in order to process a requested change to directory records.

36.2.1.4. CLEC customer listing information will be used solely for the provision of directory services, including the sale of directory advertising to CLEC customers.

36.2.1.5. In addition to a basic White Pages listing, Sprint will provide, at the rates set forth in the appropriate Sprint Tariff, Tariffed White Pages listings (e.g., additional, alternate, foreign and non-published listings) for CLEC to offer for resale to CLEC's customers.

36.2.1.6. Sprint will exercise reasonable efforts to cause its publisher to provide White Pages distribution services to CLEC customers within Sprint's service territory at no additional charge to CLEC. Sprint represents that the quality, timeliness, and manner of such distribution services will be at parity with those provided to Sprint and to other CLEC customers provided that CLEC provides required information and meets criteria and specifications established by its directory publisher.

36.2.1.7. Sprint will exercise reasonable efforts to cause its directory publisher to include critical contact information pertaining to CLEC in the "Information Pages" of those of its White Pages directories provided that CLEC meets criteria established by its directory publisher.

36.2.2. Sprint will accord CLEC customer listing information the same level of confidentiality that Sprint accords its own proprietary customer listing information. Sprint shall ensure that access to CLEC customer proprietary listing information will be limited solely to those of Sprint and Sprint'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. Sprint 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 Sprint and

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CLEC will not be deemed a violation of this confidentiality provision.

36.2.3. Sprint will not sell or license CLEC's customer listing information to any third parties unless CLEC provides written notice to the contrary. Once Sprint's system is able to distinguish Sprint and CLEC listings, Sprint and CLEC will share in revenues derived from the sale or licensing of customer listing information net of administration expenses incurred by Sprint in providing such information to third parties.

36.2.4. Other Directory Services

36.2.4.1. Sprint 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 § 36.2. Both parties acknowledge that Sprint's directory publisher is not a party to this Agreement and that the provisions contained in this §36.2 are not binding upon Sprint's directory publisher.

36.2.4.2. Sprint's directory publisher will negotiate with CLEC concerning 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.

36.2.4.3. Directory advertising will be offered to CLEC customers on a nondiscriminatory basis and subject to the same terms and conditions that such advertising is offered to Sprint and other CLEC customers. Directory advertising will be billed to CLEC customers by directory publisher.

36.2.4.4. Directory publisher will use commercially reasonable efforts to ensure that directory advertising purchased by customers who switch their service to CLEC is maintained without interruption.

36.2.4.5. Information pages, in addition to any information page or portion of an information page containing critical contact information as described above in § 36.2.1.7, may be purchased from Sprint's directory publisher, subject to applicable directory publisher guidelines and regulatory requirements.

36.2.4.6. Directory publisher maintains full authority as publisher over its publishing policies, standards and practices, including decisions regarding directory coverage area,

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directory issue period, compilation, headings, covers, design, content or format of directories, and directory advertising sales.

36.3. Directory Assistance

36.3.1. General Requirements for Resale of Directory Assistance

36.3.1.1. Where Sprint is a directory assistance service provider, at CLEC's request, subject to any existing system capacity restraints which Sprint shall work to overcome, Sprint will provide to CLEC resale of CLEC branded directory assistance service which is at parity with the directory assistance service Sprint makes available to its own end-users.

36.3.1.2. Sprint will make CLEC's data available to anyone calling Sprint's DA and will update its database with CLEC's data at Parity with updates from its own data.

36.3.1.3. Sprint may store proprietary customer information provided by CLEC in its Directory Assistance database; such information should be able to be identified by source provider in order to provide the necessary protection of CLEC's or CLEC customer's proprietary or protected information.

36.3.1.4. CLEC may limit Sprint's use of CLEC's data to Directory Assistance or, pursuant to written agreement, grant greater flexibility in the use of the data subject to proper compensation.

36.3.1.5. Where Directory Assistance is a separate retail service provided by Sprint, Sprint will allow wholesale resale of Sprint DA service.

36.3.1.6. To the extent Sprint provides Directory Assistance service, CLEC will provide its listings to Sprint via data and processed directory assistance feeds in accordance with an agreed upon industry format. Sprint shall include CLEC listings in its Directory Assistance database.

36.3.1.7. CLEC has the right to license Sprint unbundled directory databases and sub databases and utilize them in the provision of its own DA service. To the extent that CLEC includes Sprint listings in its own Directory Assistance database, CLEC shall make Sprint's data available to anyone calling CLEC's DA.

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36.3.1.8. Sprint will make available to CLEC all DA service enhancements on a non-discriminatory basis.

36.3.2. When requested by CLEC where CLEC provides its own DA, and if technically feasible, Sprint will route CLEC customer DA calls to CLEC DA centers at CLEC's expense.

36.3.3. Business Processes

36.3.3.1. Sprint will, consistent with § 222 of the Act, update and maintain the DA database with CLEC data, utilizing the same procedures it uses for its own customers, for those CLEC customers who:

36.3.3.1.1. Disconnect

36.3.3.1.2. Change Carrier

36.3.3.1.3. Install

36.3.3.1.4. "Change" orders

36.3.3.1.5. Are Non-Published

36.3.3.1.6. Are Non-Listed

36.3.3.1.7. Are Non-Published/Non-Listed

36.3.4. CLEC shall bill its own end-users.

36.3.5. CLEC will be billed in an agreed upon standard format.

36.3.6. Compensation

36.3.6.1. When CLEC is rebranding the local service of Sprint, directory assistance that is provided without separate charge to end-users will be provided to CLEC end-users without separate charge, subject to any additional actual expense to brand the service with CLEC's brand. Where DA is separately charged as a retail service by Sprint, CLEC shall pay for DA service at retail less avoided cost.

36.3.6.2. Sprint shall place CLEC end-users listings in its directory assistance database for no charge.

36.3.6.3. Sprint shall, subject to § 222 of the Act, as enacted or hereafter amended, make its unbundled directory assistance database available to CLEC.

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36.3.6.4. Any additional actual trunking costs necessary to provide a CLEC branded resold directory assistance service or routing to CLEC's own directory assistance service location shall be paid by CLEC.

36.4. Operator Services

36.4.1. General Requirements

36.4.1.1. Where Sprint (or a Sprint Affiliate on behalf of Sprint) provides operator services, at CLEC's request (subject to any existing system capacity restraints) Sprint will provide to CLEC, CLEC branded operator service at parity with the operator services Sprint makes available to its own end-users.

36.4.1.2. At CLEC's request, subject to any existing system capacity restraints, Sprint will route Operator Service traffic of CLEC's customers to the CLEC's Operator Service Center at CLEC's expense.

36.4.1.3. Sprint shall provide operator service features to include the following: (i) local call completion 0- and 0+, billed to calling cards, billed collect, and billed to third party, and (ii) billable time and charges, etc. Depending upon the operating region, Blocking feature associated with Operator Services may also be available.

36.4.2. Compensation

36.4.2.1. Sprint shall provide operator services for resale at wholesale prices.

36.4.2.2. When CLEC requests CLEC branded Sprint operator services for resale any actual additional trunking costs associated with CLEC branding shall be paid by CLEC.

36.4.2.3. Where CLEC provides its own Operator Services, the Parties shall jointly establish a procedure whereby they will coordinate Busy Line Verification ("BLV") and Busy Line Verification and Interrupt ("BLVI") services on calls between their respective end-users. BLV and BLVI inquiries between operator bureaus shall be routed over the appropriate trunk groups. CLEC and Sprint will reciprocally provide adequate connectivity to facilitate this capability. In addition, upon request of CLEC, Sprint will make available to CLEC for purchase under contract BLV and BLVI services at wholesale rates.

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37. ADDITIONAL RESPONSIBILITES OF THE PARTIES

37.1. Law Enforcement And Civil Process

37.1.1. Intercept Devices. Local and federal law enforcement agencies periodically request information or assistance from local telephone service providers. When either Party receives a request associated with a customer of the other Party, it shall refer such request to the Party that serves such customer, unless the request directs the receiving Party to attach a pen register, trap-and-trace or form of intercept on the Party's facilities, in which case that Party shall comply with any valid request. Charges for the intercept shall be at Sprint's applicable charges.

37.1.2. Subpoenas. If a Party receives a subpoena for information concerning an end-user the Party knows to be an end-user of the other Party, it shall refer the subpoena back to the requesting Party with an indication that the other Party is the responsible Company, unless the subpoena requests records for a period of time during which the Party was the end-user's service provider, in which case the Party will respond to any valid request.

37.1.3. Hostage or Barricaded Persons Emergencies. If a Party receives a request from a law enforcement agency for temporary number change, temporary disconnect or one-way denial of outbound calls for an end-user of the other Party by the receiving Party's switch, that Party will comply with any valid emergency request. However, neither Party shall be held liable for any claims or damages arising from compliance with such requests on behalf of the other Party's end-user and the Party serving such end-user agrees to indemnify and hold the other Party harmless against any and all such claims.

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Attachment I

RESALE DISCOUNTS:	
Other than Operator / DA	9.78%
Op Assist / DA	6.86%

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IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its duly authorized representatives.

American Fiber Network, Inc.

By: _____

Name: Robert E. Heath

Title: Executive VP

Date: 3/22/01

Sprint

By: _____

Name: William E. Cheek

Title: VP Sales & Account Mgmt

Date: 5/25/01

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