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STATE OF SOUTH CAROLINA

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Posted: D Duke

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 2007 - 443 - C

(Please type or print)

Submitted by: Ed Phillips

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ **Emergency Relief demanded in petition** ☒ **Request for item to be placed on Commission's Agenda expeditiously**

☐ **Other:**

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
☐ Electric	☐ Affidavit	☐ Letter	☐ Request
☐ Electric/Gas	☐ Agreement	☐ Memorandum	☐ Request for Certification
☐ Electric/Telecommunications	☐ Answer	☐ Motion	☐ Request for Investigation
☐ Electric/Water	☐ Appellate Review	☐ Objection	☐ Resale Agreement
☐ Electric/Water/Telecom.	☐ Application	☐ Petition	☐ Resale Amendment
☐ Electric/Water/Sewer	☐ Brief	☐ Petition for Reconsideration	☐ Reservation Letter
☐ Gas	☐ Certificate	☐ Petition for Rulemaking	☐ Response
☐ Railroad	☐ Comments	☐ Petition for Rule to Show Cause	☐ Response to Discovery
☐ Sewer	☐ Complaint	☐ Petition to Intervene	☐ Return to Petition
☒ Telecommunications	☐ Consent Order	☐ Petition to Intervene Out of Time	☐ Stipulation
☐ Transportation	☐ Discovery	☐ Prefiled Testimony	☐ Subpoena
☐ Water	☐ Exhibit	☐ Promotion	☐ Tariff
☐ Water/Sewer	☐ Expedited Consideration	☐ Proposed Order	☐ Other:
☐ Administrative Matter	☒ Interconnection Agreement	☐ Protest	
☐ Other:	☐ Interconnection Amendment	☐ Publisher's Affidavit	
	☐ Late-Filed Exhibit	☐ Report	

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EMBARQ™

Embarq Corporation
Mailstop: NCWKFR0313
14111 Capital Boulevard
Wake Forest, NC 27587-5900
EMBARQ.com

December 6, 2007

Ms. Daphne Duke
Information Resource Consultant
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: MASTER RESALE AGREEMENT BETWEEN UNITED TELEPHONE COMPANY OF THE CAROLINAS D/B/A EMBARQ AND ERNEST COMMUNICATIONS, INC.

Dear Ms. Duke:

United Telephone Company of the Carolinas d/b/a Embarq ("Embarq") and Ernest Communications, Inc. hereby submit their Master Resale Agreement for the State of South Carolina with an effective date of November 20, 2007, for approval by the Public Service Commission of South Carolina.

Embarq and Ernest Communications, Inc. respectfully request that the Commission approve this agreement. Under cover of this letter, a copy of the agreement is being served upon Ernest Communications, Inc.

Embarq is represented in this matter by Mr. Scott Elliott, Elliott & Elliott, P.A., 721 Olive Street, Columbia, South Carolina 29205 (803-771-0555). Please contact either Mr. Elliott or me if there are any questions.

Sincerely yours,

Edward Phillips

Edward Phillips

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Enclosures

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Ms. Cheryl Sweitzer
Manager Regulatory Affairs
Embarq Corporation
14111 Capital Boulevard
Wake Forest, North Carolina 27587-5900

MASTER RESALE AGREEMENT
FOR THE STATE OF SOUTH CAROLINA

Effective Date: November 20, 2007

Ernest Communications, Inc.

and

United Telephone Company of the Carolinas d/b/a Embarq

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MASTER RESALE AGREEMENT

This Resale Agreement is between Ernest Communications, Inc. ("CLEC") and United Telephone Company of the Carolinas d/b/a Embarq ("Embarq") hereinafter collectively, "the Parties", entered into this 20th day of November, 2007 for the State of South Carolina.

WHEREAS, CLEC wishes to purchase Telecommunications Services for resale to others, and Embarq is willing to provide such service; 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, 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. "**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. "**Act**" means the Communications Act of 1934, as amended.

1.4. "**Affiliate**" is as defined in the Act.

1.5. "**Business Day(s)**" means the days of the week excluding Saturdays, Sundays, and all Embarq holidays.

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

1.7. "**Commission**" means the South Carolina Public Service Commission.

1.8. "**Confidential and/or Proprietary Information**" has the meaning set forth in §14 of Part B – General Terms and Conditions.

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

1.10. "**Day**" means calendar days unless otherwise specified.

1.11. "**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.

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

1.13. "**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.

1.14. "**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.

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

1.16. "**Electronic Interface**" means access to operations support systems consisting of preordering, ordering, provisioning, maintenance and repair and billing functions.

1.17. "**End Date**" is the date this Agreement terminates as referenced in §5.1.

1.18. "**FCC**" means the Federal Communications Commission.

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

1.20. "**Interexchange Carrier**" ("**IXC**") means a provider of interexchange Telecommunications Services.

1.21. "**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.

1.22. "**Network Element**" is as defined in the Act.

1.23. "**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").

1.24. "**Operator Services**" provides for:

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

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

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

1.25. "**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.

1.26. "**Parties**" means, jointly, Embarq and CLEC, and no other entity, Affiliate, subsidiary or assign.

1.27. "**Party**" means either Embarq or CLEC, and no other entity, Affiliate, subsidiary or assign.

1.28. "**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.

1.29. "**Rebranding**" occurs when CLEC purchases a Wholesale Service from Embarq when CLEC's brand is substituted for the Embarq brand.

1.30. "**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.

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

1.32. "**Telecommunications**" is as defined in the Act.

1.33. "**Telecommunications Carrier**" is as defined in the Act.

1.34. "**Telecommunication Services**" is as defined in the Act.

1.35. "**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.

1.36. "**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.

3. NETWORK CHANGES

3.1. Embarq shall provide notice of network changes and upgrades in accordance with 47 CFR §§51.325 through 51.335. Embarq may discontinue any Telecommunications Service 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 text 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 to 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 §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 November 20, 2009 ("End Date"), unless earlier terminated in accordance with this Section, 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 §§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 §5.1, CLEC has submitted a notice to commence negotiations under §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 §§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 §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 applicable Embarq Tariff(s), as discounted by the percentages provided in Table One, and subject to the provisions of §§4.2 and 4.3 hereof.

7.2. Subject to the terms of this Agreement, the Parties shall pay invoices by the due date shown on the invoice.

7.2.1. For invoices not paid when due, late payment charges will be assessed under §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 §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 §24.

7.3.4. Billing disputes that are submitted in a timely manner in compliance with §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. Any billing dispute that is not submitted in a timely manner or which is not submitted in writing in compliance with §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 amount in accordance with §7.2**Error! Reference source not found.**.

7.3.6. The failure to submit a written dispute in compliance with §7.3 within thirty (30) Days of a bill date shall not preclude CLEC from thereafter submitting a dispute or seeking a billing adjustment for any charges. Payment of amounts that are subsequently disputed or subject to adjustment shall not constitute or be deemed to represent a waiver of any such dispute, and the CLEC shall not be required to designate such payment as "conditional" or "under protest" in order to invoke the dispute resolution provisions of §24 with respect to such amounts.

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 reserves the right to secure the account with a suitable form of security deposit in accordance with §33.1.

8. AUDITS AND EXAMINATIONS

8.1. 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. 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.

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 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).

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 §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 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.

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. 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.

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

10. LIMITATION OF LIABILITY

10.1. 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 §11 to indemnify, defend, and hold the other Party harmless against amounts payable to third parties. 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) provided for the period during which the service was affected.

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 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.

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 Article 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 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 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 §9.3 above).

12. BRANDING

12.1. 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.

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

12.3. 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.

12.4. 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.

12.5. 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.

13. REMEDIES

13.1. 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.

14. CONFIDENTIALITY AND PUBLICITY

14.1. 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").

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

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

14.2.2. 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

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

14.3. Recipient shall have no obligation to safeguard Confidential Information

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

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

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

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

14.4. 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.

14.5. Each Party agrees that in the event of a breach of this Section 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.

14.6. 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 Section 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.

14.7. 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.

14.8. Except as otherwise expressly provided in this Section, 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.

15. DISCLAIMER OF WARRANTIES

15.1. 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.

16. ASSIGNMENT AND SUBCONTRACT

16.1. 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.

16.2. Except as provided in §16.1, any assignment of this Agreement or of the obligations to be performed, in whole or in part, or of any other interest of a Party hereunder, without the other Party's written consent, shall be void. Upon a request by a Party for such consent, the other Party shall not unreasonably withhold or delay such consent, provided however,

that reasonable grounds for withholding consent would include, without limitation, the existence of any material default by the requesting Party.

16.3. If a Party uses products or services obtained from the other Party under this Agreement to serve end user customers, then such Party may not make any sale or transfer of such end user customer accounts unless the purchaser or transferee has executed a written agreement to assume liability for any outstanding unpaid balances owed to the other Party under this Agreement for such services and products. Notwithstanding any assumption of liability by the purchaser or transferee, the Party selling or transferring such end user customer accounts shall remain jointly liable for the unpaid balances until the same are satisfied, in full, unless the selling or transferring Party obtains a written release of liability from the other Party, which release shall be at the reasonable discretion of the other Party.

17. GOVERNING LAW

17.1. 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.

18. RELATIONSHIP OF PARTIES

18.1. 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.

19. NO THIRD PARTY BENEFICIARIES

19.1. 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.

20. NOTICES

20.1. 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 CLEC:
Bryan Cornett
Ernest Communications Inc.
5275 Triangle Parkway
Suite 150
Norcross, GA 30092

With a copy to:

If to Embarq:
Director – Contract Management
Embarq
KSOPKB0401-413
9300 Metcalf Avenue
Overland Park, KS 66212

With a copy to:

20.2. 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.

21. WAIVERS

21.1. 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.

21.2. 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.

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

22. SURVIVAL

22.1. 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 §§8, 9, 11, 12, 14, 17, 20, 24, 26, and 28.

23. FORCE MAJEURE

23.1. 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 §23 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 §4.3 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.

24. DISPUTE RESOLUTION

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

24.2. 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.

24.3. 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 sixty (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.

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

25. COOPERATION ON FRAUD

25.1. 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.

26. TAXES

26.1. 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.

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

26.2.1. 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.

26.2.2. 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.

26.3. Taxes and Fees Imposed on Purchasing Party But Collected And Remitted By Providing Party.

26.3.1. 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.

26.3.2. 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.

26.3.3. 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.

26.3.4. 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.

26.3.5. 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.

26.3.6. 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.

26.3.7. 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.

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

26.4.1. 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.

26.4.2. 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.

26.4.3. 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.

26.4.4. 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.

26.4.5. 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.

26.4.6. 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.

26.4.7. 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.

26.5. 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.

26.6. 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.

27. AMENDMENTS AND MODIFICATIONS

27.1. 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.

28. SEVERABILITY

28.1. Subject to §4.2, if any part of this Agreement becomes or 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.

29. HEADINGS NOT CONTROLLING

29.1. 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.

30. ENTIRE AGREEMENT

30.1. 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.

31. SUCCESSORS AND ASSIGNS

31.1. 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.

32. IMPLEMENTATION PLAN

32.1. 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.

32.2. 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 §24.

33. FEDERAL JURISDICTIONAL AREAS

33.1. 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.

34. SECURITY DEPOSIT

34.1. Embarq reserves the right to secure the account with a suitable security deposit in the form and amounts set forth herein.

34.2. Security deposits shall take the form of cash or cash equivalent, an irrevocable letter of credit or other form of security acceptable to Embarq.

34.3. 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.

34.4. 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.

34.5. 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.

34.6. 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.

34.7. 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:

34.7.1. when CLEC's undisputed balances due to Embarq are more than thirty (30) Days past due; or

34.7.2. when CLEC files for protection under the bankruptcy laws; or

34.7.3. when an involuntary petition in bankruptcy is filed against CLEC and is not dismissed within sixty (60) Days; or

34.7.4. when this Agreement expires or terminates; or

34.7.5. 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

34.7.6. 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.

34.8. 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.

34.9. 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.

34.10. Any letter of credit issued to Embarq hereunder must meet the following requirements:

34.10.1. 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.

34.10.2. 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.

34.10.3. 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 ten (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.

34.10.4. 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 C – PROVISIONS RELATING TO RESALE

35. TELECOMMUNICATIONS SERVICES PROVIDED FOR RESALE

35.1. 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 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.

36. RESALE OF LOCAL SERVICES

36.1. Scope. Embarq retail Telecommunications Services shall be available for resale at wholesale prices pursuant to 47 USC §251(c)(4).

36.1.1. 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.

36.1.2. 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.

36.1.3. 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 FCC and Commission Rules and Regulations,

36.1.4. 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.

36.1.5. 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.

36.1.6. 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.

36.1.7. 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.

36.1.8. Hospitality Service. Embarq shall provide all blocking, screening, and all other applicable functions available for hospitality lines under Tariff.

36.1.9. 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.

36.1.10. 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.

36.2. Charges and Billing

36.2.1. 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.

36.2.2. Embarq 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).

36.2.3. Embarq will deliver a monthly statement for Wholesale Services as follows:

(a) Invoices will be provided in a standard CLEC access billing format or other such format as Embarq may determine;

(b) 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 Embarq provided services that are local usage sensitive and create message 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.

36.2.4. 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. Embarq

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

36.3. Pricing

36.3.1. 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 Table One. Additional rates for new or additional services shall be added at the time said new or additional services are offered.

36.4. Provisioning and Installation

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

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

36.4.3. A general Letter of Agency ("LOA") initiated by CLEC or Embarq 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 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 shall apply, such Party shall be liable to pay and shall pay all nonrecurring charges associated with 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 and any other appropriate charges required by Applicable Rules.

36.4.4. 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. Each Party is responsible for ordering the Telecommunications Services desired by the end-user customer.

36.4.5. Embarq shall provide CLEC the ability to obtain telephone numbers, including vanity numbers from Embarq where Embarq 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 Embarq. CLEC shall pay Embarq the reasonable administrative costs of this function, and the monthly recurring charges listed in the appropriate State Local Access Tariff.

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

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

37. NETWORK MAINTENANCE AND MANAGEMENT

37.1. General Requirements

37.1.1. 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.).

37.1.2. Each Party shall provide a twenty-four (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.

37.1.3. 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.

37.1.4. 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:

(a) Any cable or electronics outage that affects fifty percent (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.

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

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

37.1.5. 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.

37.1.6. Embarq will close all trouble reports with CLEC. CLEC will close all trouble reports with its end-user.

37.1.7. Embarq shall perform all testing for resold Telecommunications Services.

37.1.8. 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.

37.1.9. If Embarq 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.

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

37.2. Transfer of Service Announcements. When an end-user who continues to be located within the local calling area changes from Embarq to CLEC and does not retain its original

telephone number which was provided by Embarq, Embarq 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 Embarq 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.

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

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

37.3.2. 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.

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

37.4. Restoration of Service in the Event of Outages. Embarq 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 Embarq and CLEC in general. Third, should Embarq 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.

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

38. ADDITIONAL SERVICES

38.1. 911/E911

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

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

38.2. Directory Listings and Distribution

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

(a) Embarq 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 Embarq and other CLECs' customers.

(b) CLEC agrees to provide CLEC customer listing information, 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 and service order updates to Embarq.

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

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

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

(f) Embarq, or its directory publisher, agree to provide White Pages distribution services to CLEC customers within Embarq's service territory 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.

(g) 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 will 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.

(h) 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.

(i) Embarq will provide CLEC's customer listing information to any third party to the extent required by Applicable Rules.

38.2.2. Other Directory Services. 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. Both Parties acknowledge that Embarq's directory publisher is not a Party to this Agreement and that the provisions contained in this Section are not binding upon Embarq's directory publisher.

(a) Embarq'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.

(b) 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 Embarq and other CLEC customers. Directory advertising will be billed to CLEC customers by directory publisher.

(c) 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.

(d) Information pages, in addition to any information page or portion of an information page containing critical contact information as described above in §38.2.1, may be purchased from Embarq's directory publisher, subject to applicable directory publisher guidelines and regulatory requirements.

(e) Directory publisher maintains 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.

38.3. Directory Assistance

38.3.1. General Requirements for Resale of Directory Assistance

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

(b) Embarq will make CLEC's data available to anyone calling Embarq's DA and will update its database with CLEC's data at Parity with updates from its own data.

(c) Embarq 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.

(d) Where Directory Assistance is a separate retail service provided by Embarq, Embarq will allow wholesale resale of Embarq DA service.

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

(f) Embarq will make available to CLEC all DA service enhancements on a non-discriminatory basis.

38.3.2. Business Processes

(a) Embarq 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:

(1) Disconnect;

(2) Change Carrier;

(3) Install;

(4) Change any service which affects DA information;

(5) Specify Non-Solicitation; and

(6) Are Non-Published, Non-Listed, or Listed.

38.3.3. CLEC shall bill its own end-users.

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

38.3.5. Compensation

(a) When CLEC is rebranding the local service of Embarq, 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 Embarq, CLEC shall pay for DA service at retail less avoided cost.

(b) Embarq shall place CLEC end-users listings in its directory assistance database for no charge.

38.4. Operator Services

38.4.1. General Requirements

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

(b) Embarq 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.

38.4.2. Compensation

(a) Embarq shall provide operator services for resale at wholesale prices.

(b) When CLEC requests CLEC branded Embarq operator services for resale any actual additional trunking costs associated with CLEC branding shall be paid by CLEC.

39. ADDITIONAL RESPONSIBILITIES OF THE PARTIES

39.1. Law Enforcement And Civil Process

39.1.1. 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 Embarq's applicable charges.

39.1.2. 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.

39.1.3. 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.

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

CLEC		**Embarq**	
By:		By:	
Name :	Paul Masters	Name:	Emeric W. Kapka
Title:	President	Title:	Director – Contract Management
Date:		Date:	

TABLE ONE

Embarq Resale Discount Percentages.

KEY CODES		EMBARQ RATE ELEMENT COST SUMMARY: SOUTH CAROLINA		8/30/2007
MRC	NRC			
		RESALE DISCOUNTS	**MRC**	**NRC**
		Other than Operator / DA	**9.78%**	
		Op Assist / DA	**6.86%**	
		USAGE FILE CHARGES	**MRC**	**NRC**
		Message Provisioning, per message	**$0.000684**	
		Data Transmission, per message	**$0.00000**	
		Media Charge - per CD (Price reflects shipping via regular U.S. Mail)		**$18.00**
		OTHER CHARGES	**MRC**	**NRC**
		Temporary Suspension of Service for Resale - **SUSPEND**		**$0.00**
		Temporary Suspension of Service for Resale - **RESTORE**		**$21.00**
		PIC Change Charge, per change		**Per Tariff**
		Operator Assistance / Directory Assistance Branding		**ICB**
		UNE LOOP, TAG & LABEL / RESALE TAG & LABEL	**MRC**	**NRC**
	I0005	Tag and Label on a reinstall loop or an existing loop or resale		**$9.01**