

# DEWEY & LeBOEUF

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September 18, 2009

## VIA HAND DELIVERY AND E-MAIL

Honorable Jaclyn A. Brilling  
Secretary  
New York State Public Service Commission  
Three Empire Plaza  
Albany, New York 12223

Re: Interconnection Agreement of Time Warner ResCom of New York, LLC and Dunkirk and Fredonia Telephone Company

Dear Secretary Brilling:

On behalf of Time Warner ResCom of New York, LLC ("TW ResCom"), enclosed for filing please find the executed Interconnection Agreement between TW ResCom and Dunkirk and Fredonia Telephone Company ("Dunkirk and Fredonia") for approval by the New York State Public Service Commission ("Commission"), in accordance with §§ 252(e)(1) and (e)(2) of the Telecommunications Act of 1996 ("Act").

Specifically, pursuant to § 252(i) of the Act, TW ResCom has elected to adopt the terms of the existing Commission-approved Interconnection Agreement between Dunkirk and Fredonia and Sprint Communications Company L.P., which is attached as Appendix 1 (consisting of 31 pages).

Section 252(e)(4) of the Act specifies that an interconnection agreement shall be deemed approved if a state agency does not act to approve or reject the agreement within ninety (90) days of the filing of the agreement with the Commission.

Communication to Dunkirk and Fredonia may be sent to:

William R. Westin, VP Industry Affairs  
Dunkirk and Fredonia Telephone Company  
40 Temple Street  
Fredonia, NY 14063  
Phone: (716) 673-3000

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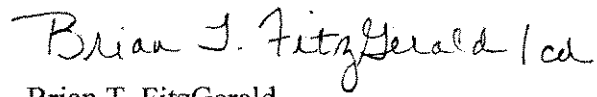
Honorable Jaclyn A. Brilling  
September 18, 2009  
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Communication to Time Warner ResCom may be sent to:

Maribeth Bailey  
Sr. Director, Interconnection Policy, Regulatory  
Time Warner Cable  
60 Columbus Circle  
New York, NY 10023  
Phone: (212) 364-8440  
Maribeth.Bailey@twcable.com

If you have any questions regarding this filing, please contact me.

Respectfully submitted,

  
Brian T. FitzGerald

Enclosures/101951

cc: Maribeth Bailey (w/enclosures)  
William R. Westin (w/o enclosures)  
Thomas J. Moorman, Esq. (w/enclosures)



August 13, 2009

Gerald D. Campbell  
President  
Time Warner ResCom of New York LLC  
c/o Time Warner Cable  
290 Harbor Drive  
Stamford, CT 06902

Re: Time Warner ResCom of New York LLC Adoption of the Interconnection Agreement By and Between Dunkirk and Fredonia Telephone Company And Sprint Communications Company L.P., effective date of December 15, 2005, Pursuant to 47 U.S.C. § 252(i)

Dear Mr. Campbell:

Dunkirk and Fredonia Telephone Company ("DFT" or "Company") has received the request made by Time Warner ResCom of New York LLC ("TW ResCom") requesting, pursuant to Section 252(i) of the 1996 revisions to the Communications Act of 1934, as amended (the "Act"), to adopt the rates, terms and conditions in their entirety of the Interconnection Agreement By and Between Dunkirk and Fredonia Telephone Company And Sprint Communications Company L.P., with an effective date of December 15, 2005 and as modified herein (the "*Sprint Agreement*").<sup>1</sup> We understand, based on our communications, that you have a copy of the *Sprint Agreement* and that you have reviewed the rates, terms and conditions contained within the *Sprint Agreement* and this letter with TW ResCom's counsel. We also understand that you have the legal authority to enter into the arrangement reflected herein on behalf of TW ResCom.

Accordingly, please confirm the following with respect to TW ResCom's adoption request. Your signature below will be sufficient for that confirmation and, along with the rates, terms and conditions contained in the *Sprint Agreement* and those contained in this letter, shall constitute the rates, terms and conditions that shall govern the interconnection of TW ResCom's network with the network of the Company (the "*TW ResCom/DFT Agreement*").

1. Except as otherwise may be provided for herein, the term "Sprint" shall be replaced with "TW ResCom" wherever the term "Sprint" appears in the *Sprint Agreement* and the term "Party" shall mean either TW ResCom or the Company as the context requires and the term "Parties" shall mean TW ResCom and the Company.

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<sup>11</sup> The *Sprint Agreement* is shown on a list of Interconnection Agreements between service providers in New York State maintained by the New York Public Service Commission with an effective date of December 15, 2005. See [http://www.dps.state.ny.us/Interconnection\\_Agreements.htm](http://www.dps.state.ny.us/Interconnection_Agreements.htm).

2. Section 20 of the *Sprint Agreement* shall be modified to replace the information concerning Sprint with the following information for TW ResCom:

NAME: Julie P. Laine  
TITLE: Group Vice President & Chief Counsel, Regulatory  
ADDRESS: Time Warner ResCom of New York LLC  
c/o Time Warner Cable  
ADDRESS: 60 Columbus Circle  
ADDRESS: New York, NY 10023  
PHONE: (212) 364-8482  
FAX: (704) 973-6239  
EMAIL: Julie.laine@twcable.com

With a copy to:

NAME: Maribeth Bailey  
TITLE: Senior Director, Interconnection Policy, Regulatory  
ADDRESS: Time Warner ResCom of New York LLC  
c/o Time Warner Cable  
ADDRESS: 60 Columbus Circle  
ADDRESS: New York, NY 10023  
PHONE: (212) 364-8440  
FAX: (704) 973-6222  
EMAIL: Maribeth.bailey@twcable.com

Section 20 of the *Sprint Agreement* shall be modified to replace the information concerning the Company with the following information:

NAME: William R. Westin  
TITLE: VP Industry Affairs  
ADDRESS: Dunkirk and Fredonia Telephone Company  
ADDRESS: 40 Temple Street  
ADDRESS: Fredonia, NY 14063  
PHONE: (716) 673-3000  
FAX: (716) 679-4005

3. TW ResCom represents and warrants that it has all necessary certifications from the New York Public Service Commission (the "PSC Certificate") to provide competitive local exchange service in the State of New York, that such PSC Certificate is in effect, and that such PSC Certificate authorizes TW ResCom to provide telecommunications services within the State of New York as required to be a precondition for the implementation of and operations under the *TW ResCom/DFT Agreement*.
4. TW ResCom represents and warrants that:

- a. it is a Telecommunications Carrier as that term is defined under the Act, and
  - b. that it is and will be a Telecommunications Carrier when it acts under and otherwise implements the *TW ResCom/DFT Agreement*.
5. The Parties agree that, if it is found that TW ResCom is not a Telecommunications Carrier as indicated in paragraph 4, above, when it provides it services to its customers, the *TW ResCom/DFT Agreement* shall be terminated and any traffic exchanged between the Parties shall then be subject to the DFT's then-existing intrastate access tariff's rates, terms and conditions.
6. TW ResCom shall provide to the Company completed Schedule II – LNP Support Information prior to any request it may make to port a telephone number from the Company.
7. TW ResCom's adoption of the *Sprint Agreement* and, as a result, the effective date of the *TW ResCom/DFT Agreement* shall be the date that the New York Public Service Commission approves this filing.
8. The Parties agree that the term of the *TW ResCom/DFT Agreement* shall be the same as that remaining for the *Sprint Agreement*.
9. During the term of the *TW ResCom/DFT Agreement* and regardless of the signaling and transport protocols used in the origination, transport and/or termination of traffic by the originating and/or terminating network in its delivery to the terminating end user, the Parties explicitly state and agree that each will pay to the other intercarrier compensation as it is applicable to traffic that is originated and terminated in Time Division Multiplex protocol. As a result, the Parties specifically agree that:
  - a. For Local Traffic, the intercarrier compensation is subject to a "bill and keep" arrangement; and
  - b. For non-Local Traffic that is originated or terminated on the Company's network, and since the Company is not a telephone toll provider, TW ResCom shall pay and abide by the rates, terms and conditions of the Company's applicable intrastate exchange access tariff since the Company is not a telephone toll provider based on the jurisdiction of the "to" and "from" telephone numbers involved in the end user call.
10. The Parties agree that, consistent with the *Sprint Agreement*, the *TW ResCom/DFT Agreement* does not anticipate nor address the delivery of traffic by a Party to an Internet Service Provider served by the other Party.
11. The Parties agree that TW ResCom's adoption of the *Sprint Agreement* as the *TW ResCom/DFT Agreement* is pursuant to Section 252(i) of the Act and the rights and obligations provided under Section 252(i) to both Parties. As such, the

Parties agree that this adoption is provided neither as a voluntary or negotiated agreement. The Parties further agree that the entering into and performance by either of the Parties under the *TW ResCom/DFT Agreement* is without prejudice to any positions they have taken previously, or may take in the future in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related specifically to the *Sprint Agreement* and/or the *TW ResCom/DFT Agreement*, or other types of arrangements prescribed in either noted agreements.

12. The Company reserves the right to deny TW ResCom's adoption and/or application of the *TW ResCom/DFT Agreement*, in whole or in part, if at any time:
  - a. the costs to the Company of its implementation and/or operation under the *TW ResCom/DFT Agreement* are greater than the costs of implementing and/or operating under the *Sprint Agreement*; or
  - b. the operation under the terms of the *TW ResCom/DFT Agreement* is technically infeasible for the Company.
13. Both Parties reserve their right to seek appropriate legal and/or equitable relief if the other Party attempts to interpret or apply the terms of the *TW ResCom/DFT Agreement* in a manner that conflicts with that set forth in this letter.
14. TW ResCom shall be responsible for making the necessary filings with the New York Public Service Commission to approve this letter and the *TW ResCom/DFT Agreement* which filings shall first be coordinated with the Company.

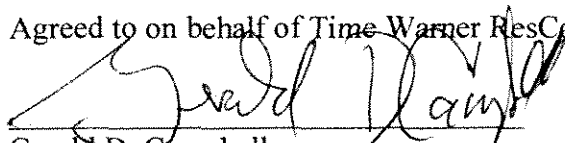
By signing below, TW ResCom agrees with the legally binding effect of this letter and the adoption of the *Sprint Agreement* as both are part of and shall in total constitute the *TW ResCom/DFT Agreement*.

Sincerely,



William R. Westin  
VP Industry Affairs

Agreed to on behalf of Time Warner ResCom of New York LLC:

  
Gerald D. Campbell  
President

Date:

9/9/09

**SPRINT/DUNKIRK AND FREDONIA CONFORMING AGREEMENT  
NY CASES 05-C-0170 AND 05-C-0183**

**INTERCONNECTION AGREEMENT**

By and Between

**DUNKIRK AND FREDONIA TELEPHONE COMPANY**

And

**SPRINT COMMUNICATIONS COMPANY L.P.**

**SPRINT/DUNKIRK AND FREDONIA CONFORMING AGREEMENT  
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**SPRINT/DUNKIRK AND FREDONIA CONFORMING AGREEMENT**  
**NY CASES 05-C-0170 AND 05-C-0183**

This Interconnection Agreement ("Agreement") is made effective as of the day of December 15, 2005 by and between Dunkirk and Fredonia Telephone Company ("D&F"), a New York corporation with offices at 40 Temple St. PO Box 209, Fredonia, NY 14063 and Sprint Communications Company L.P. a Delaware limited partnership with offices at 6160 Sprint Parkway, Overland Park, KS 66251 (Sprint). D&F and Sprint may also be referred to herein singularly as a "Party" or collectively as the "Parties."

**RECITALS**

WHEREAS, D&F is an incumbent local exchange carrier ("ILEC") and Sprint is a competitive local exchange carrier ("CLEC") and both Parties are authorized by the New York State Public Service Commission ("Commission") to provide telecommunications services in the State of New York; and

WHEREAS, Sections 251 and 252 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the "Act") have specific requirements for interconnection, and the Parties intend to comply with these requirements; and

WHEREAS, The Parties desire to interconnect their respective networks to allow either Party to deliver its originating End User Local Traffic to the other Party for termination to the End Users of the other Party; and

WHEREAS the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks and provide other services as required by the Act and applicable law; and

WHEREAS, the Parties have arrived at this Agreement through negotiations undertaken pursuant to the Act and have agreed on the terms and conditions as set forth below.

NOW THEREFORE, in consideration of the mutual obligations set forth below, the Parties agree to the following terms and conditions:

**1. Scope of Agreement**

- 1.1 This Agreement addresses the terms and conditions under which Sprint and D&F agree to exchange only Local Traffic between their respective End Users, as specified in Schedule I, by a direct or indirect connection at the Point of Interconnection in accordance with this Agreement. All traffic that either Party may deliver to the POI that falls outside of the definition of Local Traffic shall not be subject to the terms and conditions of this Agreement (the "Excluded Traffic") but may be subject to other arrangements and/or tariffs of the Parties which shall govern the intercarrier treatment of such Excluded Traffic. The Parties further agree that they will strictly construe the definition of Local Traffic and will ensure that they each will abide by the additional terms and conditions of Section 8 regarding facilities and traffic addressed under this Agreement.
- 1.2 All Local Traffic exchanged between the Parties shall be compensated in accordance with Section 4, below.

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- 1.3 Each Party agrees that it will not knowingly provision any of its services in a manner that permits the arbitrage and/or circumvention of the application of applicable switched access charges by the other Party and/or the utilization of the physical connecting arrangements described in this Agreement to permit the delivery to the other Party of Excluded Traffic through the POI. If any arbitrage and/or delivery of Excluded Traffic through the POI is identified, each Party also agrees to take all reasonable steps to terminate and/or reroute any service to one of its end users that permits that End User or any entity to arbitrage and/or circumvent the application of applicable switched access charges by the other Party or that permits the End User or any entity to utilize the POI for the delivery or receipt of Excluded Traffic through the POI; provided, however, that until such time as the arbitrage is resolved, the Party that is allowing the POI to be used for the delivery of Excluded Traffic shall pay either terminating or originating access charges based on the directionality of the traffic and pursuant to the applicable tariff of the other Party..
- 1.4 The Parties enter into this Agreement without prejudice to any positions they have taken previously, or may take in the future in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related specifically to this Agreement, or other types of arrangements prescribed in this Agreement; provided, however, that this agreement shall remain binding on the Parties.
- 1.5 All references to Sections and Schedules are deemed to be references to the Sections of and the Schedules to this Agreement unless the context otherwise requires. Unless the context shall otherwise require, any reference to any agreement, other instrument (including offerings, guides or practices of either Party or other third party), statute, regulation, rule or tariff is to such agreement, instrument, statute, regulation, or rule or tariff as amended and supplemented from time to time (and, in the case of a statute, regulation, rule or tariff, to any successor provision).
- 1.6 The Parties acknowledge that some of the services, facilities, or arrangements described herein may reference the terms of federal or state tariffs of the Parties. Each Party hereby incorporates by reference those provisions of any tariff that governs any terms specified in this Agreement. If any provision contained in this main body of the Agreement and any Exhibit hereto cannot be reasonably construed or interpreted to avoid conflict, the provision contained in this main body of this Agreement shall prevail. If any provision of this Agreement and an applicable tariff cannot be reasonably construed or interpreted to avoid conflict, the Parties agree that the provision contained in this main body of this Agreement prevails.
- 1.7 Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement. Each Party shall promptly notify the other Party in writing of any governmental action that suspends, cancels, withdraws, limits, or otherwise materially affects its ability to perform its obligations hereunder.

**2. Definitions**

**SPRINT/DUNKIRK AND FREDONIA CONFORMING AGREEMENT  
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Except as otherwise specified herein, the following definitions will apply to all sections contained in this Agreement. Additional definitions that are specific to the matters covered in a particular section may appear in that section. Any term used in this Agreement that is not specifically defined shall have the meaning ascribed to such term in the Act. If no specific meaning exists for a specific term used in this Agreement, then normal usage in the telecommunications industry shall apply.

- 2.1 Act, as used in this Agreement, means the Communications Act of 1934 (47 U.S.C. Section 151 *et seq.*), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission ("FCC") or the Commission.
- 2.2 Certificated Area means the geographic area within which D&F is authorized to provide local exchange service and exchange access service as established and defined by the Commission.
- 2.3 Commission means the New York State Public Service Commission.
- 2.4 Customer, End User or End User Customer means the residence or business subscriber that is the ultimate user of telecommunications services provided directly to such subscriber by either of the Parties or by a third party telecommunications carrier that is an authorized Local Exchange Carrier providing local exchange service and for purposes of this Agreement, that may place or receive Local or EAS Traffic and, except for Virtual NXX or FX customers, that is physically located within the Rate Center within the Certificated Area.
- 2.5 DS1 is a digital signal transmission rate of 1.544 Megabits per second ("Mbps").
- 2.6 DS3 is a digital signal transmission rate of 44.736 Mbps.
- 2.7 Information Service Provider or ISP is any entity, including but not limited to an Internet service provider, that provides information services but is not a cable television service provider or any other entity providing voice telecommunications services to end users.
- 2.8 ISP Traffic is traffic originated by an end user of one Party and delivered to the other Party for switching to an ISP.
- 2.9 Interconnection means the indirect or direct physical linking of two networks for the mutual exchange of traffic.
- 2.10 Intra-LATA Toll Traffic is as defined in the Act.
- 2.11 Local Access and Transport Area ("LATA") has the same meaning as that contained in the Act.
- 2.12 Local Exchange Carrier or LEC means any common carrier authorized to provide exchange and exchange access services.

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- 2.13 Local Exchange Service means any form of switched telecommunications provided within a defined geographic area known as the local calling area.
- 2.14 Local Number Portability means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.
- 2.15 Local Traffic means calls that are exchanged by the Parties between telephone numbers assigned to Rate Centers located within D&F's local calling area as defined by D&F's general subscriber tariff or like mechanism.
- 2.16 NPA-NXX means the first six digits of a ten-digit telephone number, which denote a consecutive 10,000 number block within the North American Numbering Plan. As used in the Agreement, the term refers exclusively to geographic NPAs associated with Rate Center areas and excludes Service Access Codes, unless otherwise specifically noted.
- 2.17 Point of Interconnection (POI) means the physical location(s) at which the Parties' networks meet for the purpose of exchanging Local Traffic.
- 2.18. Rate Center means the specific geographic point ("Vertical and Horizontal" ("V&H") coordinates) and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to a LEC for its provision of basic exchange telecommunications services. The "rate center point" is the finite geographic point identified by a specific V&H coordinate, which is used to measure distance-sensitive end user traffic to/from the particular NPA-NXX designations associated with the specific Rate Center. The "Rate Center area" is the exclusive geographic area identified as the area within which the LEC provides basic exchange telecommunications service bearing the particular NPA-NXX designations associated with the specific Rate Center.
- 2.19. SS7 means Signaling System 7, the common channel out-of-band signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI).

**3. Interconnection Arrangements**

- 3.1 Each Party shall be responsible for the cost and any requirements associated with the establishment, including but not limited to, if applicable, ordering processes and access service request processes of providing trunks to the POI for Local Traffic which that Party originates. The POI must be at or within D&F's exchange area boundary. Each Party will be solely responsible for the costs and operation of its portion of the construction of facilities to the POI.
- 3.2 The Parties acknowledge that Sprint may lease facilities from D&F or an alternate third party provider, or, construct its own facilities in order to achieve connection at the POI. Where a Party arranged for the leasing or construction by a third party of the facilities it requires to the POI, that Party shall ensure and be responsible for the activities of that third party including, but not limited to, the necessary coordination of that third party's

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activities with the other Party. At the time of execution of this Agreement, traffic exchanged between the Parties for termination on the other Party's network is at a level that is de minimis and Sprint may choose to indirectly interconnection with D&F through the use of a third party's transit service. When Sprint determines that the volume of traffic exchanged between the Parties warrants a direct connection, such direct connection will be established pursuant to 3.3.

- 3.3. The Parties will interconnect their networks for the exchange of traffic as specified in the terms and conditions contained in Schedule I hereto and incorporated by reference. A new POI can be established, or the existing POI moved, only with the consent of both Parties; provided, however, that where one Party requests that the POI be moved, the Party requesting such move may be required to pay the costs of the other Party associated with the move.
- 3.4. The Parties will use the trunk group(s) established at the POI to route Local Traffic to one another, pursuant to the terms and conditions of this Section 3 of the Agreement.
- 3.5. This Agreement is applicable only for the exchange of Local Traffic. Both Parties agree to deliver only traffic within the scope of this Agreement.
- 3.6. Each Party warrants and represents that it will not provision any of its services or exchange any traffic hereunder in a manner that permits the unlawful avoidance of the application of intrastate or interstate access charges by any other Party including, but not limited to, third party carriers, aggregators, resellers, and the Commission-defined unlawful resale or bridging of Local Traffic. Each Party also agrees to take all reasonable steps to terminate any service to one of its users that permits that user to unlawfully avoid the application of access charges by the other Party.
- 3.7. Both Parties warrant and represent that they will: (a) assign telephone numbers in a manner consistent with this Agreement to End Users that obtain Local Exchange Service in the Rate Center areas associated with the telephone number; (b) provision their local exchange carrier services in a manner that the resulting traffic exchanged between the Parties pursuant to this Agreement will be confined to the scope of the traffic as set forth in this Section; (c) adopt the Rate Center areas and Rate Center points that are identical to those used by D&F within its local calling area as defined by the Commission for the Local Traffic exchanged pursuant to this Agreement; (d) when securing numbering resources, assign whole NXX Codes to each Rate Center, or where, applicable, thousand number blocks within a NXX Code assigned to that Rate Center; and (e) transmit CPN and/or Automatic Number Identification ("ANI") on at least ninety-five percent (95%) of all traffic delivered to the POI. Where CPN and/or ANI is not provided, the Parties agree that the Party receiving such traffic shall assess, and the delivering Party shall pay to the receiving Party, the applicable intrastate terminating access charges. Both Parties agree that they will engineer their respective networks and design their respective systems to deliver traffic in compliance with this Section 3.
- 3.8. This Agreement does not obligate either Party to provide any arrangements or services not specifically provided for herein. This Agreement has no effect on the definition of end user services that either Party offers to its end user customers, the services either

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Party chooses to offer to its respective end user customers, the rate levels or rate structures that either Party charges its end users for services.

- 3.9. Each Party is solely responsible for the receipt and transmission of 911/E911 traffic originated by users of its Telephone Exchange Services. The Parties acknowledge and affirm that calls to 911/E911 services shall NOT be routed over the interconnection trunk group(s). To the extent that a Party incorrectly routes such traffic over such arrangements, that Party shall fully indemnify and hold harmless the other Party for any claims, including claims of third parties, related to such calls.
- 3.10 Each Party shall solely be responsible for its Communications Assistance for Law Enforcement Act ("CALEA") enforcement-related activity. Each Party shall also ensure that it takes all actions necessary for a full response to any CALEA and/or other law enforcement-related inquiry related in any manner to the originating/terminating traffic from an End User it serves and that such actions are completed in a timely manner. Where a Party fails (the "Failing Party") to comply with any one or more of these obligations and an action is brought or costs imposed upon the other Party (the "Non-Failing Party"), the Failing Party shall indemnify the Non-Failing Party pursuant to the requirements of Section 17 of this Agreement.

**4. Compensation for Local Traffic**

The Parties agree that the mutual provisions and relative obligations of the Parties pursuant to this Agreement represent good and valuable consideration, the sufficiency of which between the Parties is acknowledged, and that the relative obligations and consideration are sufficiently in balance between the Parties such that neither Party has any obligation to provide any net monetary compensation to the other Party for the other Party's origination or termination of Local Traffic. The specific compensation terms and conditions set forth in this Agreement are related to, dependent on, and limited to the exchange of Local Traffic between the Parties.

**5. Compensation for Facilities**

Should Sprint lease facilities from D&F in order to achieve connection at the POI, as specified in Section 3.2 above, Sprint agrees to pay D&F the applicable published or price listed tariff rates for the lease of such facilities.

**6. Local Number Portability (LNP)**

- 6.1 In compliance with Part 52 of the FCC's rules, the Parties will mutually provide LNP services from properly equipped central offices. LNP applies when one of the Parties has received a request from a Customer with an active account with the other Party that indicates the Customer desires to change local carriers while retaining the telephone number or numbers associated with his/her account.
- 6.2 The Parties shall utilize the information contained in Schedule II to establish the scope and procedures by which they will exchange the necessary information required to respond to a specific request for porting a telephone number between them based on the information contained in Schedule IV.

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- 6.3. Both Parties will perform testing to ensure proper routing and completion of calls to a ported number, and cooperate in conducting any additional testing to ensure interoperability between their respective networks and respective systems. Additional testing charges are as specified in Schedule III and shall be paid by the Party requesting such additional testing. Each Party shall inform the other Party of any system updates that may affect the other Party's network and each Party shall, at the other Party's reasonable request and, to the extent practical, perform tests to validate the operation of the network.
- 6.4 LNP shall only be provided as required by law.
- 6.5 Intentionally left blank
- 6.6 Each Party will coordinate LNP activities with the Number Portability Administration Center ("NPAC") as required.
- 6.7 When a ported telephone number becomes vacant, e.g., the telephone number is no longer in service by the original end user, the ported telephone number will snap-back to the NXX code holder, or if thousand block pooling is being used in the rate center, the thousand block holder.
- 6.8 The Parties agree that traffic will be routed via a Location Routing Number ("LRN") assigned in accordance with industry guidelines.
- 6.9 The Parties agree to coordinate the timing for disconnection from one Party and connection with the other Party when an End User ports his or her telephone number.
- 6.10 The party that is porting out the telephone number may charge the other requesting Party for Coordinated LNP activities scheduled outside of the specified hours for addressing such requests as identified in Schedule III at the usual and customary hourly labor rates as identified in the porting Party's then-existing approved interstate exchange access tariff or like mechanism.
- 6.11 Letter of Authorization (LOA). Each Party is responsible for obtaining an LOA from each End User that requests LNP from one Party to the other Party. Both Parties agree to adhere to the applicable federal and/or state requirements regarding LOAs and preferred carrier freezes.
- 6.12 Combined LNP Requests. Each Party will accept LNP requests from the other Party for one End User that includes multiple requests for LNP only where the End User will retain each of the telephone numbers identified in the LNP request.
- 6.13 Expedited Order Charge. Expedited order requests will be accepted where reasonable and practical but will be assessed an expedited order charge. The expedited order charge is as agreed to in Schedule III.
- 6.14 LNP Request Date Modifications/ End User Not Ready. Either Party may request a change in due date prior to the originally scheduled due date without additional charges

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if the new LNP date is requested during normal business hours and no additional or alternate workforce is needed to complete the modification

- 6.15 If an "LNP Date Modifications/ End User Not Ready" request is made outside normal business hours (if available) or is made within normal business hours and requires additional internal or outside work force, the Requesting Party (i.e. the Porting Party or the New Service Provider) will be assessed an Expedited Order Charge/LNP Date Modification as found in Schedule III.

**7. Traffic Identifiers and Audits**

- 7.1 To ensure proper implementation of this Agreement, the Party delivering traffic to the POI shall provide the Automatic Number Identification ("ANI") or Calling Party Number ("CPN") (or similar industry standard traffic elements) for all traffic (the "Traffic Identifiers") in order that the terminating Party can properly identify the telephone number associated with the End User placing the call. Where the Traffic Identifiers are not provided as described in Section 3, the terminating Party shall assess, and the originating Party shall pay, access charges pursuant to the terminating Party's applicable tariff or like mechanism.
- 7.2 Each Party shall keep six (6) months of usage records for the traffic delivered by it to the POI, if such records are kept in the ordinary course of business by the Parties. Either Party may request an audit of usage data on not less than forty-five (45) days' written notice. Any such audit shall be accomplished during normal business hours at the office of the Party being audited. Audits may be performed by a qualified independent auditor or consultant paid for by the Party requesting the audit. However, no right to request or receive usage data from the other Party under this Section 7.3 accrues to a Party who cannot reciprocate, unless otherwise agreed by the Parties.
- 7.3 In order to facilitate audits, the Parties must accommodate prospective data collection if prior period data is not available as contemplated in Section 7.3 above.
- 7.4. On all traffic exchanged pursuant to this Agreement, neither Party shall intentionally substitute nor implement any arrangement within its switch(es) that generates an incorrect ANI, CPN or other SS7 parameters then those associated with the originating End User. Upon determination that a Party has intentionally substituted or generated such incorrect parameters on traffic exchanged pursuant to this Agreement, the offending Party shall pay the other Party the difference between compensation paid (if any) and applicable access charges, plus interest due under the terms of the applicable access tariff from the date the traffic would have been billed if such parameters had been passed unaltered. The intentional substitution or generation of incorrect parameters shall constitute a default of this Agreement.
- 7.5 In addition to the other requirements contained in this Section 7, either Party may, upon written notice to the other Party, conduct an audit, during normal business hours, only on the source data/documents as may contain information bearing upon the services being provided under the terms and conditions of this Agreement. An audit may be conducted no more frequently than once per 12 month period, and only to verify the other Party's

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compliance with provisions of this Agreement. The notice requesting an audit must identify the date upon which it is requested to commence, the estimated duration, the materials to be reviewed, and the number of individuals who will be performing the audit. Each audit will be conducted expeditiously. Any audit is to be performed as follows: (i) following at least 45 days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations. No original books or records of the Party being reviewed may leave the premises of the Party being reviewed. Prior to commencing the review, the Party being reviewed may request the execution of a confidentiality agreement to protect confidential information disclosed through the course of the review at its sole discretion.

**8. Physical Interconnection**

8.1 The Parties agree that unless mutually agreed to the contrary all Local Traffic exchanged between them shall be transmitted on trunks solely dedicated to such Local Traffic. Neither Party shall terminate Intra-LATA nor inter-LATA toll switched access traffic or originate untranslated toll-free traffic, including but not limited to 550/55X/555/800/888/877/866 traffic, over dedicated Local Traffic trunks. Local Traffic exchange shall be provided via two-way trunks where technically and operationally feasible unless both Parties agree to implement one-way trunks.

8.2 Neither Party shall construct facilities that require the other Party to build unnecessary facilities.

8.3 The Parties will mutually agree on the appropriate sizing for facilities based on the standards set forth below. The capacity of Interconnection facilities provided by each Party will be based on mutual forecasts and sound engineering practice, as mutually agreed to by the Parties. The Interconnection facilities provided by each Party shall, where technically available, be formatted using Bipolar 8 Zero Substitution ("B8ZS"). The Grade of Service for all facilities between the Parties will be engineered and provisioned to achieve P.01 Grade of Service. Each Party shall make available to the other Party trunks over which the originating Party can terminate Local Traffic of the end users of the originating Party to the end users of the terminating Party.

8.4 The electrical interface at the POI will be for a DS1 level. If any other electrical interface is mutually agreed to by the Parties, then each will provide any required multiplexing to a DS1 level.

8.5 N11 codes (including but not limited to, 411, 611, & 911) shall not be sent between the networks of the Parties over the Local Traffic trunk groups.

8.6 Prior to establishment of the physical, direct connection of their respective networks at the POI as anticipated by this Agreement, each Party shall provide the other with a point of contact for the reconciliation of trunk forecasts, escalation for ordering and provisioning related matters.

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**9. Trunk Forecasting**

The Parties will work towards the development of joint forecasting responsibilities for traffic utilization over Local Traffic trunk groups covered in this Agreement. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as facilities and/or equipment becomes available. Parties will make all reasonable efforts and cooperate in good faith to develop alternative solutions to accommodate orders when facilities are not available. Inter-company forecast information must be provided by the Parties to each other upon reasonable request, per Section 8.6 above.

**10. Network Management**

**10.1 Protective Controls**

Either Party may use protective network traffic management controls as available in their networks such as, but not limited to, 7-digit and 10-digit code gaps, on traffic toward each other's network, when required to protect the public switched network from congestion due to facility failures, switch congestion or failure or focused overload. Sprint and D&F will immediately notify each other of any protective control action planned or executed.

**10.2. Network Congestion Due to Mass Calling**

Sprint and D&F will cooperate and share pre-planning information regarding cross-network mass call-ins expected to generate large or focused temporary increases in call volumes. Both Parties will work cooperatively to reduce network congestion caused by such cross-network mass call-ins.

**10.3 Network Harm**

Neither Party will use any service related to or using any of the services provided in this Agreement in any manner that interferes with third parties in the use of their service, prevents third parties from using their service, impairs the quality of service to other carriers or to either Party's End Users; causes electrical hazards to either Party's personnel, damage to either Party's equipment or malfunction of either Party's billing equipment (individually and collectively, "Network Harm"). If a Network Harm occurs or if a Party reasonably determines that a Network Harm is imminent, such Party will, where practicable, notify the other Party that temporary discontinuance or refusal of service may be required; provided, however, wherever prior notice is not practicable, such Party may temporarily discontinue or refuse service forthwith, if such action is reasonable under the circumstances. In case of such temporary discontinuance or refusal, such Party will:

- (a) Promptly notify the other Party of such temporary discontinuance or refusal;
- (b) Afford the other Party the opportunity to correct the situation which gave rise to such temporary discontinuance or refusal; and
- (c) Inform the other Party of its right to bring a complaint to the Commission or Federal Communications Commission ("FCC").

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- 10.4 The Parties agree that each will share responsibility for all maintenance and repair of trunks/trunk groups. The Parties agree to: (a) cooperatively plan and implement coordinated repair procedures for the meet point and local interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner; (b) provide trained personnel with adequate and compatible test equipment to work with each other's technicians; (c) promptly notify each other when there is any change affecting the service requested, including the date service is to be started; (d) coordinate and schedule testing activities of their own personnel, and others as applicable, to ensure its interconnection trunks/trunk groups are installed per the interconnection order, meet agreed upon acceptance test requirements, and are placed in service by the due date; (e) perform sectionalization to determine if a trouble condition is located in its facility or its portion of the interconnection trunks prior to referring any trouble to each other; (f) provide each other with a trouble reporting number to a work center; (g) immediately report to each other any equipment failure which may affect the interconnection trunks; (h) provide, based on the trunking architecture, for mutual tests for system assurance for the proper recording of AMA records in each company's switch. These tests are repeatable on demand by either Party upon reasonable notice.
- 10.5 A maintenance service charge applies whenever either Party requests the dispatch of the other Party's personnel for the purpose of performing maintenance activity on the interconnection trunks, and any of the following conditions exist: (a) No trouble is found in the interconnection trunks; (b) The trouble condition results from equipment, facilities or systems not provided by the Party whose personnel were dispatched; or (c) Trouble clearance did not otherwise require a dispatch, and upon dispatch requested for repair verification, the interconnection trunk does not exceed maintenance limits. If a maintenance service charge has been applied and trouble is subsequently found in the facilities of the Party whose personnel were dispatched, the charge will be canceled. Billing for maintenance service by either Party is based on each half-hour or fraction thereof expended to perform the work requested. The time worked is categorized and billed at one of the following three rates: (1) basic time; (2) overtime; or (3) premium time as defined in the billing Party's approved intrastate access tariff.

**11. Office Code Translations**

- 11.1 It shall be the responsibility of each Party to program and update its own switches and network systems in accordance with the information derived from such sources as the Local Exchange Routing Guide ("LERG") in order to recognize and route traffic to the other Party's assigned NXX codes at all times.
- 11.2 The Parties recognize that some of the traffic to be exchanged under this Agreement may be destined for telephone numbers that have been ported. Where traffic to be exchange under this Agreement is destined for telephone numbers that have, in turn, been ported and when more than one carrier is involved in completing that traffic, the N-1 carrier has the responsibility to determine if a query is required, to launch the query, and to route the call to the appropriate switch or network in which the telephone number resides.
- 11.3 If a Party does not fulfill its N-1 carrier responsibility (the "Non-Querying Party"), the other Party (the "Querying Party") shall perform default LNP queries on calls to telephone numbers with portable NXXs received from the Non-Querying Party and route

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the call to the appropriate switch or network in which the telephone number resides. The Non-Querying Party shall be responsible for payment of all charges assessed by the Querying Party as identified in Schedule III for "Default Query Service" including any reciprocal compensation assessed by the third party terminating carrier and/or transit charges assessed by a third party tandem provider. When such charges are billed by the Querying Party to the Non-Querying Party and such charges are disputed by the Non-Querying Party, the Querying Party shall provide the Non-Querying Party with an opportunity to challenge such charges. If such charges are disputed by the Non-Querying Party, the Non-Querying Party may request the Querying Party to provide its underlying validation of those charges to the Non-Querying Party for examination and review.

**12. SS7 Signaling**

In order to track and monitor the traffic that is being exchanged at the POI both Parties agree to utilize SS7 Common Channel Signaling ("CCS") between their respective networks for the traffic addressed in this Agreement. Both Parties will provide CCS connectivity in accordance with accepted industry practice and standard technical specifications. For all traffic they deliver to the POI, the Parties agree to cooperate with one another on the exchange of all appropriate unaltered CCS messages for call set-up, including without limitation ISDN User Part ("ISUP") and Transaction Capability User Part ("TCAP") messages to facilitate interoperability of CCS-based features and functions between their respective networks, including CLASS features and functions. All CCS signaling parameters, including, but not limited to, the Jurisdictional Indicator Parameter ("JIP") and the originating end user telephone number, will be provided by each Party in conjunction with all traffic it delivers to the POI.

**13. Directory Listings and Distribution Services**

- 13.1. The following provisions of Section 13 are specifically included as a result of actions and prior decisions by the Commission, and apply only in those years where Sprint provides notice to D&F that Sprint seeks to have its directory listings published in the D&F directory, provided that D&F receives from Sprint written notice sufficiently in advance for D&F to receive the information required of Sprint by this Section 13 in order for D&F to include such information in the D&F directory.
- 13.2. Sprint agrees to provide to D&F or its publisher, as specified by D&F, all subscriber list information (including additions, changes and deletions) for its End Users physically located within the same geographic area covered by D&F's published directory. To the extent that the Independent includes within its directory, listing information regarding customers to whom the Independent provides Foreign Exchange ("FX") service, the Independent will also accept listing information from Sprint associated with a Sprint "Foreign Exchange" End User. It is the responsibility of Sprint to submit directory listings in the prescribed manner to D&F prior to the directory listing publication cut-off date, which will be provided by D&F to Sprint.
- 13.3. D&F will include Sprint's End Users' primary listings (residence and business) in its White Pages Directory, and if applicable in its Yellow Pages Directory under the appropriate heading classification as determined by publisher as well as in any electronic

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directories in which D&F's own Customers are ordinarily included. Listings of Sprint's End Users will be interfiled with listings of D&F's End Users and the End Users of other LECs, in the local section of D&F's directories.

- 13.4 Sprint shall not provide D&F with any information regarding Sprint's End User where that End User has selected "non-published" or like status with Sprint.
- 13.5 Sprint will provide D&F with the directory information for all its End Users in the format specified by the D&F. Subscriber list information will include customer name, address, telephone number, appropriate classified heading and all other pertinent data elements as requested by D&F, as appropriate with each order, to provide D&F the ability to identify listing ownership. Sprint will provide all End User listings at no charge to D&F or its publisher.
- 13.6 Sprint's End Users' standard primary listing information in the telephone directories will be provided at no charge. Sprint will pay D&F's charges as contained in D&F's general subscriber service tariff on file with the PSC for additional and foreign telephone directory listings that may be assessed to its End Users.
- 13.7 Both Parties will use their best efforts to ensure the accurate listing of Sprint's End User listings. Sprint is responsible for all listing questions and contacts with its End Users including but not limited to queries, complaints, account maintenance, privacy requirements and services. Sprint will provide D&F with appropriate internal contact information to fulfill these requirements.
- 13.8 D&F will accord Sprint directory listing information the same level of confidentiality which D&F accords its own directory listing information. Sprint grants D&F full authority to provide Sprint subscriber listings, excluding non-published telephone numbers, to other directory publishers and fully releases and agrees to indemnify D&F and its publisher from any alleged or proven liability resulting from the provisioning of such listings.
- 13.9 Sprint is responsible for sending to D&F by the date specified by D&F an approximate directory count for Sprint's End Users for the purpose of ensuring an adequate quantity of D&F's directories is printed. Sprint shall not alter or otherwise change any aspect of the directory that D&F provides. D&F shall provide to Sprint the quantity of directories that Sprint previously specified. Sprint shall be responsible for distribution of such directories to its End Users.
- 13.10 Sprint shall pay D&F both the rate per directory listed in Schedule III hereto and the cost D&F incurs in complying with the requirements of Section 13.9. D&F will place the same restrictions on the Sprint's End Users as it does for itself when assigning book quantities.
- 13.11 Sprint will adhere to all practices, standards, and ethical requirements of D&F with regard to listings, and, by providing D&F with listing information, warrants to D&F that Sprint has the right to place such listings on behalf of End Users. Sprint shall be solely responsible for knowing and adhering to state laws or rulings regarding listing information and for supplying D&F with applicable listing information. In addition,

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Sprint agrees to release, defend, hold harmless and indemnify D&F and/or D&F's directory publisher from and against any and all claims, losses, damages, suits, or other actions, or any liability whatsoever (except as may be provided for in Section 16 following) or, suffered, made, instituted, or asserted by any person arising out of D&F's listing of the information provided by Sprint hereunder or any activity D&F and/or its directory publisher may take arising from the actions required by this Section 13.

- 13.12 D&F's liability to Sprint in the event of D&F's error in or omission of a listing will not exceed the amount of charges actually paid by Sprint to D&F for such listing. In addition, Sprint agrees to take, with respect to its own End Users, all reasonable steps to ensure that its' and D&F's liability to Sprint's End Users in the event of D&F' error in or omission of a listing will be subject to the same limitations that D&F's liability to which its own End Users are subject.
- 13.13 Nothing in this Section 13 shall require or obligate D&F to provide a greater degree of service to a Sprint End User with respect to directory listings and publishing than those that D&F provides to its End Users.

**14. Term of Agreement, Regulatory Approvals and Filing**

- 14.1 This Agreement shall commence when fully executed and approved by the Commission and have an initial term of one (1) year from the date of that Commission approval. This Agreement shall automatically renew for successive one (1) year periods, unless either Party gives written notice at least sixty (60) days prior to the expiration of the initial, or any renewal term, of its desire not to renew. A copy of such termination notice shall be sent to the Commission and include an explanation for the termination. If such notice is given, this Agreement shall not renew. However, the Parties will continue to exchange traffic to the mutual benefit of their respective End Users; provided, however, that physical termination of the connection of the Parties' respective networks established in this Agreement shall occur only in compliance with applicable rules and regulations of the Commission. During the period prior to termination, the Parties agree to cooperate with one another in ensuring that the exchange of Local Traffic as provided for in this Agreement is not disrupted and to respond to any Commission inquiry that may occur regarding the termination of this Agreement.
- 14.2 Each Party is responsible for obtaining and maintaining in effect all state regulatory commission approvals and certifications that are required for that Party's provision of local exchange and/or local exchange access services in the service areas covered by this Agreement.
- 14.3 The Parties agree to jointly file this Agreement with the Commission and to fully cooperate with each other in obtaining Commission approval

**15. Limitation of Liability**

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- 15.1. Except in the instance of harm resulting from an intentional or grossly negligent action or willful misconduct of one Party, the liability of either Party to the other Party for damages arising out of (1) failure to comply with a direction to install, restore or terminate facilities, or (2) out of failures, mistakes, omissions, interruptions, delays, errors, or defects occurring in the course of furnishing any services, arrangements, or facilities hereunder shall be determined in accordance with the terms of the applicable tariff(s) of the providing Party. In the event no tariff(s) apply, the providing Party's liability shall not exceed an amount equal to the pro rata monthly charge for the period in which such failures, mistakes, omissions, interruptions, delays, errors or defects occur. Recovery of said amount shall be the injured Party's sole and exclusive remedy against the providing Party for such failures, mistakes, omissions, interruptions, delays, errors or defects. Because of the mutual nature of the exchange of traffic arrangement between the Parties pursuant to this Agreement, the Parties acknowledge that the amount of liability incurred under this Section 15.1 may be zero.
- 15.2 In no event shall either Party be liable to the other in connection with the provision or use of services offered under this Agreement for indirect, incidental, consequential, reliance or special damages, including (without limitation) damages for lost profits (collectively, "Consequential Damages"), regardless of the form of action, whether in contract, warranty, strict liability, or tort, including, without limitation, negligence of any kind, even if the other Party has been advised of the possibility of such damages; provided, that the foregoing shall not limit a Party's obligation under Section 16.
- 15.3 Except in the instance of harm resulting from an intentional or grossly negligent action or willful misconduct, the Parties agree that neither Party shall be liable to the customers of the other Party in connection with its provision of services to the other Party under this Agreement. Nothing in this Agreement shall be deemed to create a third party beneficiary relationship between the Party providing the service and the Customers of the Party purchasing the service. In the event of a dispute involving both Parties with a Customer of one Party, both Parties shall assert the applicability of any limitations on liability to customers that may be contained in either Party's applicable tariff(s).

**16 Indemnification**

- 16.1 Each Party agrees to release, indemnify, defend and hold harmless the other Party from and against all losses, claims, demands, damages, expenses, suits or other actions, or any liability whatsoever related to the subject matter of this Agreement, including, but not limited to, reasonable costs and attorneys' fees (collectively, a "Loss"), (a) whether suffered, made, instituted, or asserted by any other party or person, relating to personal injury to or death of any person, or for loss, damage to, or destruction of real and/or personal property, whether or not owned by others, incurred during the term of this Agreement and to the extent proximately caused by the acts or omissions of the indemnifying Party, regardless of the form of action, or (b) suffered, made, instituted, or asserted by its own customer(s) against the other Party arising out of the other Party's provision of services to the indemnifying Party under this Agreement, except to the extent caused by the indemnified Party's intentional or gross negligent acts or willful misconduct. Notwithstanding the foregoing indemnification, nothing in this Section 6.0 shall affect or limit any claims, remedies, or other actions the indemnifying Party may have against the indemnified Party under this Agreement, any other contract, or any

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applicable tariff(s), regulations or laws for the indemnified Party's provision of said services.

16.2 The indemnification provided herein shall be conditioned upon:

16.2.1 The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification.

16.2.2 The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the indemnified Party may engage separate legal counsel only at its sole cost and expense. Prior to retaining legal counsel pursuant to this Section 16.2.2, the indemnifying Party shall seek written assurances from the legal counsel chosen that such counsel does not have any conflict of interest with the indemnified Party.

16.2.3 In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party, which consent shall not be unreasonably withheld.

16.2.4 The indemnified Party shall, in all cases, assert any and all provisions in its Tariffs that limit liability to third parties as a bar to any recovery by the third party claimant in excess of such limitation of liability.

16.2.5 The indemnified Party shall offer the indemnifying Party all reasonable cooperation and assistance in the defense of any such action.

16.3 To the extent permitted by law, and in addition to its indemnity obligations under Sections 16.1 and 16.2, each Party may provide, in its Tariffs that relate to any Telecommunications Service provided or contemplated under this Agreement, that in no case shall such Party or any of its agents, contractors or others retained by such parties be liable to any Customer or third party for (i) 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 Customer for the service(s) or function(s) that gave rise to such Loss, or (ii) any Consequential Damages (as defined in subsection 16.2, above)

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**17. Force Majeure**

Neither Party shall be 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, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation, acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power failure or blackouts, or adverse weather conditions, labor unrest, including without limitation, strikes, slowdowns, picketing, or boycotts. 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 delaying Party shall perform its obligations at a performance level no less than that which it uses for its own operations.

**18. Agency**

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. Nondisclosure of Proprietary Information**

19.1 The Parties agree that it may be necessary to exchange with each other certain confidential information during the term of this Agreement including, without limitation, technical and business plans, technical information, proposals, specifications, drawings, procedures, orders for services, usage information in any form, customer account data, call detail records, and Customer Proprietary Network Information ("CPNI") as that term is defined by the Communications Act of 1934, as amended, and the rules and regulations of the FCC and similar information (collectively, "Confidential Information"). Confidential Information shall include (i) all information delivered in written form and marked "confidential" or "proprietary" or bearing mark of similar import; (ii) oral information, if identified as confidential or proprietary at the time of disclosure and confirmed by written notification within ten (10) days of disclosure; and (iii) information derived by the Recipient (as hereinafter defined) from a Disclosing Party's (as hereinafter defined) usage of the Recipient's network. The Confidential Information shall remain the property of the Disclosing Party and is deemed proprietary to the Disclosing Party. Confidential Information shall be protected by the Recipient as the Recipient would protect its own proprietary information, including but not limited to protecting the Confidential Information from distribution, disclosure, or dissemination to anyone except employees or duly authorized agents of the Parties with a need to know such information and which the affected employees and agents agree to be bound by the terms of this Section. Confidential Information shall not be disclosed or used for any purpose other than to provide service as specified in this Agreement, or upon such other terms as may be agreed to by the Parties in writing. For purposes of this Section, the Disclosing Party shall mean the owner of the Confidential Information, and the Recipient shall mean the party to whom Confidential Information is disclosed.

19.2 Recipient shall have no obligation to safeguard Confidential Information (i) which was in the Recipient's possession free of restriction prior to its receipt from the Disclosing Party,

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(ii) after it becomes publicly known or available through no breach of this Agreement by Recipient, (iii) after it is rightfully acquired by Recipient free of restrictions on the Disclosing Party, or (iv) after it is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed. Recipient may disclose Confidential Information if required by law, a court, or governmental agency or to enforce or defend its actions under this Agreement, provided that the Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all reasonable lawful measures to avoid disclosing such information until the 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.

19.3 Each Party agrees that the Disclosing Party would be irreparably injured by a breach of this Section 19 by Recipient or its representatives and that the Disclosing Party shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of this paragraph. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.

**20. Notices**

Notices given by one Party to the other under this Agreement shall be in writing and delivered by hand, overnight courier or pre-paid first class mail certified U.S mail, return receipt requested, to the following addresses of the Parties:

For Sprint:  
Sprint Communications Company L.P.  
Sprint Legal Department  
Second Floor  
6450 Sprint Parkway  
Overland Park, KS 66251

With a copy to:  
Mark Felton  
6330 Sprint Pkwy  
KSOPHA0310 – 3B372  
Overland Park, KS 66251

For D&F:  
Dunkirk and Fredonia Telephone Company  
Attention: William R. Westin  
40 Temple Street  
PO Box 209  
Fredonia, NY 14063  
Phone: (716) 673-3031  
Fax: (716) 672-7646

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or to such other location as the receiving Party may direct in writing. Notices will be deemed given as of (i) the next business day when notice is sent via express delivery service or personal delivery, or (ii) three (3) days after mailing in the case of first class or certified U.S. mail.

**21. Payments and Due Dates**

All compensation payable pursuant to this Agreement shall be due within thirty (30) days of the issuance date of the invoice. All undisputed charges are subject to a late charge if not paid within the thirty (30) day period. Where charges are disputed and the disputed charges are found to be due and owing to the Party issuing the invoice (the "Resolved Amount"), the Resolved Amount shall be subject to a late charge from the issuance date of the invoice that included the Resolved Amount. For purposes of this Section, the rate of the late charge shall be the lesser of one and one-half percent (1.5 %) per month or the maximum amount allowed by law.

**22. Severability**

If any part of this Agreement is held to be unenforceable or invalid in any respect under law or regulation, such unenforceability or invalidity shall affect only the portion of the Agreement which is unenforceable or invalid. In all other respects this Agreement shall 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, unless removal of that provision results in a material change to this Agreement. In such a case, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon, either Party may request dispute resolution pursuant to Section 26.

**23. Assignment**

This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. Any assignment or transfer (whether by operation of law or otherwise) by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void ab initio, provided however that such consent shall not be unreasonably withheld, conditioned or delayed and shall not be required if such assignment is to a corporate affiliate or an entity under common control or an entity acquiring all or substantially all of its assets or equity, whether by sale, merger, consolidation or otherwise or in connection with a financing transaction.

**24. Entire Agreement**

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

**25. Multiple Counterparts**

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This Agreement may be executed in counterparts and each of which shall be an original and all of which shall constitute one and the same instrument and such counterparts shall together constitute one and the same instrument.

**26. Dispute Resolution**

26.1 No claims will be brought for disputes arising from this Agreement more than twenty-four (24) months from the date of occurrence that gives rise to the dispute.

26.2 The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the dispute resolution procedure set forth in this Section with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

26.3 At the written request of a Party, each Party will appoint a good faith representative having the authority to resolve such dispute arising under this Agreement. The location, form, frequency, duration and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of settlement are exempt from discovery and production and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and, if otherwise admissible, may be admitted as evidence in the arbitration or lawsuit.

26.4 If the negotiations do not resolve the dispute within sixty (60) days of the initial written request, either Party may submit the dispute to either the Commission, judicial forum of competent jurisdiction, or upon mutual agreement to the American Arbitration Association ("AAA") for binding arbitration pursuant to the respective rules and practices of the entity to which the dispute is submitted.

26.5 Each Party shall bear its own costs associated with its activities taken pursuant to this Section 27.

**27. Governing Law**

To the extent not governed by, and construed in accordance with, the laws and regulations of the United States, this Agreement shall be governed by, and construed in accordance with, the laws and regulations of the state of New York, without regard to its conflicts of laws principles.

**28. Joint Work Product**

This Agreement is the joint work product of the Parties and has been negotiated by the Parties and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

**29. Taxes**

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Each Party shall be responsible for any and all taxes and surcharges arising from its conduct under this Agreement and shall, consistent with Section 16, indemnify and hold harmless the other Party for its failure to pay and/or report any applicable taxes and surcharges.

**30. Survival**

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

**31. Publicity**

Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos, company name or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.

**32. Miscellaneous**

32.1 D&F does not waive, nor shall it be estopped from asserting, any rights it may have pursuant to 47 U.S.C. Section 251(f).

32.2 This Agreement does not apply to traffic that is carried on third-party networks not expressly contemplated by this Agreement; or any traffic originated or terminated by a commercial mobile radio services or paging service providers.

32.3 Amendments. This Agreement may not be amended, modified, or supplemented, except by written instrument signed by both Parties.

32.4 No License.  
Nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, trademark, trade name, trade secret or any other proprietary or intellectual property now or hereafter owned, controlled or licensable by either Party. Neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual property right of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.

32.5 Independent Contractors. The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party will have any right, power or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement will not be interpreted or construed to create an association, agency, joint venture or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

32.6 No Warranties.

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- 32.6.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY MATTER SUBJECT TO THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.
- 32.6.2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY THE PARTIES OF THE OTHER'S FACILITIES, ARRANGEMENTS, OR SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM BY ANY THIRD PARTY OF INFRINGEMENT, MISUSE, OR DISSAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT OF SUCH THIRD PARTY.
- 32.7 Default. If either Party believes the other is in breach of this Agreement or otherwise in violation of law, it will first give thirty (30) days notice of such breach or violation and an opportunity for the allegedly defaulting Party to cure. Thereafter, the Parties will employ the dispute resolution procedures set forth in this Agreement.
- 32.8 Waiver. Any failure on the part of a Party hereto to comply with any of its obligations, agreements or conditions hereunder may be waived by written documentation by the other Party to whom such compliance is owed. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, nor shall any waiver constitute a continuing waiver.
- 32.9 Regulatory Changes. If a federal or state regulatory agency or a court of competent jurisdiction issues a rule, regulation, law or order (collectively, "Regulatory Requirement") which has the effect of canceling, changing, or superseding any material term or provision of this Agreement then the Parties shall negotiate in good faith to modify this Agreement in a manner consistent with the form, intent and purpose of this Agreement and as necessary to comply with such Regulatory Requirement.
- 32.10 No Third Party Beneficiaries. This Agreement shall not be deemed to provide any other third party with any benefit, remedy, claim, right of action or other right except with respect to Sprint's business relationship with Time Warner Cable (who shall be the sole third party contemplated by this Agreement) as identified in the Commission's "Order Resolving Arbitration Issues" issued on May 24, 2005 in CASE 05-C-0170 and CASE 05-C-0183.
- 32.11 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

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32.12. Authorization. D&F is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has full power and authority to execute and deliver this Agreement and to perform the obligations hereunder. Sprint Communications Company, L.P. is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform the obligations hereunder.

**33. Termination**

33.1. Either Party may terminate this Agreement for cause upon thirty (30) days prior written notice if (a) the other Party materially breaches this Agreement or defaults on its obligations and fails to cure such breach or default during such thirty (30) day period, (b) the other Party's authority to provide the services provided herein is revoked or terminated, or (c) the other Party is insolvent, or files for bankruptcy (or other protection

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THE COMMISSION'S ORDER ISSUED OCTOBER 28, 2005

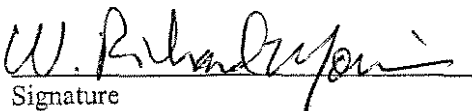
from creditors generally) and such bankruptcy petition is not dismissed within sixty (60) days. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of the termination had already accrued to the other Party or which thereafter accrues in any respect for any act or omission occurring prior to the termination relating to an obligation which is expressly stated in this Agreement.

- 33.2 For service arrangements made available under this Agreement and existing at the time of termination, those arrangements will continue without interruption following the date of termination or until a replacement agreement has been executed by the Parties either (a) under a new agreement voluntarily executed by the Parties; (b) under a new agreement negotiated pursuant to the provisions of Section 252 of the Act; or c) under any agreement available according to the provisions of Section 252(i) of the Act; however, in no case will those arrangements continue for more than 12 months following the date of termination.

IN WITNESS WHEREOF, the Parties agree that the effective date of this Agreement is the date first written above, and each Party warrants that it has caused this Agreement to be signed and delivered by its duly authorized representative.

By: Sprint Communications Company L.P.

By: Dunkirk and Fredonia Telephone Company

  
Signature

\_\_\_\_\_  
Signature

W. Richard Morris  
Typed or Printed Name

Mark Maytum  
Typed or Printed Name

Vice-President External Affairs

President/COO

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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**Schedule I  
NETWORK INFORMATION**

<b>("D&amp;F") Switch CLLI</b>	<b>("D&amp;F") Rate Center</b>	<b>V &amp; H of POI Located at ("D&amp;F's") Certificated Service Area Boundary</b>	<b>Sprint Switch CLLI (2)</b>	<b>Sprint Serving Rate Center/s</b>
				(1)
FRDNNYXADS0	Fredonia	V-5194 H-2336	BFLONYFRXSX	(1)

Note (1) Sprint Rate Centers for local calling under this agreement are limited to those rate centers that are not subject to then existing contractual terms and conditions between Sprint and D&F and that are located in D&F's Local Calling Area as defined in its tariff, as updated from time to time.

Note (2) Sprint Switch CLLI serves all Sprint Serving Rate Centers.

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**Schedule II  
LNP SUPPORT INFORMATION**

<u>Item</u>	<u>Sprint</u>	<u>D&amp;F</u>
1. Company OCN		
2. Company CLLI Codes within D&F Rate Center		
3. Rate Center Information		
A. Covered Rate Center(s)		
B. Associated LRN per Covered Rate Center(s)		
C. Rate Center V and H Coordinates NECA Tariff FCC No. 4	Yes	Yes
4. Utilization of electronic automated interface to process interconnection or service requests		No
5. Contact information for requests and inquiries	Insert Contact Name Title Mailing Address Telephone Numbers Fax Number	Insert Contact Name Title Mailing Address Telephone Numbers Fax Number
6. Business Hours:	XX a.m. to XX p.m. Monday through Friday	XX a.m. to XX p.m. Monday through Friday
7. Contact Information for Billing Default LNP Queries (If different than No. 5, above)		

**NOTE:**

**The Parties will exchange the information contained on this Schedule II, as required by Section 6.2, prior to a request for porting a telephone number between them.**

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**Schedule III  
PRICING**

<u>SERVICE</u>	<u>CHARGE</u>
RECIPROCAL COMPENSATION	No separate charges for Local Traffic
EXPEDITED ORDER CHARGE	To be determined on an individual case basis based on the time spent at the hourly labor rates identified in the Receiving Party's interstate access tariff and pass through of LNP service bureau charges
THIRD PARTY CHARGES INCURRED FOR DEFAULT QUERY SERVICE	Pass-Through
DIRECTORY DISTRIBUTION CHARGES	
	<div>Charges \$</div> <div>Shipping &amp; Handling</div> <div>Charge</div> <div>Service Order</div> <div>Charge</div>
D&F	<div> <div>Per-Directory Charge</div> <div>Charge</div> <div>\$10.47, if Sprint</div> <div>Places order before D&amp;F</div> <div>orders books from the publishing</div> <div>company. Otherwise it is a special order,</div> <div>and the rate is \$21.99 per book.</div> </div> <div>\$5.50/10 copies</div> <div>\$80.00/Order</div>

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**Schedule IV  
LNP LSR FORM INFORMATION – (“D&F”)**

**Local Service Request**

**Administrative -**

Customer Carrier Name Abbreviation

Purchase Order Number

Local Service Request Number

Location Quantity

Service Center

Date and Time Sent

Desired Due Date

Request Type

Activity

Supplement Type

Response Type Requested

Company Code

New Network Service Provider Identification

Agency Authorization Status

Type of Service

Number Portability Direction Indicator

**Bill Section-**

Billing Account Number Identifier

Billing Account Number

**Contact Section-**

Initiator Identification

Initiator Telephone Number

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**SCHEDULE - IV (Cont.)**

Initiator Street Address

Initiator Address: Floor

Initiator Address: City

Initiator Address: State/Province

Initiator Address: ZIP/Postal Code

Implementation Contact Name

Implementation Contact Telephone Number

Remarks

**End User Information**

**EU Location & Access -**

Location Number

End User Name

State

ZIP

End User Listing Treatment

**EU Bill Section-**

Existing Account Telephone Number

**Number Portability**

Number Portability Quantity

**NP Service Details-**

Location Number

Line Number

Line Activity

Ported Telephone Number

Number Portability Type

LRN of the Ported Telephone Number