

PENDING PETITION MEMO

Date: 11/28/2007

TO : OHADR
OGC
OT

FROM: CENTRAL OPERATIONS

UTILITY: DEVELOPMENT AUTHORITY OF THE NORTH COUNTRY

SUBJECT: 07-C-1410

Petition of Development Authority of the North Country, Pursuant to
Section 252 of the Telecommunications Act of 1996, for Arbitration to
Establish an Interconnection Agreement between Citizens
Telecommunications Company of New York, Inc., d/b/a Frontier.

HAGE & HAGE LLC

A Law and Consulting Firm ~ Founded 1931

610 Charlotte Street, Utica, NY 13501-2909 TEL 315-797-9850 FAX 315-797-1721

November 26, 2007

Jaclyn Brilling, Secretary
New York State
Department of Public Service
3 Empire State Plaza
Albany, NY 12223-1350

2007 NOV 28 AM 10:18
EXECUTIVE

Re: Petition of the Development Authority of the North Country for Arbitration of the Terms and Conditions of Interconnection with Citizens Telecommunications Company of New York, Inc., d/b/a Frontier under Section 252 of the Communications Act.

Dear Secretary Brilling:

Our firm represents the Development Authority of the North Country ("DANC"). Enclosed are an original and five copies of the redacted version, with non-confidential attachments, of the Petition for Arbitration which was submitted electronically in connection with the above-referenced matter.

Since certain agreements previously entered into by DANC and Frontier are confidential pursuant to their terms, DANC is seeking confidential treatment and protection from disclosure of these agreements which are attached to the Petition for Arbitration at Tabs 2 and 3, and all references in the Petition for Arbitration specific thereto, as well as the ADR Request attached at Tab 5. Therefore, we are submitting the original and five copies of the confidential version, with all attachments, of the Petition for Arbitration to the Commission's Records Access Officer for protection from disclosure pursuant to 16 NYCRR §6-1.3.

By copy of this letter, a complete set of both versions of this filing is being served upon Frontier's counsel. The Petition for Arbitration also was submitted electronically upon Frontier's counsel.

Please date stamp the enclosed letter and return it our office in the self-addressed, stamped envelope provided for that purpose. If you have any questions, please do not hesitate to contact us.

Respectfully yours,

Hage & Hage LLC


Amy M. Cirtwell

Enclosures
cc: Gregg Sayre, Esq.

Amy M. Cirtwell
Administrative Legal Assistant
amy@hagelaw.com

Petition of the Development Authority of the North Country for Arbitration of the Terms and Conditions of Interconnection with Citizens Telecommunications Company of New York, Inc., d/b/a Frontier, under Section 252 of the Communications Act.

Dated: November 26, 2007

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Petition of the Development Authority of
the North Country for Arbitration of the
Terms and Conditions of Interconnection
with Citizens Telecommunications Company
of New York, Inc., d/b/a Frontier, under
Section 252 of the Communications Act.

Case No.: 07-C-

PETITION FOR ARBITRATION
****REDACTED VERSION****

The Development Authority of the North Country (“DANC”), pursuant to Section 252 of the Communications Act of 1934, as amended (the “Act”) and all rules and regulations thereto, petitions the New York Public Service Commission (the “Commission” or the “NYPSC”) for arbitration to establish interconnection between DANC and Citizens Telecommunications Company of New York, Inc., d/b/a Frontier (“Frontier”). While Frontier’s reluctance even to exchange negotiating positions on the issues in this matter makes it difficult to define the specific issues to be raised in this petition, it is clear from discussions with Frontier that the primary issue to be raised is Frontier’s anticompetitive position in refusing to permit interconnection by DANC under existing agreements between the parties and the Act.

I. INTRODUCTION

1. DANC is a public benefit corporation established by the State of New York under Section 2703 of the New York Public Authorities Law. DANC holds a Certificate of Public Convenience and Necessity (“CPCN”) to operate throughout New York State as a facilities-based provider and reseller of telephone service, with authority to provide local

exchange service. DANC provides carrier private line services within the State of New York under PSC No. 1 – Access Tariff over its open access telecommunications network (“OATN”). Under State law, DANC is a telephone corporation.¹

2. Frontier is a telecommunications company authorized by the NYPSC to provide local exchange telecommunications services in the State of New York. Under State law, Frontier is a telephone corporation.² Under Federal law, Frontier is an incumbent local exchange carrier (“ILEC”).³

3. On June 19, 2007, pursuant to the Act, DANC submitted to Frontier its *bona fide* request for interconnection, a copy of which is attached at Tab 1. This letter established that the open arbitration period as defined by Section 252(b) of the Act would begin on November 1, 2007 and end on November 26, 2007.

4. DANC is entitled to interconnect with Frontier

II. HISTORY

5. In early 2004, DANC and Frontier negotiated and entered into various telecommunications services agreements, all of which were drafted by Frontier, including a collocation agreement, a services agreement, a reciprocal dark fiber indefeasible right to use agreement and a pole attachment agreement.

6. Frontier and DANC entered into the Frontier Services Agreement (“FSA”), effective March 11, 2004, by which Frontier agreed to provide various fiber runs that were engineered and provisioned and are maintained by Frontier. A copy of the FSA is

¹ See New York Public Service Law §2(17)

² *Id.*

³ See 47 USC §251(h)(1)

attached at Tab 2. The origination points (Location A) and termination points (Location Z) of the various fiber runs are described in Schedule I of the FSA.

7. On March 30, 2004, Frontier and DANC entered into a reciprocal Dark Fiber IRU Agreement ("IRU") by which [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] A copy of the IRU is attached at Tab 3. The segments are described in detail in Schedules I and II of the IRU.

8. In early March 2004, DANC submitted to Frontier an application for physical cage-less collocation (one standard relay rack) at Frontier's Pulaski, New York, central office ("Pulaski CO"). While there were preliminary discussions of utilizing the space for regeneration, Frontier and DANC entered into an unrestricted Agreement for Collocation dated March 14, 2004, which was filed with the NYPSC and became effective on July 26, 2004 (the "Collocation Agreement"). A copy of the Collocation Agreement is attached at Tab 4. Under the Collocation Agreement (Attachment 1, Section 1), Frontier grants DANC the non-exclusive right to occupy the Pulaski CO for the sole and exclusive purpose of providing DANC's customers with telecommunications services.

Significantly, Attachment 1, Section 1 of the Collocation Agreement specifically (i) allows interconnection between the parties, as defined by the Act, (ii) requires DANC's equipment to be compatible with Frontier's central office equipment, and (iii) states that any interconnection of DANC's equipment or facilities to Frontier's equipment or

facilities will be governed by the applicable rules and regulations of governmental authorities having jurisdiction of the subject matter of the Collocation Agreement. Further, Attachment 2 of the Collocation Agreement contains pricing for cross-connections. Clearly, the intent of the parties was to permit interconnection, directly or indirectly, between DANC's facilities and Frontier's facilities at the Pulaski CO.

9. On August 29, 2006, DANC filed with this Commission a request for expedited ADR services relating to a dispute between DANC and Frontier arising under the Collocation Agreement and relating to Frontier's rejection, after initially processing, of certain access service requests. A copy of this ADR request is attached at Tab 5. To date, there has been no resolution by the parties and no decision from the Commission to this ADR. We hereby request that the pending ADR proceeding be incorporated by reference herein and heard in this Petition for Arbitration.

10. The parties' representatives have held several negotiating sessions regarding interconnection by teleconference, through correspondence and in person, with some sessions including NYPSC staff and counsel. These negotiations have been intermittent during the past 15 months, resulting in Frontier's letter dated November 13, 2007, a copy of which is attached at Tab 6. In that letter, Frontier continued its anticompetitive position and refused to provide rates, terms or conditions for UNE loops for the following reasons: (1) Frontier does not provide UNEs in Pulaski and currently has no cost studies to cover them; (2) Frontier does not believe that DANC meets the requirements of §1.318 of the FCC's regulations for converting special access circuits to UNE pricing or for establishing new UNEs for the use as special access circuits; and (3) Frontier is not required to facilitate and accomplish DANC's breach of the IRU by providing UNEs to

be used as add/drop facilities in Pulaski. Notwithstanding Frontier's position, Frontier provided a draft Interconnection Agreement, a copy of which is attached at Tab 7. Frontier advised that it was not providing a collocation agreement because the parties already have a collocation agreement and Frontier sees no need to amend it. The parties have reached an impasse on the critical issue of DANC's right to interconnect and, therefore, need the Commission to resolve this issue by arbitration.

III. STATEMENT OF ISSUES TO BE RESOLVED BY ARBITRATION

11. The primary issue unresolved by negotiation is a question of law: "Does Frontier have the duty to interconnect directly or indirectly with the facilities and equipment of DANC?"

12. In addition, the issue remains unresolved as to whether DANC already has the contractual right to interconnect the IRU Fibers with Frontier at the Pulaski CO pursuant to the Collocation Agreement currently on file with this Commission.

IV. STATEMENT OF PARTIES' POSITIONS REGARDING INTERCONNECTION PURSUANT TO THE ACT

A. DANC's Right to Interconnect Pursuant to the Act

13. DANC is entitled to interconnect its facilities and equipment, directly or indirectly, with Frontier. The Act imposes a duty upon Frontier to permit such interconnection. Section 251 of the Act provides, in pertinent part, as follows:

§251. Interconnection

(a) General duty of telecommunications carriers. Each telecommunications carrier has the duty--

(1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and

(2) not to install network features, functions or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256 [47 USCS §§255 or 256].

(c) Additional obligations of incumbent local exchange carriers. In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

(1) Duty to negotiate. The duty to negotiate in good faith in accordance with section 252 [47 USCS §252] the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection...

(2) Interconnection. The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network—

(A) for the transmission and routing of telephone exchange service and exchange access;

(B) at any technically feasible point within the carrier's network;

(C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and

(D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252 [47 USCS §252].

14. As stated above, under State law, DANC and Frontier are telephone companies.⁴

In addition, under Federal law, Frontier is an ILEC.⁵ Therefore, Frontier must comply with the Act and interconnect directly or indirectly with the facilities and equipment of DANC at the Pulaski CO.

15. Further, in its March 1, 2007, Memorandum Opinion and Order, the Federal Communications Commission ("FCC") reaffirmed that wholesale providers of telecommunications services, such as DANC, are telecommunications carriers for the purposes of Sections 251(a) and (b) of the Act and are entitled to the rights of telecommunications carriers under those provisions. The FCC also concluded that state commission decisions denying wholesale telecommunications service providers the right

⁴ See NYPSL §2(17)

⁵ See 47 USC §251(h)(1)

to interconnect with ILECs pursuant to Sections 251(a) and (b) of the Act are inconsistent with the Act and FCC precedent and would frustrate the development of competition and broadband deployment.⁶

16. This Commission already has recognized that wholesale service providers are telecommunications carriers with rights under Section 251 of the Act.⁷

17. Consistent with FCC rules and previous NYPSC orders, Frontier has a duty to interconnect directly or indirectly with the facilities and equipment of DANC.

B. Frontier's Position Regarding Interconnection Pursuant to the Act.

18. Frontier never has objected to its obligation to provide interconnection pursuant to the Act. Instead, Frontier argues that its refusal to provide interconnection in DANC's Collocation Space at the Pulaski CO is based on [REDACTED] of the IRU which states:

[REDACTED]

V. STATEMENT OF PARTIES' POSITION REGARDING INTERCONNECTION PURSUANT TO EXISTING AGREEMENTS BETWEEN THE PARTIES

A. Frontier's Position Regarding Existing Agreements.

19. Frontier acknowledges the existence of the Collocation Agreement and sees no need to amend it.⁸ However, during these negotiations, Frontier has argued that the Collocation Agreement is limited to regeneration.

⁶ *In the Matter of Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers may obtain Interconnection under Section 251 of the Communications Act of 1934, as amended, to provide Wholesale Telecommunications Services to VoIP Providers*. WC Docket No. 06-55, *Memorandum Opinion and Order*, DA 07-709, para. 1 (rel. March 1, 2007), 22 FCC Rcd 3513

⁷ *Petition of Sprint Communications Company L.P., pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration to Establish an Intercarrier Agreement with Independent Companies*, Case 05-C-0170, *Order Resolving Arbitration Issues* (New York Public Service Commission May 24, 2005), *on appeal Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ. Action No. 05-CV-6502 (CJS)(MWP)(WDNY filed Sept. 26, 2005)

20. Frontier states that it is not required to facilitate and accomplish DANC's breach of the IRU by providing UNEs to be used as add/drop facilities in Pulaski.⁹

B. DANC's Right to Interconnect Pursuant to Existing Agreements.

21. As stated above, DANC and Frontier previously entered into various telecommunications services agreements, all of which were drafted by Frontier, including the Collocation Agreement, the FSA, and the IRU. DANC does not deny the existence [REDACTED] of the IRU. However, since all of these agreements were negotiated at the same time, it is DANC's position that traffic cannot be dropped or inserted along the IRU Fibers (as such term is defined in the IRU) except as provided under the FSA and under the Collocation Agreement.

22. Collocation between the parties is governed by the Collocation Agreement, not the IRU. In its letter of November 13, 2007, Frontier acknowledges DANC's collocation in its last sentence of the letter:

"We are not providing a collocation attachment because we already have a collocation agreement and see no need to amend it."

23. In the Collocation Agreement, Frontier grants DANC the non-exclusive right to occupy the Pulaski CO for the sole and exclusive purpose of providing DANC's customers with telecommunications services. Attachment 1, Section I of the Collocation Agreement goes on to allow interconnection between the parties as defined by the Act. In its application to Frontier for collocation, DANC indicated that it would lease facilities from Frontier or another third party provider to establish its collocation arrangement with Frontier.

⁸ See November 13, 2007 Letter from Frontier to DANC (Tab 6)

⁹ *Id.*

24. The Collocation Agreement in no way restricts DANC's use of the space. While there were preliminary discussions of regeneration, the Collocation Agreement is not limited in any way. In the Collocation Agreement between the parties, Frontier grants DANC the non-exclusive right to occupy the Pulaski CO **"for the sole and exclusive purpose of providing [DANC's] customer with telecommunications services."**¹⁰ There is no mention of regeneration anywhere in the Collocation Agreement and no limitation on DANC's use of the Collocation Space within the Pulaski CO.

25. DANC has the right to interconnect the IRU Fibers with Frontier's facilities and equipment in the Collocation Space at the Pulaski CO pursuant to the Collocation Agreement. DANC's facilities which traverse the Pulaski CO and exist within the Collocation Space are the IRU Fibers granted by Frontier to DANC pursuant to the IRU. The Collocation Agreement between the parties specifically (i) allows interconnection between the parties, as defined in the Act, (ii) requires DANC's equipment to be compatible with Frontier's equipment in the Pulaski CO, and (iii) states that any interconnection between DANC's equipment or facilities (which in this case includes the IRU Fiber provided under the IRU) to Frontier's equipment or facilities will be governed by the applicable rules and regulations of governmental authorities having jurisdiction of the subject matter of the Collocation Agreement. Attachment II of the Collocation also provides pricing for interconnection and caged/cageless collocation, including cross-connect pricing per DS0, DS1 and DS3.

26. Clearly, the intent of the parties under the Collocation Agreement was to permit interconnection between DANC's facilities (which in this case includes the IRU Fibers) and Frontier's facilities in the Pulaski CO.

¹⁰ See Collocation Agreement, Attachment I, Section I

(a) Section 2.10 defines “Collocator” as “a Telecommunications Carrier who is Collocated in a [Frontier] location, for the purpose of interconnection with [Frontier] or access to UNEs.”

(b) Section 2.1 states that Access Service Requests (ASRs) “will be used to identify the specific trunking and facilities request for interconnection.”

(c) Section 1 of Attachment 1 provides that Frontier grants to DANC collocation in the Pulaski CO “for the sole and exclusive purpose of providing its customers with Telecommunications service” and that any interconnection of DANC’s equipment or facilities to Frontier’s equipment or facilities will be governed by the applicable rules and regulations of governmental authorities having jurisdiction of the subject matter of the Collocation Agreement.

VI. DAMAGE TO DANC FROM FRONTIER’S ANTICOMPETITIVE ACTIONS

27. In accordance with the terms of the Collocation Agreement, DANC installed, at DANC’s sole cost and expense, a DSX panel which is terminated on a backboard and ready to connect at the DS1 level. In March 2004, DANC paid Frontier non-recurring charges totaling \$34,735.04 to establish physical, cageless collocation at the Pulaski CO. Since then, DANC has paid, and continues to pay, monthly recurring charges of \$640.49. The rates are set forth in Attachment 2 of the Collocation Agreement and are consistent with those set forth in Section 20.1.9 of the Frontier Tariff FCC No. 1.

28. Below is a breakdown of the charges paid by DANC:

<u>Nonrecurring Charges:</u>	
Collocation Processing Fee:	\$ 2,440.00
Engineering Fee:	\$ 6,240.00
Office Arrangement (1 rack):	\$ 1,520.00
DC Power (40 amps, 2 feeds):	\$ 3,527.04
Cable Pull (1 cable, 4 feeds):	\$ 904.80
Building Modification Charge:	\$20,103.20
<u>Monthly Recurring Charges (3/04-date):</u>	
Floor Space (one standard bay):	\$109.00
DC Power (40 amps, 2 feeds):	\$487.49
Maintenance (per relay rack):	\$ 44.00

29. As a result of Frontier's anticompetitive actions in refusing to allow interconnection, DANC has experienced loss of customer support, loss of credibility with other service providers, loss of revenue, cost for collocation services that could not be utilized (\$640.49/month since March 2004 plus \$100,000± in build-out expense), and expenses, including legal expense.

WHEREFORE, having complied with the requirements of the Act and having demonstrated the legal and factual basis for requiring interconnection between DANC and Frontier, DANC respectfully requests that the Commission adopt its positions with request to interconnection and order Frontier to provide, for the facilities and equipment of DANC including the IRU Fibers within the Collocation Space in the Pulaski CO, interconnection with Frontier's network.

Respectfully submitted,

**DEVELOPMENT AUTHORITY OF THE
NORTH COUNTRY**

By: 

Hage and Hage LLC

J.K. Hage III, Esq.

*Attorneys for the Development Authority
of the North Country*

610 Charlotte Street

Utica, New York 13501-2909

Tel: 315-797-9850

Email: jk@hagelaw.com

Dated: November 26, 2007



A Law and Consulting Firm ~ Founded 1931

610 Charlotte Street, Utica, NY 13501-2909 TEL 315-797-9850 FAX 315-797-1721

June 19, 2007

Gregg C. Sayre, Esq.
Associate General Counsel -- Eastern Region
Frontier
Legal Department
180 South Clinton Avenue
Rochester, New York 14646-0700

RE: Development Authority of the North Country - Request for Interconnection

Dear Gregg:

Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, the Development Authority of the North Country (DANC), through its counsel, hereby submits its *bona fide* request for interconnection. DANC also has made this request via email to Lucy Buhrmaster, Frontier Interconnection Manager.

As you know, DANC holds a Certificate of Public Convenience and Necessity to operate in New York State as a facilities-based provider and reseller of telephone service, with authority to provide local exchange service. DANC already maintains collocation space within Frontier's Pulaski Central Office pursuant to the Agreement for Collocation dated March 15, 2004 between Citizens Telecommunications Company of New York, Inc. (Frontier) and DANC, which was filed with the New York State Public Service Commission (NYPSC) and became effective on July 26, 2004.

By copy of this letter to the NYPSC, DANC hereby requests that the negotiation of such interconnection be included in the proceeding currently pending before the NYPSC as a result of the Request for ADR Services submitted by DANC to the NYPSC on August 29, 2006.

Very truly yours,

Hage & Hage LLC

J.K. Hage III

JKH:amc

cc: Maureen McCauley - NYPSC
Thomas Sauter - DANC

J.K. Hage III

Admitted in NY and AK
jk@hagelaw.com

Of Counsel to Lukas, Nace, Gutierrez & Sachs, Chartered, Washington, D C

Amy Cirtwell

From: Dorlene S. MacDiarmid [DMAC@danc.org]
Sent: Tuesday, June 19, 2007 10:49 AM
To: lucy.buhrmaster@frontiercorp.com
Cc: Thomas Sauter; Amy Cirtwell; J K Hage III
Subject: FW: Interconnection

Lucy,

Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, the Development Authority of the North Country (DANC), hereby submits its bona fide request for interconnection. DANC holds a Certificate of Public Convenience and Necessity to operate in New York State as a facilities-based provider and reseller of telephone service, with authority to provide local exchange service. DANC already maintains collocation space within Frontier's Pulaski Central Office pursuant to the Agreement for Collocation dated March 15, 2004 between Citizens Telecommunications Company of New York, Inc. (Frontier) and DANC, which was filed with the New York State Public Service Commission and became effective on July 26, 2004.

Thank you,
Dorlene MacDiarmid
Business Development
315-793-3100

CONFIDENTIAL

CONFIDENTIAL

AGREEMENT FOR COLLOCATION

by and between

Citizens Telecommunications Company of New York, Inc.

and

Development Authority of the North Country

Dated: March 15, 2004

**AGREEMENT FOR
COLLOCATION**

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ATTACHMENT 1 – CENTRAL OFFICE PHYSICAL COLLOCATION

ATTACHMENT 2 - PRICING

AGREEMENT FOR COLLOCATION

This Agreement For Collocation ("Agreement") made this 15th day of March, 2004, is by and between Citizens Telecommunications Company of New York, Inc., a New York corporation, having its principal place of business at 180 South Clinton Avenue, Rochester, NY 14646 ("Citizens") and Development Authority of the North Country, a New York public benefit corporation, having its principal place of business at 317 Washington Street, Watertown, NY, 13601 ("Carrier"). Citizens and Carrier may also be referred to herein singularly as a "Party" or collectively as "the Parties."

SECTION 1. RECITALS AND PRINCIPLES

Citizens is a telecommunications company authorized to provide telecommunications services in the State of New York; and

Carrier is a telecommunications company providing telecommunications services in the State of New York; and

The Parties have in good faith negotiated, and agreed on collocation terms and conditions as set forth below; and

In consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Carrier and Citizens hereby covenant and agree as follows:

SECTION 2. GENERAL DEFINITIONS

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.

- 2.1. Access Service Request (ASR) means the industry standard forms and supporting documentation used for ordering access services. The ASR will be used to identify the specific trunking and facilities request for interconnection.
- 2.3. Act means the Telecommunications Act of 1996, as amended from time to time.
- 2.4. Augment is a request from a Collocator to add equipment, cable, and/or Collocation services to an existing Collocation arrangement.
- 2.5. Caged Physical Collocation is a cage or similar structure (not including a top) enclosing Collocator's dedicated collocation space in which a Collocator may install its Telecommunications Equipment
- 2.6. Cageless Physical Collocation is a Collocation arrangement, provided in single bay increments, and does not require the construction of a cage or similar structure.
- 2.7. Central Office Building shall mean a structure (not including a controlled environment vault (CEV) housing telephone company equipment that is under the control of Citizens and for which Citizens may grant access and/or occupation by third parties.
- 2.8. Collocation Application Form means the form submitted by Carrier to Citizens requesting the space, facilities and other requirements associated with the request for collocation and/or expanded interconnection services.

- 2.9 Collocation Space is the assigned space dedicated for the Collocator's physical Collocation arrangement located within Citizens Central Office Building.
- 2.10 Collocator is a Telecommunications Carrier who is Collocated in a Citizens location, for the purpose of Interconnection with Citizens or access to Unbundled Network Elements (UNE).
- 2.11 Commission means the governing state regulatory commission, board or authority (PSC, PUC, etc.).
- 2.12 Date of Occupancy shall mean the delivery date on which Carrier will be provided the Collocation Space by Citizens pursuant to this Agreement.
- 2.13 DS1 is a digital signal rate of 1.544 Megabits per second ("Mbps")
- 2.14 DS3 is a digital signal rate of 44.736 Mbps.
- 2.15 Enhanced Services shall refer to services, offered over common carrier transmission facilities, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. Internet, information services, voicemail, and so-called "chat line" services are enhanced services.
- 2.16 Interconnection in this Agreement is as defined in the Act.
- 2.17 Inner Duct or "Conduit Space-per-foot" will mean any passage or opening in, on, under, over or through Citizens' Central Office Building cable or conduit systems.
- 2.18 Local Switched Access Service means an offering of facilities for the purpose of the origination or termination of traffic from or to local exchange service customers in a given area pursuant to a switched access tariff.
- 2.19 Premises shall mean Collocation Space
- 2.20 Telecommunications Equipment for the purpose of Collocation, is defined as equipment necessary for Interconnection or access to Unbundled Network Elements.
- 2.21 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. A wire center is the location of one or more local switching systems, a point at which end users' loops converge.

SECTION 3. DEPOSIT and ADVANCE PAYMENT REQUIREMENTS

3.1 Citizens may, in order to safeguard its interest, require Carrier to make a deposit to be held by Citizens as a guarantee of the payment of rates and charges, unless satisfactory credit has already been established. Any such deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service.

3.2 Such deposit may not exceed two (2) months' estimated billing.

3.3 The fact that a deposit has been made in no way relieves Carrier from complying with Citizens' regulations as to advance payments and the prompt payment of bills on presentation nor, does it

constitute a waiver or modification of the regular practices of Citizens providing for the discontinuance of service for non-payment of any sums due Citizens

3.4 Citizens reserves the right to increase the deposit requirements when, in its sole judgment, the conditions justify such action; such conditions include but are not limited to: current deposit does not cover two (2) months billing, history of late payment, or reconnection after disconnection for non-payment.

3.5. In the event that Carrier defaults on its account, service to Carrier will be terminated and any deposits held will be applied to its account.

SECTION 4. INTENTIONALLY LEFT BLANK

SECTION 5. INTENTIONALLY LEFT BLANK

SECTION 6. DISPUTE RESOLUTION

If the Parties are unable to resolve any disagreement or dispute arising under or related to this Agreement, including without limitation, the failure to agree upon any item requiring a mutual agreement of the Parties hereunder, they shall resolve the disagreement or dispute as follows:

Either Party may refer the matter to the officers (the "Officers") of the Parties by giving the other Party written notice. Within fifteen (15) days after delivery of a notice, each Party shall designate or a corporate officer with authority to resolve such matters, to meet at a mutually acceptable time and place to exchange relevant information and to attempt to resolve the dispute.

If the matter has not been resolved by the Officers within thirty (30) days of the initial notice tendering the dispute to the Officers of the Parties, either Party may initiate the Alternate Dispute Resolution process with the New York Public Service Commission, and unless otherwise agreed by the Parties, they shall continue to perform under this Agreement during resolution process. If this process fails, the Parties may seek any administrative or judicial remedies to which they are entitled.

SECTION 7. FORCE MAJEURE

If the performance of the Agreement, or any obligation hereunder is prevented, restricted or interfered with by reason of any of the following:

- 7.1 Fire, explosion, flood, earthquake, hurricane, cyclone, tornado, storm, epidemic, breakdown of plant or power failure;
- 7.2. War, revolution, civil commotion, acts of public enemies, blockade or embargo;
- 7.3 Any law, order, proclamation, regulation, ordinance, demand or requirement of any government or any subdivision, authority, or representative of any such government;
- 7 4 Labor difficulties, such as strikes, picketing or boycotts;
- 7.5. Delays caused by other service or equipment vendors;
- 7.6. Any other circumstance beyond the reasonable control of the Party affected;

then the Party affected, upon giving prompt notice to the other Party, will be excused from such performance on a day-for-day basis to the extent of such prevention, restriction, or interference (and the other Party will likewise be excused from performance of its obligations on a performance so prevented, restricted or interfered with); provided that the Party so affected will use its best efforts to avoid or remove such causes of nonperformance and both Parties will proceed to perform with dispatch whenever such

causes are removed or cease.

SECTION 8. REGULATORY APPROVALS

8.1 This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with Section 252 of the Act. In the event any governmental authority or agency of competent jurisdiction rejects any provision hereof, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval.

8.2 In the event the FCC or the Commission promulgates rules or regulations, rates or issues orders, or a court with appropriate jurisdiction issues orders, which make unlawful any provision of this Agreement, the Parties shall negotiate promptly and in good faith in order to amend the Agreement to substitute contract provisions which are consistent with such rules, regulations or orders. In the event the Parties cannot agree on an amendment within thirty (30) days from the date any such rules, regulations or orders become effective, then the Parties shall resolve their dispute under the applicable procedures set forth in Section 6 (Dispute Resolution Procedures) hereof.

8.3 The Parties acknowledge that any terms of this Agreement were established pursuant to FCC and Commission orders. Any or all of the terms of this Agreement may be altered or abrogated by a successful challenge to the FCCs and Commission's decisions related to the Agreement as permitted by Applicable Law. By signing this Agreement, the Parties do not waive their right to pursue such a challenge.

SECTION 9. INTENTIONALLY LEFT BLANK

SECTION 10. ENTIRE AGREEMENT

This Agreement sets forth the entire understanding and supersedes prior agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them, and neither Party will be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby.

SECTION 11. TERM OF AGREEMENT

11.1 This Agreement shall become binding upon execution by the Parties for a period of two (2) years unless terminated earlier under the conditions set forth in this Section. This Agreement will automatically renew for ninety (90) day periods thereafter unless one party gives the other party written notice of termination not less than sixty (60) days prior to the end of initial or any renewal terms.

11.2 In the event of breach of any material provision of this Agreement by either Party, the non breaching Party shall give the other Party written notice thereof, and:

- 1) If such material breach is for non-payment of amounts due hereunder, the breaching Party shall cure such breach within thirty (30) days of receiving such notice. The non-breaching Party shall be entitled to pursue all available legal and equitable remedies for such breach. Amounts disputed in good faith and withheld or set off shall not be deemed "amounts due hereunder" for the purpose of this provision. Neither Party shall withhold or set off undisputed amounts.
- 2) In addition, if such material breach is for non-payment of amounts due hereunder and such amounts have not been disputed, the non-breaching Party may:
 - a) refuse additional applications for any service provided under this Agreement;
 - b) refuse to complete any pending orders for the Affected Services any time thereafter, and/or;

- c) on thirty (30) days' written notice by overnight delivery or certified U.S. mail, with a copy to the Commission, to the person designated to receive such notice, discontinue the provision of existing Affected Services at any time thereafter.

If the non-breaching Party does not refuse additional applications for the Affected Services, and the non-payment continues, nothing contained herein shall preclude the non-breaching Party from refusing additional applications for the Affected Services without further notice. If the non-breaching Party discontinues provision of the Affected Services, all applicable charges, including termination charges, shall become due. If the non-breaching Party does not discontinue the provision of the Affected Services on the date specified in the thirty (30) days' notice, and the nonpayment continues, nothing contained herein shall preclude the non-breaching Party from discontinuing the provision of the Affected Services without further notice.

Citizens reserves the right to refuse an application for an Affected Service made by any entity that owns or is substantially owned, directly or indirectly, by or is under common control with, Carrier, so long as Carrier or any such entity is indebted to Citizens for the Affected Services previously furnished, until the indebtedness is satisfied. In the event that Affected Services are provided to Carrier or an entity that owns or is substantially owned, directly or indirectly, by or is under common control with, Carrier, such services may be terminated by Citizens unless Carrier satisfies the indebtedness relating to the Affected Services within thirty (30) days after written notification. Such notification shall be made by certified U. S. mail to the person designated by Carrier to receive such notices. Copies of such notice shall be mailed to the (Commission), concurrently with the mailing to Carrier.

11.3 If such material breach is for any failure to perform in accordance with this Agreement, which, in the sole judgment of the non-breaching Party, adversely affects the non-breaching Party's subscribers, the non-breaching Party shall give notice of the breach and the breaching Party shall cure such breach within a period of time equivalent to the applicable interval required by this Agreement, and if breaching Party does not, the non-breaching Party may, at its sole option, terminate this Agreement. The non-breaching Party shall be entitled to pursue all available legal and equitable remedies for such breach.

11.4 Upon termination or expiration of this Agreement, each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement.

SECTION 12. EFFECTIVE DATE

This Agreement will become effective upon execution by both Parties.

SECTION 13. AMENDMENT OF AGREEMENT

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.

SECTION 14. WAIVERS

14.1 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.

14.2 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.

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

14.4 By entering into this Agreement, neither Party waives any right granted to it pursuant to the Act.

SECTION 15. INDEPENDENT CONTRACTORS

Each Party agrees that it will perform its obligations hereunder as an independent contractor and not as the agent, employee, or servant of the other Party. Neither Party nor any personnel furnished by such Party will be deemed an employee or agent of the other Party nor be entitled to any benefits available under any plans for such other Party's employees. Each Party will at all times during the term of this Agreement retain full control of the employment, direction, compensation and discharge of all employees as is consistent with and necessary to preserve its independent contractor status. Each Party will be solely responsible for all matters relating to payment of its employees including compliance with social security taxes, withholding taxes, worker's compensation, disability and unemployment insurance, and all other regulations governing such matters.

SECTION 16. LIMITATION OF LIABILITY

EXCEPT AS OTHERWISE PROVIDED HEREIN, NEITHER PARTY WILL BE LIABLE TO THE OTHER IN CONNECTION WITH THE PROVISION OR USE OF SERVICES PROVIDED UNDER THIS AGREEMENT. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOSS, COST, CLAIM, INJURY, LIABILITY OR EXPENSE, INCLUDING REASONABLE ATTORNEY'S FEES, RELATING TO OR ARISING OUT OF ANY ORDINARY NEGLIGENT ACT OR OMISSION BY A PARTY. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, INCOME OR REVENUE, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY AND WHETHER SUCH DAMAGES WERE FORESEEABLE OR NOT AT THE TIME THIS AGREEMENT WAS EXECUTED.

SECTION 17. INDEMNITY

17.1 Each Party will indemnify and hold the other harmless from any liabilities, claims or demands (including the costs, expenses and reasonable attorney's fees on account thereof) that may be made by third parties for (a) personal injuries, including death, or (b) damage to tangible property resulting from the sole negligence and/or sole willful misconduct of that Party, its employees or agents in the performance of this Agreement. Each Party will defend the other at the other's request against any such liability, claim, or demand. Each Party will notify the other promptly of written claims or demands against such Party of which the other Party is solely responsible hereunder.

17.2 The Indemnified Party will notify the Indemnifying Party promptly in writing of any claims, lawsuits, or demands by third Parties for which the Indemnified Party alleges that the Indemnifying Party is responsible under this Section and if requested by the Indemnifying Party, shall tender the defense of such claim, lawsuit or demand.

- 1) In the event the Indemnifying Party does not promptly assume or diligently pursue the defense of the tendered action, then the Indemnified Party may proceed to defend or settle said action and the Indemnifying Party shall hold harmless the Indemnified Party from any loss, cost, liability, damage and expense.
- 2) In the event the Party otherwise entitled to indemnification from the other elects to decline such indemnification, then the Party making such an election may, at its own expense, assume defense and settlement of the claim, lawsuit or demand.

- 3) The Parties will cooperate in every reasonable manner with the defense or settlement of any claim, demand, or lawsuit.

17.3 No liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants or employees for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, termination, changing, or providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of gross negligence or willful misconduct.

17.4 Notwithstanding any other provisions of this Agreement, Carrier shall defend and indemnify Citizens and shall hold Citizens harmless from and against any and all loss alleged to have been incurred by a customer of Carrier or any other third party to the extent such loss arises or is attributable to Carrier's performance or failure to perform.

SECTION 18. ASSIGNMENT

Neither Party may assign or transfer this Agreement, including its rights and obligations hereunder, without the prior written consent of the other Party, which consent shall not be withheld unreasonably, provided that any such assignment or transfer shall not release or discharge such Party from its duties, obligations or liabilities hereunder. Notwithstanding the foregoing, either Party may grant a security interest in some or all of its rights and obligations under this Agreement or in the System to any of its lenders. In addition, Citizens acknowledges that Carrier has financed the project in which the System hereunder will be utilized and pledged its assets, including the rights under this Agreement, to secure its obligations to the financing party. Citizens agrees that it will recognize as a permitted assignee such financing party, or its transferee who succeeds to Carrier's rights and obligations under this Agreement, and the successors and permitted assignees of such parties for the unexpired balance of this Agreement, upon the same terms and conditions provided for herein. Such financing Party, or its transferee, must agree to be bound by the terms of this Agreement in a written document that is reasonably satisfactory to Citizens in form and substance.

SECTION 19. CONTROLLING LAW

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

SECTION 20. SEVERABILITY

Subject to Section 8 - Regulatory Approvals, if any part of this Agreement is held to be invalid for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect.

SECTION 21. CHARGES AND PAYMENTS

21.1 In consideration of the services provided by Citizens under this Agreement, Carrier shall pay the charges set forth in this Agreement and in applicable tariffs. In consideration of the services provided by Carrier under this Agreement, Citizens shall pay the charges set forth in this Agreement and in applicable tariffs. Invoices with charges set forth in this Agreement and in applicable tariffs shall be sent to:

To Carrier: Development Authority of the North Country
317 Washington Street
Watertown, NY 13601

To Citizens: Frontier, A Citizens Communications Company
Attention: Access Verification
14450 Burnhaven Dr.
Burnsville, MN 55306

21.2 A monthly billing statement with a consistent, regular bill date shall be prepared by both Parties and will reflect the calculation of any tariffed or contracted service due each Party. All bills dated as set forth above will be due thirty (30) days after the bill date or by the next bill date (i.e., the same date in the following month as the bill date), whichever is the shortest interval, except as provided herein, and are payable in immediately available funds. If such payment date would cause payment to be due on a Saturday, Sunday or Legal Holiday, payment for such bills will be due on the last business day preceding the Saturday, Sunday or Legal Holiday. If such bills are not received at least twenty (20) days prior to the payment due date, then the bill(s) shall be considered delayed. When a bill has been delayed, the due date will be extended by the number of days the bill was delayed, upon request of the receiving Party.

21.3 Billing: The Parties agree that disputed and undisputed amounts due under this Agreement shall be handled as follows:

- 1) If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the Billed Party) shall within thirty (30) days of its receipt of the invoice containing such a disputed amount give written notice to the Billing Party of the amount it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Billed Party shall pay when due all undisputed amounts to the Billing Party, and shall include a copy of the dispute with the payment of the undisputed amount.
- 2) In the event that a billing dispute is resolved in favor of the Billed Party, any payment of the disputed amount withheld pending settlement of the dispute shall not be subject to the late payment penalty.
- 3) In the event that a billing dispute is resolved in favor of the Billing Party, any payments withheld pending settlement of the dispute will be subject to the late payment penalty set forth in 21.3.4 following.
- 4) Undisputed amounts shall be paid when due as set forth in Section 21.2 above. If any portion of the payment is received by the Billing Party in funds that are not immediately available to the Billing Party, a late payment penalty shall be due to the Billing Party. The late payment penalty shall be 1.5% per month or 18% annually, or the maximum allowed by law, whichever is less.

21.4 Both Parties shall use the Dispute Resolutions Procedures as described in Section 6.

21.5 In consideration of the services provided under this Agreement, the Parties shall pay the charges set forth in this Agreement and applicable tariffs. Any service provided, that is not identified in agreement will be governed by applicable tariffs.

SECTION 22. DEFAULT

If either Party believes the other is in breach of this Agreement or otherwise in violation of law, it will first give sixty (60) 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.

SECTION 23. CONFIDENTIALITY AND PUBLICITY

23.1. All proprietary or confidential information ("Proprietary Information") disclosed by either Party during the negotiations and the term of this Agreement will be protected by both Parties in accordance with the terms of this Section 23.

23.2. As used in this Agreement, the term "Proprietary Information" will mean written, recorded, machine readable or other information provided in tangible form to one Party by the other Party regarding the above referenced subject matter and which is marked proprietary or confidential with the appropriate owner corporation name, e.g., "Citizens Proprietary". Information disclosed orally will not be considered proprietary unless such information is reduced to writing by the disclosing Party and a copy is delivered to the other Party within thirty (30) business days after such oral disclosure. The writing will also state the place, date and person(s) to whom disclosure was made.

23.3. Each Party agrees that it will not disclose any Proprietary Information of the other Party in whole or in part, including derivations, to any third party for a period of three (3) years from the date of disclosure unless the Parties agree to modify this Agreement to provide for a different nondisclosure period for specific materials. Neither Party will be liable for inadvertent or accidental disclosure of Proprietary Information of the other Party provided that:

- 1) each Party uses at least the same degree of care in safeguarding such Proprietary Information as it uses for its own proprietary information of like importance, and such degree of care will be reasonably calculated to prevent such inadvertent disclosure;
- 2) it limits access to such Proprietary Information to its employees and agents who are directly involved in the consideration of the Proprietary Information and informs its employees and agents who have access to such Proprietary Information of its duty not to disclose; and
- 3) upon discovery of any such inadvertent disclosure of Proprietary Information, it will endeavor to prevent any further inadvertent disclosure

23.4. Information will not be deemed proprietary and the receiving Party will have no obligation with respect to any such information which:

- 1) is or becomes publicly known through no wrongful act, fault or negligence of the receiving Party; or
- 2) was known by the receiving Party or by any other affiliate or subsidiary of the receiving Party prior to disclosure, or is at any time developed by the receiving Party independently of any such disclosure; or
- 3) was disclosed to the receiving Party by a third party who was free of obligations of confidentiality to the disclosing Party; or
- 4) is disclosed or used by the receiving Party, not less than three (3) years following its initial disclosure or such other nondisclosure period as may be agreed in writing by the Parties; or
- 5) is approved for release by written authorization of the disclosing Party; or
- 6) is disclosed pursuant to a requirement or request of a governmental agency or disclosure is required by operation of law; or
- 7) is furnished to a third party by the disclosing Party without a similar restriction on the third party's rights.

23.5. Since either Party may choose not to use or announce any services, products or marketing techniques relating to these discussions or information gained or exchanged during the discussions, both Parties acknowledge that one is not responsible or liable for any business decisions made by the other in reliance upon any disclosures made during any meeting between the Parties or in reliance on any results of the discussions. The furnishing of Proprietary Information to one Party by the other Party will not obligate either Party to enter into any further agreement or negotiation with the other.

23.6. Nothing contained in this Agreement will be construed as granting to one Party a license, either express or implied, under any patent, copyright, or trademark, now or hereafter owned, obtained, controlled, or which is or may be licensable by the other Party.

23.7. All publicity regarding this Agreement and its Attachments is subject to the Parties' prior written consent.

23.8. Unless otherwise agreed upon, neither Party will publish or use the other Party's name, language, pictures, or symbols from which the other Party's name may be reasonably inferred or implied in any advertising, promotion, or any other publicity matter relating directly or indirectly to this Agreement.

SECTION 24. NO RIGHTS TO THIRD PARTIES

This Agreement will not provide any third party, including, but not limited to any End User customer of Carrier, with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference to this Agreement.

SECTION 25. HEADINGS

The headings in this Agreement are for convenience and will not be construed to define or limit any of the terms herein or affect the meanings or interpretation of this Agreement.

SECTION 26. EXECUTION IN DUPLICATE

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

SECTION 27. NOTICES

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

To Carrier: Development Authority of the North Country
317 Washington Street
Watertown, NY 13601

To Citizens: Citizens Telecommunications Company of New York, Inc.
180 S. Clinton Avenue
Rochester, NY 14646
Attn: Director, Carrier Services

If personal delivery is selected to give notice, a receipt of such delivery shall be obtained. 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 27.

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The Parties have caused this Collocation Agreement to be executed on their behalf on the dates set forth below.

Development Authority of the North Country

Citizens Telecommunications Company of
New York, Inc.

By: [Signature]
Typed: ROBERT S. Jarzwich
Title: Executive Director
Date: 7/16/04

By: [Signature]
Typed: L. Todd Wells
Title: RIP, EAST
Date: 7/22/04

ATTACHMENT 1

CENTRAL OFFICE PHYSICAL COLLOCATION

CENTRAL OFFICE PHYSICAL COLLOCATION

In consideration of the mutual covenants contained herein, Citizens and Collocator hereby agree as follows:

1. **Scope of Attachment**

A. Subject to the terms and conditions herein, and in consideration of the payment by Collocator of all charges itemized in Attachment 2 – Pricing and charges otherwise made applicable by the terms of this Agreement, Citizens hereby grants to Collocator, and Collocator hereby accepts, a non-exclusive Agreement to occupy the Premises, for the sole and exclusive purpose of providing its customers with Telecommunications services. All Collocator equipment placed on the Premise is and will be compatible with Citizens' central office equipment and will not interfere with the operation of that equipment.

B. Any interconnection of Collocator's equipment or facilities to Citizens' equipment or facilities will be governed by the applicable rules and regulations of governmental authorities having jurisdiction of the subject matter of this Agreement.

C. If a Collocator occupies more than one Premises location within the building, Collocator may interconnect its own equipment, dedicated to its use, contained in the two separate Premises locations; provided, however, that Collocator will be either responsible for supplying and installing the cabling between Collocator's Premises locations using Citizens-designated Inner Duct, or will separately contract with Citizens or order from the Tariff, as appropriate, this service. Collocator will be responsible for additional charges for use of such Inner Duct in accordance with the per-foot-charge. In the event Collocator chooses to install its own cabling, charges for supervision and inspection may apply as outlined in Attachment 1, Pricing.

D. Collocator will not occupy or use the Premises, or permit the Premises to be occupied or used, for any purpose, act or thing, whether or not otherwise permitted by this Attachment, if Citizens determines, in the exercise of its sole discretion, that such purpose, act or thing: (i) is in violation of any public law, ordinance or governmental regulation; (ii) may be dangerous to persons or property; (iii) may invalidate or increase the amount of premiums for any insurance policy carried on the building or covering its operation; or (iv) violates the terms of this Attachment.

E. In the event that Collocator requests additional collocation space, the request will be negotiated as a new request for collocation. To the extent reasonably possible, Citizens will make contiguous space available to Collocator.

3. **Types of Physical Collocation**

A. Caged Collocation - all equipment physically collocated at Citizens' central offices shall be physically separated by a partition or fence from Citizens' central office equipment. Collocator will have access to its own equipment at the Premises, but shall not have access to Citizens' central office equipment.

B. Cageless Collocation - all equipment physically collocated at Citizens' central offices shall not be separated by a partition unless Citizens chooses to at its own expense. Collocator will have access to its own equipment at the Premises, but shall not have access to Citizens' central office equipment. Citizens performs no repair, maintenance, installation on collocator's equipment beyond the designated demarcation as shown in Exhibit A.

4. **Condition of Premises**. Collocator represents to Citizens that it has had an opportunity to inspect the Premises and that, subject to the completion of any construction work that needs to be completed

prior to the Date of Occupancy, the Premises are in full compliance with the obligations of Citizens under this Agreement.

5. Use of Common Areas. Collocator, and its employees, agents and invitees will have a non-exclusive right to use those portions of the common area of the building as are designated by Citizens in Exhibit A, which may be revised by Citizens from time to time, including, but not limited to, the right to use corridors and other access ways from the entrance to the building, the Premises, and the parking areas adjacent to the building for vehicles of persons while working for or on behalf of Collocator at the Premises; provided, however, that if Citizens provides a separate entrance to the Premises, Collocator will not have a right to enter areas reserved for Citizens' equipment and operations and that Citizens has the right to reserve parking spaces for Citizens' exclusive use or use by other occupants of the building or otherwise restrict access to any area not designated as a common area. Citizens hereby notifies Collocator that the common areas designated in Exhibit A do not include rest room facilities or water fountains and that Citizens makes no guarantee that such facilities will be available. Collocator, and its employees, agents and invitees will have access to other areas outside of the designated common areas, including rest rooms, only if granted on an individual-case basis by Citizens personnel on site. All common areas will remain under the exclusive control and management of Citizens, and Citizens will have the right to change the level, location and arrangement of parking areas, and other common areas will be subject to such reasonable rules and regulations as Citizens may from time to time impose.

6. Citizens' Services and Obligations. For the Term of this Attachment, unless earlier terminated, Citizens will furnish the following services:

A. Environmental Controls. As agreed by Citizens and Collocator and shown in Exhibit C, Citizens will furnish air conditioning and/or other environmental controls for the area in which the Premises is located to the extent such controls are already in place at the site. Citizens will not be required to provide environmental controls over and beyond the standard equipment already in use by Citizens in the normal operation of the site. Collocator hereby represents to Citizens such controls as exist and as are listed in Exhibit C are sufficient to allow the collocator owned equipment to function without risk of harm or damage to the Premises, the building or any equipment or facilities of Citizens or any other occupant of the building.

If Collocator locates equipment or facilities in the Premises that Citizens determines, in the exercise of its sole discretion, affect the temperature or other environmental conditions otherwise maintained by Citizens in the building, Citizens reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Premises, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by Collocator's equipment or facilities will be paid by Collocator to Citizens.

If collocator owned equipment requires cooling capability in excess of that normally provided by Citizens for its own equipment, the costs of any required supplementary air conditioning required by Collocator will be paid by Collocator to Citizens.

B. Electricity. Electricity will be provided by Citizens in sufficient amount to provide ordinary lighting, heating and air conditioning of the Premises. If Collocator requires additional electrical capacity, such capacity will be supplied by Citizens; provided, however, that the provision of such electricity will be contingent upon Collocator paying Citizens an additional fee, in an amount to be agreed upon by the parties, for such additional electricity. Notwithstanding any other provisions of this Attachment to the contrary, Citizens reserves the right to monitor Collocator's use of electricity to determine if the electricity provided is sufficient to support the activity being carried out by the Collocator at the Premises. If Citizens reasonably determines that the electricity provided to Collocator is insufficient to support the activity being carried on by the Collocator in the Premises, Citizens may, after twenty (20) days written notice to Collocator, require the installation of additional electricity and Collocator will reimburse Citizens for any expenses incurred in making such additional electrical circuits available to Collocator's Premises and providing such additional electricity.

Collocator covenants and agrees that its use of electric current will never exceed the capacity of existing feeders to the building or the Premises, when reviewed in conjunction with electrical usage of other occupants in the building.

C. Fire Safety System. Subject to the provisions of Section 7 (E) hereof, Citizens may furnish an existing Halon 1301 Fire Suppression System, or may, but is not obligated to, provide its equivalent, to provide fire protection in the Premises designed to comply with the National Fire Protection Association ("NFPA") 12A Standard on Halon 1301 Fire Extinguishing Systems or with NFPA standard 2001 dealing with alternative fire suppression agents. Citizens will furnish fire and smoke detection systems designed to comply with the NFPA 72E Standard on Automatic Fire Detectors in effect as of Date of Occupancy.

Citizens will provide stand alone fire extinguishers in common areas as required by applicable fire codes, but Collocator will have sole responsibility for such extinguishers within the Premises.

Citizens and Citizens' insurance carriers will perform regular inspections of fire protection systems, and Collocator hereby agrees to provide Citizens and Citizens' insurance carriers access to the Premises for the purposes of such inspections, via pass key or otherwise. Citizens agrees to provide Collocator with notice of its intent to access Collocator's Premises where, in Citizens' sole discretion, such notice is practicable; provided, however, that no failure of Citizens to give such notice will affect Citizens' right of access or impose any liability on Citizens. Citizens will, at its expense, maintain and repair the fire and smoke detection systems unless maintenance or repair is required due to the act or omission of Collocator, its employees, agents or invitees, in which case Collocator will reimburse Citizens for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, the Collocator will, if at fault, and at Citizens' option, replace Halon or other fire extinguishing material discharged as a result of Collocator's act or omission. Collocator will have no duty to inspect fire protection systems outside the Premises; provided, however, if Collocator is aware of damage to the fire protection systems it will promptly notify Citizens.

Collocator is aware the Premises will contain a fire detection and may contain a fire suppression system. In the event of discharge, Citizens is relieved of all liability for damage to equipment or for personal injury except in cases where such damage to equipment or personal injury is due to the gross negligence or willful misconduct of Citizens, its officers, agents or employees.

D. Security Service. Citizens will furnish building and property security in accordance with its normal business practices, including, but not limited to, operating an alarm system on Collocator's entrance to the building as designated in Exhibit A, and requiring that Collocator, or any of its employees, agents or invitees call Citizens' security officer immediately upon entering the building. Other than the locks on the entrances to the Premises, Citizens will provide no security specific to Collocator's Premises. Citizens will not be liable to Collocator or any other party for loss of or damage to the Premises or collocator owned equipment unless Citizens has failed to provide building and property security in accordance with its normal business practices.

E. Repairs. Citizens will, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishments to the Premises, building and property, in a manner consistent with Citizens' normal business practices.

Citizens will not be obligated to inspect the Premises, make any repairs or perform any maintenance unless first notified of the need in writing by Collocator. If Citizens fails to commence such repairs or maintenance within 20 days after written notification, provided that such delays are not caused by Collocator, Collocator's sole right and remedy will be, after further notice to Citizens, to make such repairs or perform such maintenance and submit invoices for costs incurred to Citizens; provided, however, that the amount of such deduction will not exceed the reasonable value of such repairs or maintenance.

Citizens will, where practical, provide Collocator with twenty-four (24) hours prior notice before making repairs and/or performing maintenance on the Premises; provided, however, that Citizens will have no

obligation to provide such notice if Citizens determines, in the exercise of its sole discretion, that such repair or maintenance must be done sooner in order to preserve the safety of the building or the Premises, or if required to do so by any court or governmental authority. Work will be completed during normal working hours or at other times identified by Citizens; provided, however, that Collocator will pay Citizens for overtime and for any other expenses incurred if such work is done during other than normal working hours at Collocator's request. Collocator will have the right, at its sole expense, to be present during repair or maintenance of the Premises.

The cost of all repairs and maintenance performed by or on behalf of Citizens to the Premises that are, in Citizens' reasonable judgment, beyond normal repair and maintenance, or are made necessary as a result of misuse or neglect by Collocator or Collocator's employees, agents or invitees, will be paid by Collocator to Citizens within ten (10) days after being billed for such repairs and maintenance by Citizens.

F. Interruption of Services. Citizens reserves the right to stop any service when Citizens deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Citizens agrees to use its best efforts not to interfere with Collocator's use of Premises. Citizens does not warrant that any service will be free from interruptions caused by labor controversies, accidents, inability to obtain fuel, water or supplies, governmental regulations, acts of God, or other causes beyond the reasonable control of Citizens.

No such interruption of service will be deemed an eviction or disturbance of Collocator's use of the Premises or any part thereof, or render Citizens liable to Collocator for damages, by abatement of applicable charges or fees or otherwise, except as set forth herein or in any applicable Tariff, or relieve Collocator from performance of its obligations hereunder, and, except as otherwise provided herein or in any applicable Tariff, Collocator waives and releases all other claims against Citizens for damages for interruption or stoppage of service.

Citizens will have the right to reduce heat, light, water and power as required by any mandatory or voluntary conservation programs.

G. Other Items. Citizens will furnish all items specified on Exhibit B attached hereto and incorporated herein by reference.

H. Collocator Right Of Access. Subject to reasonable building rules and any applicable Security Arrangements, Collocator will have the right of entry twenty-four (24) hours per day to the Premises and common areas.

Citizens, at Collocator's expense, may issue nonemployee photo identification cards for each Collocator employee or vendor. Temporary identification cards may otherwise be provided by Citizens for employees or agents, contractors and invitees of Collocator who may require occasional access to the Premises.

Citizens may issue access cards, codes, or keys to Collocator's listed employees or vendors where such systems are available and their use by Collocator will not otherwise compromise building security.

Citizens reserves the right to close and keep locked all entrance and exit doors of the building during hours Citizens may deem advisable for the adequate protection of the building. Use of the building at any time it is unattended by appropriate Citizens personnel, or on Sundays and state and federal or other holidays recognized by Citizens, or, if Collocator's premises is not fully segregated from the areas of the building containing Citizens equipment, may result in Collocator requiring security accompaniment and will be subject to such reasonable rules and regulations as Citizens may from time to time prescribe.

I. Collocator Owned Equipment. Citizens will not be responsible for the design, engineering, testing, maintenance or performance of collocator owned equipment.

7. Collocator's Obligations.

A. Access Right of Citizens. Collocator will allow Citizens access to its Premises at all times, via pass key or otherwise, to allow Citizens to react to emergencies, to maintain the space (not including collocator owned equipment), and to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Citizens, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. Except in emergencies or unless Collocator has waived such notice elsewhere in this Attachment, and if conditions permit, Citizens will provide Collocator with notice of its intent to access the Premises, thereby providing Collocator the option to be present at the time of access. Collocator will not attach, or permit to be attached, additional locks or similar devices to any door or window, nor change existing locks or the mechanism thereof.

B. Inspection and Janitorial. Collocator will promptly notify Citizens of any damage to the Premises or of the need to perform any repair or maintenance of the Premises, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical and other mechanical facilities in the Premises).

C. Fire Protection Systems. Collocator will, with the prior written consent of Citizens, have the right to provide additional fire protection systems within the Premises; provided, however, that Collocator may not install or use sprinklers or any other water or carbon dioxide fire suppression systems within the building or the Premises. If any governmental bureau, department or organization or Citizens' insurance carrier requires that changes, modifications, or alterations be made to the fire protection system, or that additional stand alone fire extinguishing, detection or protection devices be supplied within the Premises, because of Collocator's equipment, such changes, modifications or additions will be made by Citizens and Collocator will reimburse Citizens for the cost thereof. If any governmental bureau, department or organization or Citizens' insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the building in which the Premises of Collocators in general are located and such changes are the direct result of the Collocator's equipment, such changes, modifications, or additions will be made by Citizens and Collocator will reimburse Citizens for the cost thereof in the same proportion as the square footage of the Collocator's Premises as compared to the total square footage of all Collocators' Premises in the affected portion of the building.

D. Hazardous Materials. Collocator will identify and will notify Citizens in writing of any Hazardous Materials Collocator may bring onto the property and will provide Citizens copies of any inventories or other data provided to State Emergency Response Commissions ("SERCs"), Local Emergency Planning Committees ("LEPCs") or any other governmental agencies if required by the Emergency Planning and Community Right to Know Act (41 U.S.C. 11001, et seq.). Collocator, its agents and employees will transport, store and dispose of Hazardous Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. Collocator will promptly notify Citizens of any releases of Hazardous Materials and will copy Citizens on any notification of or correspondence with any governmental body as a result of such release.

Collocator will provide Citizens copies of all Material Safety Data Sheets ("MSDSs") for materials or chemicals regulated under the OSHA Hazard Communication Standard (29 C.F.R. 1910.1200) that are brought onto the property. All such materials will be labeled in accordance with 29 C.F.R. 1910.1200, and applicable state regulations if such regulations are more stringent

If Citizens discovers that Collocator has brought onto Citizens' property Hazardous Materials without notification, or is storing or disposing of such materials in violation of any applicable environmental law, Citizens may, at Citizens' option and without penalty, terminate this Attachment or suspend performance hereunder. Collocator will be responsible for, without cost to Citizens, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. Collocator will also be responsible for removing and disposing of all Hazardous Materials on its Premises at the termination of this Attachment. If Citizens elects to terminate this Attachment or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials, Collocator will have no recourse against Citizens and will be responsible for all costs and expenses associated with

such termination or suspension of service in addition to being responsible for any remedies available to Citizens for defaults under this Attachment.

Collocator will indemnify and hold harmless Citizens, its successors and assigns against, and in respect of, any and all damages, claims, losses, liabilities and expenses, including, without limitation, all legal, accounting, consulting, engineering, and other expenses, which may be imposed upon, or incurred by, Citizens or asserted against Citizens by any other party or parties (including, without limitation, Citizens' employees and/or contractors and any governmental entity) arising out of, or in connection with, Collocator's use, storage or disposal of Hazardous Materials.

For purposes of this Section, "Hazardous Materials" will mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation asbestos and lead antimony batteries,) as defined in, or pursuant to the OSHA Hazard Communication Standard (29 CFR Part 1910, Subpart Z), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), or regulations adopted pursuant to those statutes, the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section will survive the termination, cancellation, modification or rescission of this Attachment.

E. Various Prohibited Uses. Collocator will not do or permit anything to be done upon the Premises, or bring or keep anything thereon that is in violation of any federal, state or local laws or regulations (including environmental laws or regulations not previously described), or any rules, regulations or requirements of the local fire department, Fire Insurance Rating Organization, or any other similar authority having jurisdiction over the building. Collocator will not do or permit anything to be done upon the Premises that may in any way create a nuisance, disturb, endanger, or otherwise interfere with the telecommunications services of Citizens, any other occupant of the building, their patrons or customers, or the occupants of neighboring property, or injure the reputation of the property. Collocator will not, without the prior written consent of Citizens: (i) install or operate any lead-acid batteries, refrigerating, heating or air conditioning apparatus or carry on any mechanical business in the Premises; (ii) use the Premises for housing, lodging or sleeping purposes; (iii) permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Premises; or (iv) permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Premises or permit the presence of any animals except those used by the visually impaired. Citizens may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.

F. Rules of Conduct. Collocator, its employees, agents, contractors, and invitees will (i) comply with all rules and regulations that Citizens may from time to time adopt for the safety, environmental protection, care, cleanliness, and/or preservation of the good order of the building, the property and the Premises and its tenants and occupants, and (ii) comply, at its own expense, with all ordinances that are applicable to the Premises and with all lawful orders and requirements of any regulatory or law enforcement agency requiring the correction, prevention and abatement of nuisances in or upon the Premises during the Term of this Attachment or any extension hereof.

G. Alterations. Collocator will not make installations, alterations or additions in or to the Premises without submitting plans and specifications to Citizens and securing the prior written consent of Citizens in each instance. Citizens' consent will not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Premises that do not adversely affect the building's appearance, value, structural strength and mechanical integrity. Such work will be done at the sole expense of Collocator.

All installations, alterations and additions will be constructed in a good and workmanlike manner and only new and good grades of material will be used, and will comply with all insurance requirements, governmental requirements, and terms of this Attachment. Work will be performed at such times and in such manner as to cause a minimum of interference with Citizens' transaction of business. Collocator will permit Citizens to inspect all construction operations within the Premises and to approve contractors, which approval will not be unreasonably withheld. If alterations are made by Collocator's contractors, Collocator will furnish to Citizens prior to commencement thereof, building permits and certificates of insurance or performance bonds of Collocator's contractors and sub-contractors. Any such insurance to

be provided by Collocator's contractors or sub-contractors will provide for coverage in amounts not less than as required by Citizens of Collocator under this Attachment. Upon completion of any installation, alteration or addition, contractor's affidavits and full and final waivers of lien covering all labor and material expended and used will be furnished to Citizens. Collocator and its contractors and sub-contractors will hold Citizens harmless from all claims, costs, damages, liens and expenses that may arise out of or be connected in any way with installations, alterations or additions.

All installations, alterations and additions that take the form of fixtures, except trade fixtures, placed in the Premises by and at the expense of Collocator or others will become the property of Citizens, and will remain upon and be surrendered with the Premises. Upon termination of this Attachment, however, Citizens will have the right to require Collocator to remove such fixtures and installations, alterations or additions at Collocator's expense, and to surrender the Premises in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.

All fixtures and other equipment to be used by Collocator in, about or upon the Premises will be subject to the prior written approval of Citizens, which will not be unreasonably withheld.

H. Fireproofing Policy. Collocator will not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Premises or the building, outside or inside, without the prior written consent of Citizens. If Collocator desires signal, communications, alarm or other utility or service connections installed or changed, the same will be made by and at the expense of Collocator. Citizens will have the right of prior approval of such utility or service connections, and will direct where and how all connections and wiring for such service will be introduced and run. In all cases, in order to maintain the integrity of the Halon space for proper Halon concentration, and to ensure compliance with Citizens' fireproofing policy, any penetrations by Collocator, whether in the Premises, the building or otherwise, will be sealed as quickly as possible by Collocator with Citizens approved fire barrier sealant, or by Citizens at Collocator's cost.

I. Overload Any Floor. Collocator will not exceed the Uniformly Distributed Live Load Capacity.

J. Signs. Collocator will not paint, display, inscribe or affix any sign, trademark, picture, advertising, notice, lettering or direction on any part of the outside or inside of the building, or on the Premises, without the prior written consent of Citizens.

K. Advertising. Collocator will not use the name of the building or Citizens for any purpose other than that of the business address of Collocator, or use any picture of likeness of the building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Citizens.

L. Articles Sold. Collocator will not exhibit, sell or offer for sale, rent or exchange in the Premises or on the property any article, thing or service except those ordinarily embraced within the use of the Premises specified in Section 2 of this Attachment without the prior written consent of Citizens.

M. Cleanliness and Obstruction of Public Areas. Collocator will not place anything or allow anything to be placed near the glass of any door, partition or window that Citizens determines is unsightly from outside the Premises; or take or permit to be taken in or out of other entrances of the building, or take or permit to be taken on any passenger elevators, any item normally taken through service entrances or elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, or shipping platform. Collocator will lend its full cooperation to keep such areas free from all obstruction and in a clean and sightly condition, move all supplies, furniture and equipment directly to the Premises as soon as received, and move all such items and waste, other than waste customarily removed by employees of the building.

N. Equipment Grounding. collocator owned equipment will be connected to Citizens' grounding system. Central office grounding must be engineered and constructed to meet producers, absorbers, non-isolated and isolated PANI standards.

O. Representations and Warranties. Collocator hereby represents and warrants that the information provided to Citizens in any application or other documentation relative to Collocator's request for Central Office Space Lease and License is and will be true and correct. Any violation of this Section will be deemed a material breach of this Attachment.

8. Rights Reserved to Citizens. Citizens will have the following rights, and others not specifically excluded in this Attachment, exercisable without notice and without liability to Collocator for damage or injury to property, person or business (all claims for damage being hereby released), and without effecting an eviction or disturbance of Collocator's use or possession or giving rise to any claim for offsets, or abatement of rent:

A. To designate any and all spaces to be occupied by Collocator's facilities and equipment under this Attachment;

B. To change the name or street address of the building;

C. To install and maintain signs on the exterior and interior of the building or anywhere on the property;

D. To have pass keys or access cards with which to unlock all doors in the Premise, excluding Collocator's safes;

E. To enter the Premises for the purposes of examining or inspecting same and of making such repairs or alterations as Citizens deems necessary (Collocator hereby waives any claim for damage, injury, interference with Collocator's business, any loss of occupancy or quiet enjoyment of the Premises and any other loss occasioned by the event except where such damages result solely from the gross negligence or willful misconduct of Citizens). Citizens will give Collocator such advance notice as is reasonably practical of alterations or repairs with respect to the collocated space, and subsequent notice of what alterations or repairs have been made with respect to the collocated space.

F. To use any means Citizens may deem proper to open Premises' doors in an emergency. Entry into the Premises obtained by Citizens by any such means will not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of Collocator from the Premises or any portion thereof;

G. To utilize the space within the building in such a manner as will best enable it to fulfill its own service requirements;

H. To require all persons entering or leaving the building during such hours as Citizens may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to leave or enter, and to exclude or expel any solicitor or person at any time from the Premises or the property. Citizens assumes no responsibility and will not be liable for any damage resulting from the admission or refusal to admit any authorized or unauthorized person to the building, provided that such damage is not the result of gross negligence or willful misconduct on the part of Citizens;

I. To approve the weight, size and location of safes, computers and all other heavy articles in and about the Premises and the building, and to require all such items and other office furniture and equipment to be moved in and out of the building or premises only at such times and in such a manner as Citizens will direct and in all events at Collocator's sole risk and responsibility;

J. At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Premises, the property, or any part thereof (including, without limitation the permanent or temporary relocation of any existing facilities such as parking lots or spaces), and to perform any acts related to the safety, protection or preservation thereof,

and during such operations to take into and through the Premises or any part of the property all materials and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities, provided that Citizens will limit inconvenience or annoyance to Collocator as reasonably possible under the circumstances;

K. To do or permit to be done any work in or about the Premises or the property or any adjacent or nearby building, land, street or alley;

L. To grant to anyone the exclusive right to conduct any business or render any service on the property, provided such exclusive right will not operate to exclude Collocator from the use expressly permitted by this Attachment, unless Citizens exercises its right to terminate this Attachment with respect to all or a portion of the Premises;

M. To close the building at such reasonable times as Citizens may determine, subject to Collocator's right to admittance under such reasonable regulations as will be prescribed from time to time by Citizens.

N. Citizens will have the right to upgrade or replace its equipment at the subject central office. In the event that Citizens determines to make such equipment upgrades or replacements, it will give Collocator six months advance notice of such changes. It will be Collocator's responsibility to ensure that its equipment remains compatible with Citizens' upgraded or new equipment.

O. If it becomes necessary in Citizens' reasonable judgment, and there are no other reasonable alternatives, to require Collocator to move to equivalent space in the building upon receipt of sixty (60) days written notice from Citizens, in which event, Citizens will pay all moving costs, and any other costs associated with the relocation and the Attachment Fee provided for herein will remain the same;

P. To perform all work, using Citizens employees or contractors, necessary to ready the Premises for Collocator's use;

Q. To exercise all other rights reserved by Citizens pursuant to the provisions of this Attachment; and

R. To inspect the installation of collocator owned equipment in the Premises prior to the connection of collocator owned equipment to Citizens facilities.

9. Insurance. Collocator, at its expense, will maintain at all times during the Term the following insurance policies: (a) fire insurance, including extended coverage, vandalism, malicious mischief, sprinkler leakage and water damage coverage and demolition and debris removal, insuring the full replacement cost of all improvements, alterations or additions to the Premises made at Collocator's expense, and all other property owned or used by Collocator and located in the Premises; (b) commercial general liability insurance, contractual liability insurance and property damage insurance with respect to the building and the Premises, with limits to be set by Citizens from time to time but in any event not less than \$1,000,000 combined single limit for personal injury, sickness or death or for damage to or destruction of property for any one occurrence; and (c) insurance against such other risks and in such other amounts as may from time to time reasonably be required. The form of all such policies and deductibles thereunder will be subject to Citizens' reasonable approval. All such policies will be issued by insurers reasonably acceptable to Citizens and licensed to do business in the State in which Collocation takes place. In addition, the policies will name Citizens and any other parties designated by Citizens as additional insured, will require at least thirty (30) days' prior written notice to Citizens of termination or modification and will be primary and not contributory. Collocator will, at least ten (10) days prior to the Date of Occupancy, and within ten (10) days prior to the expiration of such policy, deliver to Citizens certificates evidencing the foregoing insurance or renewal thereof, as the case may be.

10. Partial Destruction. If the Premises or a portion thereof sufficient to make the Premises substantially unusable will be destroyed or rendered unoccupiable by fire or other casualty, or if Citizens fails to timely cure a default as described in Section 18 herein, it is assumed Collocator will have the right to terminate this Attachment immediately without liability to Citizens.

Notwithstanding any other provision of this Attachment to the contrary, if any casualty is the result of any act, omission or negligence of Collocator, its agents, employees, contractors, Collocators' customers or business invitees, unless Citizens otherwise elects, this Attachment will not terminate, and, if Citizens elects to make such repairs, Collocator will reimburse Company for the cost of such repairs, or Collocator will repair such damage, including damage to the building and the area surrounding it, and the Attachment Fee will not abate.

If the building is damaged by fire or other casualty to the extent that portions are rendered unoccupiable, notwithstanding that the Premises may be directly unaffected, Company may, at its election within ninety (90) days of such casualty, terminate this Attachment by giving written notice of its intent to terminate this Attachment. The termination as provided in this paragraph will be effective thirty (30) days after the date of the notice.

11. Eminent Domain. If the property, or any portion thereof which includes a substantial part of the Premises, is taken or condemned by any competent authority for any public use or purpose, the Term of this Attachment will end upon, and not before, the date when the possession of the part so taken will be required for such use or purpose. If any condemnation proceeding is instituted in which it is sought to take or damage any part of the property, or if the grade of any street or alley adjacent to the property is changed by any competent authority and such change of grades makes it necessary or desirable to remodel the property to conform to the changed grade, Company will have the right to terminate this Attachment upon not less than thirty (30) days notice. No money or other consideration will be payable by Company to Collocator for such cancellation, and the Collocator will have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

12. Attachment Termination. At the termination of this Attachment by lapse of time or otherwise:

A. Surrender of Keys. Collocator will surrender all keys, access cards and Company-provided photo identification cards to the Premises and the building to Company, and will make known to Company the combination of all combination locks remaining on the Premises.

B. Vacate Premises. Collocator will remove its equipment from the Premises within thirty (30) days.

C. Return of Premises. Collocator will return to Company the Premises and all equipment and fixtures of Company in as good a condition and state of repair as when Collocator originally took possession, normal wear and tear or damage by fire or other casualty excepted. Collocator will be responsible to Company for the cost of any repairs that will be made necessary by the acts or omissions of the Collocator or of its agents, employees, contractors or business invitees. Company reserves the right to oversee Collocator's withdrawal from the Premises and Collocator agrees to comply with all directive to return the Premises in other than its original condition on the Date of Occupancy; provided, however, that Collocator will not be responsible for putting the Premises in other than its original condition if to do so would put Collocator to additional expense above and beyond that which would be necessary to return the Premises in its original condition.

D. Removal of Additions. All installations, additions, hardware, non-trade fixtures and improvements, temporary or permanent, except movable furniture and equipment belonging to Collocator, in or upon the Premises, whether placed there by Collocator or Company, will be Company's property and will remain upon the Premises, all without compensation, allowance or credit to Collocator; provide, however, that if at such termination or within ten (10) days thereafter, Company so directs, Collocator will promptly remove the installations, additions, hardware, non-trade fixtures and improvements, placed in or upon the Premises by Collocator, failing which Company may remove the same, and Collocator, failing

which Company may remove the same, and Collocator will, upon demand, pay to Company the cost of such removal and of any necessary restoration of the Premises. No cable will be removed from Inner Duct except as directed by Company.

E. Property Presumed Abandoned. All fixtures, installations, and personal property belonging to Collocator not removed from the Premises within thirty (30) days after termination of this Attachment and not required by Company to have been removed as provided in this Attachment, will be conclusively presumed to have been abandoned by Collocator and title thereto will pass to Company under this Attachment as if by a Bill of Sale.

F. Delay of Surrender. If the Premises is not surrendered at the termination of the Attachment, Collocator will indemnify Company against loss or liability resulting from delay by Collocator in so surrendering the Premises, including, without limitation, any claims made by any succeeding tenant founded on such delay.

13. Remedies of Company. All rights and remedies of Company herein enumerated will be cumulative and none will exclude any other right or remedy allowed by law.

A. Default. If Collocator defaults in the prompt payment of any portion of the charges (and such default will continue for thirty (30) or more days after it is due and payable) or in the performance or observance of any other provision of this Attachment (and such default will continue for twenty (20) or more days after notice thereof will have been given to Collocator), then Collocator will be deemed in default and Company may enforce the performance of this Attachment in any manner provided by law.

Unless Collocator cures the default upon the date and time set forth in the notice, Company will have the right, without further notice or demand, to (i) terminate Collocator's right to possession, without terminating this Attachment, or re-enter and remove all person and property without prejudice to Company's remedies for breach of contract, or arrears of Total Fees, and (ii) resume possession of the Premises occupied by Collocator and declare the term of this Attachment ended and terminate all unpaid Total fees due under this Attachment for the remainder of the original term hereof.

If the default complained of is of such a nature that it can be rectified or cured, but cannot with reasonable diligence be completed within a twenty (20) day period, then such default will be deemed to be rectified or cured if Collocator will, within the twenty (20) day period, commence to rectify and cure with all due diligence and, in any event, within forty (40) days from the date of giving such notice.

B. Surrender of Premises. Upon any termination of this Attachment, whether by lapse of time or otherwise, or upon any termination of Collocator's right to possession without termination of this Attachment, Collocator will surrender possession thereof to Company, and hereby grant to Company full and free license to enter into and upon the Premises in such event with or without process of law and to expel or remove any and all property, without being deemed in any manner guilty of trespass, eviction or forcible entry or conversion of property, and without relinquishing any other right given to Company hereunder or by operation of law.

C. Expenditures by Company. Whenever under any provision of this Attachment, Collocator will be obligated to make any payment or expenditure, or to do any act or thing, or to incur any liability whatsoever, and Collocator fails, refuses or neglects to perform as required herein, Company will be entitled, but will not be obligated, to make any such payment or to do any such act or thing, or to incur any such liability, all on behalf of and at the cost and for the account of Collocator. In such event, the amount thereof with interest thereon as hereinafter provided, will be collectible on demand. All such interest amounts will be at lower of the rate of 1.5% per month or the highest lawful rate calculated per month until repayment by Collocator in full.

D. Sale of Building or Change in Building Lease Terms. If the owner of the building or Company sells, transfers or assigns any interest in the building, or there is any material change in the Lease to which the building is subject, and such sale, transfer, assignment or material change in the

Lease gives rise to an obligation which is inconsistent with this Attachment, Company's performance under this Attachment will be excused to the extent of the inconsistency. Company hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation will in no way obligate Company to incur any out of pocket expenses in its efforts to avoid such inconsistencies.

14. Bankruptcy If any voluntary or involuntary petition or similar pleading under any sections of any bankruptcy act will be filed by or against a Collocator, or any voluntary or involuntary proceeding in any court or tribunal will be instituted to declare Collocator insolvent or unable to pay Collocator's debts, or Collocator makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for Collocator or for the major part of Collocator's property, Company may, if Company so elects but not otherwise, and with or without notice of such election or other action by Company, forthwith terminate this Attachment.

15. Proprietary Information. Company agrees to hold in confidence information provided to it by Collocator pursuant to this Attachment, as well as information known to Company as a result of the interconnection of equipment contained in Premises to Company facilities and services if such information is of a competitive nature. Similarly, Collocator agrees to hold in confidence information provided to it by Company pursuant to this Attachment, as well as information known to Collocator as a result of its presence on the property if such information is of a competitive nature. Neither party is obligated to hold in confidence information that:

- 1) was already known to the Party free of any obligation to keep such information confidential;
- 2) was or becomes publicly available by other than unauthorized disclosure; or
- 3) was rightfully obtained from a third party not obligated to hold such information in confidence.

16. Asbestos. This Agreement assumes that any services provided hereunder do not involve either party's contact with or removal of asbestos or other toxic or hazardous materials. If asbestos, or material containing asbestos, or any other hazardous or toxic materials are discovered during work pursuant to this Agreement, the affected Party will suspend its work for a reasonable period of time to permit the other party to engage a qualified firm to remove and dispose of the asbestos or other toxic or hazardous materials from the site and receive an equitable adjustment to the sums due or owing, or to be due or owing under this Agreement as a result of any increase in costs experienced as a result of such suspension.

Both Parties acknowledge that the other party shall not be responsible for any claims, demands or damages arising out of the removal of asbestos or any other hazardous or toxic material from the work site under its control and agrees to release, indemnify, defend and hold harmless such non-controlling Party from and against any damages, losses, claims, demands or lawsuits arising out of or relating to the presence, removal or disposal of asbestos or any other hazardous or toxic material from the work site.

17. Subordination. This Attachment will at all times be subject and subordinate to the lien of any mortgage (which term will include all security instruments) that may be placed on the Premises and Collocator agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

18. Binding Effect and Assignment. Subject to the terms of Section 4 of this Attachment, Company and Collocator agree that this Attachment will bind and inure to the benefit of the respective successors and assigns of both Company and Collocator.

19. No Partnership. Nothing contained in this Attachment will be deemed or constructed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint ventures or any other association between Company and Collocator.

20. Miscellaneous.

A. Unenforceable Provisions. If any term, provision, covenant or condition of this Attachment, or any application thereof, should be held by a court or regulatory agency to be invalid, void, or unenforceable, the remainder of this Attachment, and all applications thereof, not held invalid, void or unenforceable, will continue in full force and effect and will in no way be affected, impaired or invalidated thereby.

At Company's option, any changes, additions or modifications, either approved or mandated by a regulatory agency, affecting the application of this Attachment or the licensing of Company's buildings or the interconnection of services to Company's telecommunications network will either be incorporated into this Attachment with written notification, consistent with terms identified by the agency, or the Attachment will be terminated with no liability to Company. Collocator agrees to accept any decision by Company in this regard; provided, however, Company will work with Collocator to minimize impact to the Collocator's business.

B. Contingency. This Attachment is subject to change, modification, or cancellation as may be required by a regulatory authority or court in the exercise of its lawful jurisdiction.

C. Headings. The headings of this Attachment are for convenience only and will not be used to construct or modify the terms of this Attachment.

D. Execution in Counterparts. This Attachment may be executed in copies, each of which will constitute an original, but any of which taken together will constitute one in the same document. In the event of a conflict between the provisions of any original Attachment with the provisions of any other original Attachment, the provisions of Company's original Attachment will govern and control.

E. Execution of Additional Documents. At the request of either Company or the Collocator, the parties agree to execute, in recordable form, a memorandum of this Attachment which may contain any information with respect to this Attachment, desired by either party, covering the Premises, building or property. Both parties hereby consent to the recording of such a memorandum.

F. Brokers. Collocator warrants that it has had no dealings with any broker or agent in connection with this Attachment, and covenants to pay, hold harmless and indemnify Company from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Attachment or the negotiation thereof.

G. Waiver of Default. Company and Collocator agree that the waiver by either party of a breach of any term, covenant, or condition contained herein will not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition.

H. Changes to Attachment. This Attachment and all of its terms, provisions, covenants and conditions cannot be changed or terminated orally. This Attachment may only be modified or amended by an instrument in writing executed by Company and Collocator.

I. Attachment Effective. Submission of this instrument for examination or signature by Company does not constitute a reservation of or option for Attachment, and it is not effective, as an Attachment or otherwise, until execution and delivery by both Company and Collocator.

J. Representations. Neither Company nor its agents have made any representation or warranties with respect to the Premises of this Attachment except as expressly set forth herein; no rights,

easements, or leases will be acquired by Collocator by implication or otherwise unless expressly set forth herein.

K. Work Stoppages. In the event of work stoppages, Company may establish separate entrances for use by personnel of Collocator. Collocator will comply with any emergency operating procedures established by Company to deal with work stoppages.

L. Governing Law. The Laws of the State of in which Collocation takes place will govern the validity, construction, performance and effect of this Attachment.

M. Authorized Representatives. The individuals executing this Attachment on behalf of Collocator represent and warrant to Company they are fully authorized and legally capable of executing this Attachment on behalf of Collocator.

EXHIBIT A

PLAN OF PREMISES

The Premises consists of that area outlined in red or heavy line on the plan affixed (excluding from the foregoing, if any, elevator shafts; flues; pipes; shafts; vertical and horizontal ducts or conduits, pillars; demising walls; electrical boxes; fire hose cabinets, and stair.

[PLEASE SEE ATTACHED]

EXHIBIT B

ITEMS PROVIDED BY COMPANY

EXHIBIT C

ITEMS PROVIDED BY COLLOCATOR

ATTACHMENT 2

PRICING

Attachment 2 – PRICING
Interconnection Caged/Cageless Collocation Pricing List

<u>Collocation</u>	<u>Monthly</u>	<u>Nonrecurring</u>
Collocation Processing Fee		\$2,440.00
Floor Space Charge		
Cageless per one standard bay (10 sq. ft. maximum)	\$109.00	
Cageless per one cabinetized bay(18 sq. ft. maximum)	\$178.00	
Cageless per additional sq. ft.	\$ 8.58	
All other Applications, per sq. ft.	\$ 8.58	
Cross Connect per:		
DS0	\$ 1.25	\$ 413.57
DS1	\$ 3.90	\$ 352.85
DS3	\$ 48.00	\$1,249.98
AC Power per 20 Amps- (This does not include any DC power or backup power)	\$274.49	\$1,475.00
DC Power per 40 Amps: 2-feeds	\$ 487.49	\$3,527.04
Engineering Fee		
Charge per order, per Central Office.		
Charge for the work performed by CTC associated with the design and development of collocation.		
Total charge is reduced by the up front fee.		\$6,240.00
Cable Pull Charge		
Charge per Central Office, per cable terminated:		\$ 904.80
Office Arrangement		
Caged - Caging costs per order, per Central Office:		\$4,608.61
Cageless – Per each standard bay		\$1,520.00
Cageless – Per each standard bay with Relay Rack		\$5,320.00
Cageless – Per each cabinetized bay		\$1,520.00
Maintenance per relay rack	\$ 44.00	
Building Modification Charge		
Charge per Central Office, per order.		ICB
Training (Virtual)		Time and Expense

LABOR RATES	<u>Basic Time</u>	<u>Overtime</u>	<u>Premium Time</u>
Charges for Additional Labor per Security Escort, One hour minimum	\$ 47.00	\$ 71.00	\$ 284.00
Charges for Additional Labor per Engineering, One hour minimum	\$ 47.00	\$ 71.00	\$ 284.00
Charges for Additional Labor per Technician, One hour minimum	\$ 47.00	\$ 71.00	\$ 284.00

Basic Time - Monday through Friday, 8 a.m. to 5 p.m.

Overtime - Monday through Friday, Before 8:00 a.m. and after 5:00 p.m.

Premium Time - Saturday(s), Sunday(s) and Holiday(s)

Note – All pricing based on Citizens FCC #1 Tariff for Expanded Interconnection.

CONFIDENTIAL

80000 SERIES
RECYCLED ♻️ 30% P.C.W.



137 Harrison St
Gloversville, NY 12078

November 13, 2007

Dorlene S. MacDiarmid
Development Authority of the North Country
317 Washington Street
Watertown, NY 13601

Dear Ms. MacDiarmid,

Here is the Interconnection Agreement you requested. We are not providing rates, terms and conditions for UNE loops for the following reasons: (1) we do not provide UNEs in Pulaski and currently have no cost studies to cover them; (2) we do not believe that DANC meets the requirements of §51.318 of the FCC's regulations for converting special access circuits to UNE pricing or for establishing new UNEs for use as special access circuits; and (3) we are not required to facilitate and accomplish your breach of the Dark Fiber IRU Agreement between DANC and Citizens by providing UNEs to be used as add/drop facilities in Pulaski. We are also not providing a collocation attachment because we already have a collocation agreement and see no need to amend it.

Sincerely,

Lucy Buhrmaster

Lucy Buhrmaster
Frontier Interconnection Manager
Phone: 518-773-6162
Fax: 518-775-4831
E-mail: lucy.buhrmaster@frontiercorp.com

**AGREEMENT FOR
LOCAL INTERCONNECTION**

between

**Citizens Telecommunications Company of New York, Inc. –
New York**

And

Development Authority of the North Country

Dated: _____

**AGREEMENT FOR
LOCAL INTERCONNECTION**

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ATTACHMENT 1 – INTERCONNECTION

ATTACHMENT 2 – PRICING

AGREEMENT FOR LOCAL INTERCONNECTION

This Agreement For Local Interconnection ("Agreement") made this ____ day of _____, 2007, is by and between Citizens Telecommunications Company of New York, Inc., a New York Corporation, having its principal place of business at 180 South Clinton Avenue, Rochester, New York 14646 ("Frontier") and Development Authority of the North Country, a _____ corporation, having its principal place of business at _____, _____ ("Carrier"). Frontier and Carrier may also be referred to herein singularly as a "Party" or collectively as "the Parties".

SECTION 1. RECITALS AND PRINCIPLES

Frontier is a telecommunications company authorized to provide telecommunications services in the State of New York; and

Carrier is a telecommunications company authorized by the Commission to provide local exchange telecommunications services in the State of New York; and

The Parties have in good faith negotiated, and agreed on local Interconnection terms and conditions as set forth below; and

In consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Carrier and Frontier hereby covenant and agree as follows:

SECTION 2. COMPLIANCE WITH EXISTING AGREEMENTS

Parties will comply with existing agreements between Carrier and Frontier, including but not limited to the Dark Fiber IRU Agreement dated March 30, 2004. This Interconnection Agreement is not intended as a rescission or modification of any existing agreements.

SECTION 3. GENERAL DEFINITIONS

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.

3.1 Access Services is a service that connects interexchange carriers to their End Users located within a local access and transport area (LATA). Access service is used in originating and terminating intraLATA/interLATA toll telecommunications.

3.2 Access Service Request (ASR) means the industry standard forms and supporting documentation used for ordering Access Services. The ASR will be used to identify the specific trunking and facilities request for Interconnection.

3.3 Act means the Telecommunications Act of 1934, as amended from time to time.

3.4 Automatic Number Identification (ANI) refers to the number transmitted through the network identifying the calling party.

- 3.5 CLLI Codes means Common Language Location Identifier Codes
- 3.6 Commission means the governing state regulatory commission, board or authority (PSC, PUC, etc.)
- 3.7 Competitive Local Exchange Carrier (CLEC) means a telephone company certified by the Commission, for Frontier's franchised area, to provide local exchange service within Frontier's franchised area, and which has a Local Exchange Carrier Tariff approved by the Commission
- 3.8 DS1 is a digital signal rate of 1 544 Megabits per second ("Mbps")
- 3.9 DS3 is a digital signal rate of 44 736 Mbps
- 3.10 End User means the ultimate user or consumer of the telecommunications services being sold or resold by either Party
- 3.11 End User Location means the physical location of the premises where an End User makes use of the telecommunications services
- 3.12 End User Of Record means the entity responsible for placing orders or requests for service; requesting additions, rearrangements, maintenance or discontinuance of service, and making payment in full of charges incurred such as toll, directory assistance, etc
- 3.13 Enhanced Services shall refer to services, offered over common carrier transmission facilities, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. In addition and with out limiting the foregoing, internet, information services, voicemail, and so-called "chat line" services are Enhanced Services, of which the voice or TDM component both originates and terminates within the local calling area as defined by Citizens tariffs. If the voice or TDM component does not both originate and terminate within such local calling area, the traffic shall not be covered by this Agreement and shall be subject to interstate or intrastate access tariffs depending on the geographic points of voice or TDM origination and termination
- 3.14 Exchange Message Interface (EMI) is the standard used for exchange of telecommunications message information between telecommunications providers for billable, non-billable, sample, settlement and study data. EMI format is contained in ATIS/OBF-EMI-016, an Alliance of Telecommunications Industry Solutions (ATIS) document, which defines industry standards for exchange message records
- 3.15 Interconnection in this Agreement is as defined in the Act
- 3.16 Internet Service Provider (ISP) Bound Traffic means traffic delivered by a local exchange carrier, indirectly or directly, to a provider of Internet Services, of which the voice or TDM component both originates and terminates within the local calling area as defined by Citizens tariffs. If the voice or TDM component does not both originate and terminate within such local calling area, the traffic shall not be covered by this Agreement and shall be subject to interstate or intrastate access tariffs depending on the geographic points of voice or TDM origination and termination.
- 3.17 Local Exchange Routing Guide (LERG) is a Telcordia reference document used by carriers to identify NPA-NXX routing and homing information as well as network element and equipment designations

3.18 Local Traffic shall refer to calls originated by one Party's End Users and terminated to the other Party's End Users within the local exchange area or extended area service toll free calling area as defined in Frontier's tariffs. Local calls must be actually originated by and actually terminated to parties physically located within the same local calling area regardless of the NXX assigned to the calling and called parties.

3.19 Local Service Provider Guide (the "Guide") means the document provided to Carrier by Frontier, included by reference herein, which outlines the process and procedures for ordering and maintaining carrier services. This document may be updated from time to time by Frontier. This document is to be used as reference only and is not a part of this agreement.

3.20 Network Interface Device (NID) is a device that connects the inside wire at the End User Location to a telephone network.

3.21 Point of Interconnection (POI) means the physical location(s) at which the Parties' networks meet for the purpose of exchanging Local Traffic.

3.22 Reciprocal Compensation is as Described in the Act.

3.23 Transit Service is the delivery of certain traffic between Carrier and a third party ILEC, CLEC or CMRS provider by Frontier over a separate trunk group between Carrier and Frontier where appropriate trunks exist between Carrier and third party through Frontier's tandem. The following traffic types will be delivered: (i) Local Traffic originated from Carrier to such third-party and (ii) Local Traffic originated from such third-party to Frontier's tandem and terminated to Carrier.

3.24 A Wire Center is the location of one or more local switching systems, a point at which End Users' loops converge.

3.25 VNXX Traffic. The Parties will not pay reciprocal compensation on traffic, including Information Access Traffic, when the traffic does not originate and terminate within the same Frontier Local Calling Area, regardless of the calling and called NPA-NXXs and, specifically, regardless whether an End User Customer is assigned an NPA-NXX associated with a rate center that is different from the rate center where the End User Customer is physically located. This traffic is also known as "VNXX traffic." Frontier's agreement to the terms in this paragraph is without waiver or prejudice to Frontier's position is that it has never agreed to exchange VNXX traffic with Carrier.

SECTION 4. DEPOSIT and ADVANCE PAYMENT REQUIREMENTS

4.1 Frontier may, in order to safeguard its interest, require Carrier to make a deposit to be held by Frontier as a guarantee of the payment of rates and charges, unless satisfactory credit has already been established. Any such deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service. A deposit will be returned with interest, at the Commission prescribed deposit rate, if and when Carrier pays its undisputed bills on time for 24 consecutive months.

4.2 Such deposit may not exceed two (2) months' estimated billing.

4.3 The fact that a deposit has been made in no way relieves Carrier from complying with Frontier's regulations as to advance payments and the prompt payment of bills on presentation nor, does it constitute a waiver or modification of the regular practices of Frontier providing for the discontinuance of service for non-payment of any sums due Frontier.

4.4 Frontier reserves the right to increase the deposit requirements when, in its sole judgment, the conditions justify such action; such conditions include but are not limited to: current deposit does not cover two (2) months' billing, history of late payment, or reconnection after disconnection for non-payment, or a significant probability of a bankruptcy filing by Carrier.

4.5 In the event that Carrier defaults on its account, service to Carrier will be terminated and any deposits held will be applied to its account

SECTION 5. CARRIER ACCOUNT SET UP

Carrier must provide the appropriate Frontier representative the necessary documentation to enable Frontier to establish a master account for Carrier. Such documentation will include a completed Carrier Master Account Questionnaire, proof of authority to provide telecommunications services within Frontier territory, proof that tariffs are on file and approved by the applicable Commission, and a tax exemption certificate, if applicable. Frontier will have no obligation to begin taking orders for service until after the necessary documents have been provided by Carrier to Frontier and the necessary deposit requirements are met.

SECTION 6. SERVICE TO END USER

6.1 Carrier will be the End User of Record for all services purchased from Frontier. Except as otherwise specified herein, Frontier will only take orders from, bill and expect payment from Carrier for all services. Carrier will be Frontier's single point of contact for all services purchased pursuant to this Agreement.

6.2 Frontier will continue to bill the End User for any services that the End User specifies it wishes to receive directly from Frontier.

6.3 Frontier maintains the right to actively market and serve directly any End User within Frontier's serving area. Frontier will continue to directly market its own telecommunications products and services and in doing so may establish independent relationships with End Users of Carrier.

6.4 Service is furnished subject to the condition that it will not be used for any unlawful purpose. Frontier may refuse to provide service to Carrier when it has reasonable grounds to believe that service will be used in violation of the law.

6.5 Service will be discontinued by Frontier if any law enforcement agency advises that the service is being used in violation of the law.

6.6 Frontier may refuse to provide service to Carrier when it has reasonable grounds to believe that service will jeopardize the reliability or efficiency of Frontier's network or interferes with or prevents other persons from using their service, or otherwise impairs the quality of service to other carriers or to End Users.

6.7 Carrier will be the single point of contact with Frontier for all subsequent ordering activity resulting in additions or changes to services except that Frontier will accept a request directly from the End User for conversion of the End User's service from Carrier to Frontier or will accept a request from another Carrier for conversion of the End User's service from the Carrier to the other Carrier.

SECTION 7. COORDINATION OF TRANSFER OF SERVICE (EXCLUDING RESALE)

7.1 Coordination of Transfer of Service To serve the public interest of End Users, the Parties agree that, when an End User transfers service from one Party to the other Party, it is necessary for the Parties to coordinate the timing for disconnection from one Party and connection with the other Party so that transferring End Users are not without service for any extended period of time. Other coordinated activities associated with transfer of service will be coordinated between the Parties to ensure quality services to the public.

7.2 Procedures for Coordinated Transfer of Service Activities The Parties agree to establish mutually acceptable, reasonable, and efficient transfer of service procedures that utilize the industry standard LSR.

format for the exchange of necessary information for coordination of service transfers between the Parties. Frontier may describe some of these procedures in its Guide. Reference to Frontier Guide is for convenience of the Parties and is not intended to be a part of or to affect the meaning of this Agreement, including, but not limited to, provisions with respect to implementation of the cooperative coordination of transfer of service activities described herein. If any provision contained in this Agreement and the Guide cannot be reasonably construed or interpreted to avoid conflict, the provision contained in this Agreement shall apply.

7.3 Coordinated Transfer of Service Activities. There will be no premium charges between the Parties or compensation provided by one Party to the other Party for the coordinated transfer of service activities between the hours of 8:00 a.m. and 5:00 p.m. Monday - Friday excluding holidays. Frontier may charge Carrier for the coordinated transfer of service activities scheduled outside of the specified hours in accordance with Frontier's tariff.

7.4 Letter of Authorization. Each Party is responsible for obtaining a Letter of Authorization (LOA) from each End User initiating transfer of service from one Party to the other Party if necessary. The Party obtaining the LOA from the End User will furnish it to the other Party upon request. The Party obtaining the LOA is required to maintain the original document, for a minimum of twenty-four (24) months from the date of signature. If there is a conflict between an End User and Carrier regarding the disconnection or provision of services, Frontier will honor the latest dated Letter of Authorization. If the End User's service has not been disconnected and services have not yet been established, Carrier will be responsible to pay the applicable service order charge for any order it has placed. If the End User's service has been disconnected and the End User's service is to be restored with Frontier, Carrier will be responsible to pay the applicable nonrecurring charges as set forth in Frontier applicable tariff to restore the End User's prior service with Frontier.

7.5 Transfer of Service Announcement. Where an End User changes service from one Party to the other Party and the End User does not retain his or her original telephone number, the Party formerly providing service to the End User will provide a transfer of service announcement, where transfer of service announcement capability is available, on the vacated telephone number. This announcement will provide details regarding the new number that must be dialed to reach this End User. The service announcement will be provided, where available, by the Party formerly providing service to the extent and at the price specified in the applicable Frontier tariff.

7.6 Disconnect and Transfer of Service Announcement Coordination for Service Transfers with Change of Number. When an End User changes service from one Party to the other Party and the End User does not retain his or her original telephone number, the Party from which the End User is transferring will honor requests for disconnection and service announcement initiation, where available, from the Party to which the End User is transferring. The Party to which the End User is transferring service will provide to the other Party the End User's name, address, current telephone number, new telephone number, and date service should be transferred using the industry standard LSR format. The Party from which the End User is transferring will coordinate with the other Party the disconnection and service announcement initiation to coincide with the service transfer request date. The service announcement where available will be provided on the vacant number upon disconnect coinciding with the service transfer date. The Parties agree that the installation date will precede the disconnection date.

7.7 Disconnect and Coordination of Number Portability for Service Transfers without Change of Number. When an End User changes service from one Party to the other Party and the End User retains his or her original telephone number(s), the Party from which the End User is transferring will honor requests for disconnection and local number portability, where available, from the Party to which the End User is transferring. The Party to which the End User is transferring will provide the other Party the End User's name, address, current telephone number, and the Location Routing Number (LRN) for LNP, and the date service should be transferred using the industry standard LSR format. With LNP, the Parties will coordinate the disconnection, the connection, and number portability activities in accordance with the North American Numbering Council (NANC) flows.

7.8 Combined Transfer of Service Requests Each Party will accept transfer of service requests from the other Party for one End User that includes multiple requests for transfers where the End User will retain one or more telephone numbers

7.9 Bulk Requests for Transfer of Service From time to time, either Party may benefit from the transfer of service for groups. The Parties agree to process bulk transfer of service requests for End Users having the same billing account number

7.10 Access to the Network Interface Device (NID) Each Party will allow the other Party access to the End User side of the NID consistent with FCC rules. The Party to which the End User is transferring service may move all inside wire from the other Party's existing NID to one provided by the Party to which the End User is transferring service. Where a NID is of the type which provides for End User access to one side of the NID, the Party to which the End User is transferring service may elect to remove the inside wire at the connection(s) within the End User side of the NID. Where a NID is of an older type not allowing access to the End User side of the NID, the Party to which the End User is transferring service must make a clean cut of the inside wire at the closest point to the NID

7.11 Expedited Order Charge Expedited order requests will be accepted where reasonable and practical but will be assessed an expedited order charge. The expedited order charges are listed in Attachment 7, Pricing

7.12 Service Date Modifications/ Carrier Not Ready Carrier may request a change in due date at least 24 hours prior to the originally scheduled due date. Supplemental charges will apply when a request for a new due date is received after the LSR has been confirmed via firm order commitment (FOC). Supplemental order charges are listed in Attachment 7, Pricing. Alternate workforce is required when an increase in the complexity of the service order results in a higher per hour rate. If the new service date is changed to an earlier date, than expedited order charges will apply. If the request for modification to the service date occurs within twenty-four (24) hours of the scheduled due date, Carrier will be subject to charges for work and labor-related expenses already completed. If the due date change is requested due to a class of service change, additional and/or alternate workforce may be required and associated charges will apply. These charges will apply on a per occurrence basis

SECTION 8. AUDIT

8.1 Subject to the terms and conditions of this Section, and the reasonable security requirements of each Party and except as may be otherwise specifically provided in this Agreement, each Party (the "Auditing Party") may audit the other Party's (the "Audited Party") books, records and other documents that relate solely to the Parties' billing to the other Party under this Agreement and to the identification of traffic subject to this Agreement, once each year at the conclusion of each calendar year, in order to evaluate the accuracy of such other Party's billing and invoicing. The Parties may employ other persons or firms for this purpose. Such audits shall take place at a time and place agreed to by the Parties no later than thirty (30) days after notice thereof to such other Party.

8.2 Each Audited Party shall use reasonable efforts to promptly correct any billing error that is revealed in an audit, including reimbursing any overpayment in the form of a credit to the Auditing Party on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results. Any disputes concerning audit results shall be resolved pursuant to the Dispute Resolution Section of the General Terms and Conditions of this Agreement.

8.3 Each Audited Party shall cooperate fully in any such audit, providing reasonable access to any such auditors, providing reasonable access to any and all appropriate employees and relevant books, records and other documents reasonably necessary to assess the accuracy of its bills

8.4 Each Auditing Party may perform a single additional audit of the Audited Party's relevant books, records and documents during any calendar year if the previous audit uncovered incorrect net variances

or errors in invoices in favor of the Audited Party having an aggregate value of no less than five percent (5%) of the total amount payable by the Auditing Party during the period covered by the audit.

8.5 All audits shall be conducted at the sole cost and expense of the Auditing Party

8.6 Upon (i) the discovery by either Party of the overcharges not previously reimbursed to the other Party or (ii) the resolution of disputed audits, each Party shall promptly reimburse to the Party thereto the amount of any overpayment together with interest thereon at a rate of 0.5% per month

SECTION 9. DISPUTE RESOLUTION

The Parties agree that in the event of a default or any other dispute arising hereunder or in connection herewith, the aggrieved Party shall first discuss the default or dispute with the other Party and seek resolution prior to taking any action before any court or regulator or before authorizing any public statement about or disclosure of the nature of the dispute to any third party. In the event that the Parties are unable to resolve a default or other dispute, the Parties shall then submit the matter to the Commission or another mutually agreed upon mediator for non-binding mediation. If mediation is unsuccessful, recourse may be had by either Party to the Commission, if it has jurisdiction over the breach or dispute or to an appropriate court having jurisdiction over the Parties and the dispute. Each Party shall bear the cost of preparing and presenting its case through all phases of the dispute resolution procedure herein described

SECTION 10. FORCE MAJEURE

If the performance of the Agreement, or any obligation hereunder is prevented, restricted or interfered with by reason of any of the following:

- 10.1 Fire, explosion, flood, earthquake, hurricane, cyclone, tornado, storm, epidemic, breakdown of plant or power failure;
- 10.2 War, revolution, civil commotion, acts of public enemies, terrorism, blockade or embargo;
- 10.3 Any law, order, proclamation, regulation, ordinance, demand or requirement of any government or any subdivision, authority, or representative of any such government;
- 10.4 Labor difficulties, such as strikes, picketing or boycotts;
- 10.5 Delays caused by other service or equipment vendors;
- 10.6 Any other circumstance beyond the reasonable control of the Party affected;

then the Party affected, upon giving notice to the other Party, will be excused from such performance on a day-for-day basis to the extent of such prevention, restriction, or interference (and the other Party will likewise be excused from performance of its obligations on a performance so prevented, restricted or interfered with); provided that the Party so affected will use reasonable efforts to avoid or remove such causes of nonperformance and both Parties will proceed to perform with dispatch whenever such causes are removed or cease

SECTION 11. REGULATORY APPROVALS

11.1 This Agreement, and any amendment or modification hereof, will be submitted to the Commission for approval in accordance with Section 252 of the Act. In the event any governmental authority or agency of competent jurisdiction rejects any provision hereof, the Parties shall negotiate promptly and in good faith such revisions as may reasonably be required to achieve approval

11.2 In the event the FCC or the Commission promulgates rules or regulations, rates or issues orders, or a court with appropriate jurisdiction issues orders, which make unlawful or changes the intent of any provision of this Agreement, the Parties shall negotiate promptly and in good faith in order to amend the Agreement to substitute contract provisions which are consistent with such rules, regulations or orders. In the event the Parties cannot agree on an amendment within thirty (30) days from the date any such rules, regulations or orders become effective, then the Parties shall resolve their dispute under the applicable procedures set forth in the Dispute Resolution Section of this Agreement.

11.3 The Parties acknowledge that terms of this Agreement were established pursuant to FCC and Commission orders. Nothing in this Agreement shall be deemed an admission by the Parties regarding the interpretation or effect of these rules or orders or an admission by either party that the existing rules or order shall not be changed, vacated, dismissed or modified.

11.4 The Parties jointly agree to cooperate in the filing of this Interconnection Agreement and share equally the expenses associated with obtaining Commission approval.

SECTION 12. ENTIRE AGREEMENT

This Agreement sets forth the entire understanding and supersedes prior agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them, and neither Party will be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby.

SECTION 13. TERM OF AGREEMENT

13.1 This Agreement will become effective upon the first business day following the date this Agreement has been approved by the Commission and will continue for a period of one (1) year unless terminated earlier under the conditions set forth herein. This Agreement will be automatically renewed for successive periods of six (6) months after the initial term unless either Party provides the other Party with no less than ninety (90) day's prior, written notification of, in the case of Frontier, its intent to terminate this Agreement, or, in the case of either Party, its desire to renegotiate at the end of the initial or any successive period. If Carrier does not respond to Frontier's written notification of the intent to terminate the Agreement prior to the expiration of the Agreement term, the Agreement will terminate and not renew at the end of the Agreement term. Either Party may send a request to renegotiate this Agreement upon its termination and the Parties intend that the negotiation and arbitration processes of the Act will be applicable to such a request. The date of the notice to negotiate a successor agreement will be the starting point for the negotiation window under Section 252 of the Act. The Parties intend that a renegotiated or arbitrated Agreement will be effective as of the date of termination of this Agreement and any new negotiated or arbitrated rates will be subject to true-up as of the termination date of this Agreement.

13.2 Upon termination or expiration of this Agreement each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement.

SECTION 14. INSURANCE

14.1 Carrier will carry or cause to be carried the following insurance coverage which will be paid for and maintained at all times during the term of this Agreement. Such coverage will be provided through an insurance provider with an A.M. Best financial rating of "A" or better. Frontier shall be named as an additional insured on all applicable policies as specified below except for Workers' Compensation.

- (i) Commercial General Liability Insurance with a minimum limit of liability of \$2,000,000.00 combined single limit for each occurrence for bodily injury including death, and property damage. Such coverage under the Contractual Liability section will be broad enough to cover the terms and

conditions of the Indemnification clause included with this Agreement Coverage for explosion collapse and underground ("x, c, u") will be included

(ii) Business Automobile Liability Insurance with a minimum limit of liability of \$2,000,000 00 combined single limit for each occurrence for bodily injury, including death, and property damage, covering any automobile used and or operated by, or on behalf of the Carrier on Frontier's Real Property.

(iii) Workers Compensation Insurance with statutory limits and Employer's Liability Insurance with limits of \$500,000 each accident, \$500,000 disease - each employee, \$500,000 disease - policy limit

(iv) Excess Liability Insurance with a minimum limit of \$10,000,000 The limit of liability under this insurance may be increased accordingly to satisfy the minimum limit requirements under the Commercial General Liability, Business Automobile Liability and Employer's Liability Insurances

(v) Property Insurance in an amount sufficient to cover the cost of replacing Carrier's Equipment on Frontier's property or located at or used at Frontier's facility. Such insurance policy will provide that the insurance company will waive all rights of recovery by way of subrogation against Frontier in connection with any damage covered by the policy.

(vi) Upon the commencement of this Agreement and upon renewal of any policy referenced, satisfactory evidence of compliance with such insurance requirements will be issued to the Frontier. The insurance companies referenced on such evidence will give the Licensor at least thirty (30) days advance written notice of any material change to, and/or cancellation of any of the policies referenced in such evidence.

(vii) All insurance must be in effect on or before the occupancy date and shall remain in force as long as Carrier's facilities remain within any spaces governed by this Agreement. If Carrier fails to maintain the coverage, Frontier may pay the premiums thereon and Carrier shall reimburse Frontier for such payments

(viii) Carrier shall present a certificate of insurance reflecting the coverage specified in 6 1 1 (a), (b), (c), (d) and (e) above prior to the commencement of the work called for in the Agreement Carrier shall arrange for Frontier to receive thirty (30) days advance notice of cancellation from its insurance companies.

(ix) Failure to comply with the provisions of this Section will be deemed a material breach of this Agreement

SECTION 15. AMENDMENT OF AGREEMENT

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

SECTION 16. WAIVERS

16 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

16 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

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

SECTION 17. INDEPENDENT CONTRACTORS

Each Party agrees that it will perform its obligations hereunder as an independent contractor and not as the agent, employee, or servant of the other Party. Neither Party nor any personnel furnished by such Party will be deemed an employee or agent of the other Party nor be entitled to any benefits available under any plans for such other Party's employees. Each Party will at all times during the term of this Agreement retain full control of the employment, direction, compensation and discharge of all employees as is consistent with and necessary to preserve its independent contractor status. Each Party will be solely responsible for all matters relating to payment of its employees including compliance with social security taxes, withholding taxes, worker's compensation, disability and unemployment insurance, and all other regulations governing such matters.

SECTION 18. LIMITATION OF LIABILITY

18.1 Each Party's liability to the other Party for any loss relating to or arising out of any act or omission in its performance under this Agreement, whether in contract, warranty, strict liability, or tort, including (without limitation) negligence of any kind, shall be limited to the total amount that is or would have been charged to the other Party by such breaching Party for the service(s) or function(s) not performed or improperly performed.

18.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 18.1, NEITHER PARTY WILL BE LIABLE TO THE OTHER IN CONNECTION WITH THE PROVISION OR USE OF SERVICES PROVIDED UNDER THIS AGREEMENT. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOSS, COST, CLAIM, INJURY, LIABILITY OR EXPENSE, INCLUDING REASONABLE ATTORNEY'S FEES, RELATING TO OR ARISING OUT OF ANY ORDINARY NEGLIGENT ACT OR OMISSION BY A PARTY. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, INCOME OR REVENUE, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY AND WHETHER SUCH DAMAGES WERE FORESEEABLE OR NOT AT THE TIME THIS AGREEMENT WAS EXECUTED.

18.3 No liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants or employees for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, termination, changing, or providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of gross negligence or willful misconduct.

SECTION 19. INDEMNITY

19.1 Each Party will each defend, indemnify, hold harmless the other Party from any liabilities, claims or demands (including the costs, expenses and reasonable attorney's fees on account thereof) that may be made by third parties for (a) personal injuries, including death, or (b) damage to tangible property resulting from the sole negligence and/or sole willful misconduct of that Party, its employees or agents in the performance of this Agreement. Each Party will defend the other at the other's request against any such liability, claim, or demand. Each Party will notify the other promptly of written claims or demands against such Party of which the other Party is solely responsible hereunder.

19.2 Each Party will each defend, indemnify, hold harmless the other Party and/or acquire any license or right for the benefit of the other Party, arising from any claim, demand or proceeding (hereinafter "Claim") by any third party alleging or asserting that the use of any circuit, apparatus, or system, or other

facilities, or the use of any software, or the performance of any service or method, or the provision or use of any facilities by either Frontiers or Carrier 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. Each Party's indemnification obligation will be to the extent of infringement by the indemnifying Party.

19.3 The indemnified Party will notify the indemnifying Party promptly in writing of any claims, lawsuits, or demands by third Parties for which the indemnified Party alleges that the indemnifying Party is responsible under this Section and if requested by the indemnifying Party, shall tender the defense of such claim, lawsuit or demand.

(1) In the event the indemnifying Party does not promptly assume or diligently pursue the defense of the tendered action, then the indemnified Party may proceed to defend or settle said action and the indemnifying Party shall hold harmless the indemnified Party from any loss, cost, liability, damage and expense.

(2) In the event the Party otherwise entitled to indemnification from the other elects to decline such indemnification, then the Party making such an election may, at its own expense, assume defense and settlement of the claim, lawsuit or demand.

(3) The Parties will cooperate in every reasonable manner with the defense or settlement of any claim, demand, or lawsuit.

19.4 Notwithstanding any other provisions of this Agreement, in the case of claims or loss alleged or incurred by an End User Customer of Carrier arising out of or in connection with services provided to the End User Customer by Carrier, Carrier shall defend and indemnify Frontier and its officers, directors, employees and agents against any and all such claims or loss by Carrier's End User Customers.

SECTION 20. DISCLAIMER OF WARRANTIES

20.1 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE PARTIES' RESPECTIVE INDEMNIFICATION OBLIGATIONS), THE PARTIES AGREE THAT FRONTIER HAS NOT MADE, AND THAT THERE EXISTS, NO WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY CARRIER OF FACILITIES, ARRANGEMENTS, OR SERVICES PROVIDED BY FRONTIER UNDER THIS AGREEMENT WILL NOT GIVE RISE TO A CLAIM BY ANY THIRD PARTY OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT OF SUCH THIRD PARTY.

20.2 It is the express intent of the Parties that each Party be solely responsible for all claims of its End Users, including, without limitation, any credits or adjustments that may be issued or required to be issued to its End Users.

SECTION 21. ASSIGNMENT

Any assignment or delegation by either Party to any non-affiliated entity or to any affiliated entity that is not certificated as a local exchange Carrier of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other Party shall be void. A Party assigning or delegating this Agreement or any right, obligation, duty or other interest hereunder to an affiliate that is certificated as a local exchange Carrier shall provide written notice to the other Party. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement.

SECTION 22. CONTROLLING LAW

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

SECTION 23. SEVERABILITY

Subject to Section 10, Regulatory Approval, if any part of this Agreement is held to be invalid for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect.

SECTION 24. NO JOINT VENTURE OR THIRD PARTY BENEFICIARIES

24.1 Nothing herein contained shall be construed as creating a partnership or joint venture by or between the Parties.

24.2 The provisions of this Agreement are for the benefit of the Parties and not for any other Person. This Agreement will not provide any Person not a Party to this Agreement with any remedy, claim, liability, reimbursement, claim of action, or other right in excess of those existing by reference in this Agreement.

SECTION 25. CHARGES AND PAYMENTS

25.1 In consideration of the services provided by Frontier under this Agreement, Carrier shall pay the charges set forth in this Agreement and in applicable tariffs. In consideration of the services provided by Carrier under this Agreement, Frontier shall pay the charges set forth in this Agreement. Invoices with charges set forth in this Agreement and in applicable tariffs shall be sent to:

TO CARRIER
(PLEASE ADD INFORMATION HERE)

TO FRONTIER:

Frontier, a Citizens Communications Company
Attention: Access Validation
14500 Burnhaven Dr. Suite 193
Burnsville, MN 55306

25.2 A monthly billing statement with a consistent, regular bill date shall be prepared by each Party and will reflect the calculation for amounts due under this Agreement. All bills dated as set forth above will be due thirty (30) days after the bill date or by the next bill date (i.e., the same date in the following month as the bill date), whichever is the shortest interval, except as provided herein, and are payable in immediately available funds. If such payment date would cause payment to be due on a Saturday, Sunday or Legal Holiday, payment for such bills will be due on the last business day preceding the Saturday, Sunday or Legal Holiday. When a bill has been delayed, the due date will be extended by the number of days the bill was delayed, upon request of the receiving Party.

25.3 Billing: The Parties agree that disputed and undisputed amounts due under this Agreement shall be handled as follows:

25.3.1 If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the Billed Party) shall within thirty (30) days of its receipt of the invoice containing such a disputed amount give written notice to the Billing Party of the amount it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Billed Party shall pay when due all undisputed amounts to the Billing Party, and shall include a copy of the dispute with the payment of the undisputed amount

25.3.2 In the event that a billing dispute is resolved in favor of the Billed Party, any payment of the disputed amount withheld pending settlement of the dispute shall not be subject to the late payment penalty

25.3.3 In the event that a billing dispute is resolved in favor of the Billing Party, any payments withheld pending settlement of the dispute will be subject to the late payment penalty as set forth herein

25.3.4 Undisputed amounts shall be paid when due as set forth in Section 24.2 above. If any payment or portion thereof is either received by the Billing Party in funds that are not immediately available to the Billing Party or not received by the bill due date, a late payment penalty shall be due to the Billing Party. The late payment penalty shall be 1.5% per month or 18% annually, or the maximum allowed by law, whichever is less

25.4 Both Parties shall use the Dispute Resolutions procedures as described herein

SECTION 26. DEFAULT

26.1 In the event of breach of any material provision of this Agreement by either Party, the non-breaching Party shall give the other Party written notice thereof, and:

26.1.1 If such material breach is for non-payment of amounts due hereunder, the breaching Party shall cure such breach within ten (10) days of receiving such notice. The non-breaching Party shall be entitled to pursue all available legal and equitable remedies for such breach. Amounts disputed in good faith and withheld or set off shall not be deemed "amounts due hereunder" for the purpose of this provision. Neither Party shall withhold or set off undisputed amounts

In addition, if such material breach is for non-payment of amounts due hereunder and such amounts have not been disputed, the non-breaching Party may:

(1) refuse additional applications for any service provided under this Agreement;

(2) refuse to complete any pending orders for additional services any time thereafter, and/or;

(3) on thirty (30) days' written notice by overnight delivery or certified U.S. mail, with a copy to the Commission, to the person designated to receive such notice, discontinue the provision of existing services at any time thereafter

26.1.2 If the non-breaching Party does not refuse additional applications for additional services, and the non-payment continues, nothing contained herein shall preclude the non-breaching Party from refusing additional applications for services without further notice. If the non-breaching Party discontinues provision of the additional services, all applicable charges, including termination charges, shall become due. If the non-breaching Party does not discontinue the provision of

services on the date specified in the thirty (30) days notice, and the nonpayment continues, nothing contained herein shall preclude the non-breaching Party from discontinuing the provision of services without further notice

26.1.3 Frontier reserves the right to refuse an application for additional services made by any entity that owns or is substantially owned, directly or indirectly, by or is under common control with, Carrier, so long as Carrier or any such entity is indebted to Frontier for services previously furnished, until the indebtedness is satisfied. In the event that services are provided to Carrier or an entity that owns or is substantially owned, directly or indirectly, by or is under common control with, Carrier, such services may be terminated by Frontier unless Carrier satisfies the indebtedness owing to Frontier within thirty (30) days after written notification. Such notification shall be made by certified U. S. mail to the person designated by Carrier to receive such notices.

26.1.4 If such material breach is for any failure to perform in accordance with this Agreement, other than for non-payment of amounts due hereunder, or if either Party is otherwise in violation of the law, the non-breaching Party shall give notice of the breach and the breaching Party shall cure such breach within sixty (60) days of such notice, and if breaching Party does not, the non-breaching Party may, at its sole option, terminate this Agreement. The non-breaching Party shall be entitled to pursue all available legal and equitable remedies for such breach

SECTION 27. CONFIDENTIALITY AND PUBLICITY

27.1 All proprietary or confidential information ("Proprietary Information") disclosed by either Party during the negotiations and the term of this Agreement will be protected by both Parties in accordance with the terms provided herein

27.2 As used in this Agreement, the term "Proprietary Information" will mean written, recorded, machine readable or other information provided in tangible form to one Party by the other Party regarding the above referenced subject matter and which is marked proprietary or confidential with the appropriate owner corporation name, e.g., "Frontier Proprietary". Information disclosed orally will not be considered proprietary unless such information is reduced to writing by the disclosing Party and a copy is delivered to the other Party within thirty (30) business days after such oral disclosure. The writing will also state the place, date and person(s) to whom disclosure was made

27.3 Each Party agrees that it will not disclose any Proprietary Information of the other Party in whole or in part, including derivations, to any third party for a period of three (3) years from the date of disclosure unless the Parties agree to modify this Agreement to provide for a different nondisclosure period for specific materials. Neither Party will be liable for inadvertent or accidental disclosure of Proprietary Information of the other Party provided that:

27.3.1 each Party uses at least the same degree of care in safeguarding such Proprietary Information as it uses for its own proprietary information of like importance, and such degree of care will be reasonably calculated to prevent such inadvertent disclosure;

27.3.2 it limits access to such Proprietary Information to its employees and agents who are directly involved in the consideration of the Proprietary Information and informs its employees and agents who have access to such Proprietary Information of its duty not to disclose; and

27.3.3 upon discovery of any such inadvertent disclosure of Proprietary Information, it will endeavor to prevent any further inadvertent disclosure

27.4 Information will not be deemed proprietary and the receiving Party will have no obligation with respect to any such information which:

27.4.1 is or becomes publicly known through no wrongful act, fault or negligence of the receiving Party; or

27.4.2 was known by the receiving Party or by any other affiliate or subsidiary of the receiving Party prior to disclosure, or is at any time developed by the receiving Party independently of any such disclosure; or

27.4.3 was disclosed to the receiving Party by a third party who was free of obligations of confidentiality to the disclosing Party; or

27.4.4 is disclosed or used by the receiving Party, not less than three (3) years following its initial disclosure or such other nondisclosure period as may be agreed in writing by the Parties; or

27.4.5 is approved for release by written authorization of the disclosing Party; or

27.4.6 is disclosed pursuant to a requirement or request of a governmental agency or disclosure is required by operation of law; or

27.4.7 is furnished to a third party by the disclosing Party without a similar restriction on the third party's rights

27.5 Since either Party may choose not to use or announce any services, products or marketing techniques relating to these discussions or information gained or exchanged during the discussions, both Parties acknowledge that one is not responsible or liable for any business decisions made by the other in reliance upon any disclosures made during any meeting between the Parties or in reliance on any results of the discussions. The furnishing of Proprietary Information to one Party by the other Party will not obligate either Party to enter into any further agreement or negotiation with the other.

27.6 Nothing contained in this Agreement will be construed as granting to one Party a license, either express or implied, under any patent, copyright, or trademark, now or hereafter owned, obtained, controlled, or which is or may be licensable by the other Party.

27.7 All publicity regarding this Agreement and its Attachments is subject to the Parties' prior written consent.

27.8 Unless otherwise agreed upon, neither Party will publish or use the other Party's name, language, pictures, or symbols from which the other Party's name may be reasonably inferred or implied in any advertising, promotion, or any other publicity matter relating directly or indirectly to this Agreement.

SECTION 28. NO RIGHTS TO THIRD PARTIES

This Agreement will not provide any third party, including, but not limited to any End User of Carrier, with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference to this Agreement.

SECTION 29. HEADINGS

The headings in this Agreement are for convenience and will not be construed to define or limit any of the terms herein or affect the meanings or interpretation of this Agreement.

SECTION 30. EXECUTION IN DUPLICATE

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

SECTION 31. NOTICES

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

TO CARRIER:
Carrier

TO FRONTIER:

Frontier, a Citizens Communications Company
Attn: Kim Czak, Director, Carrier Services
180 South Clinton Avenue
Rochester, NY 14646
Tel. No 585-777-7124

AND

Frontier, a Citizens Communications Company
Attn: Associate General Counsel
180 S Clinton Ave, 7th Floor
Rochester, NY 14646

If personal delivery is selected to give notice, a receipt of such delivery shall be obtained. 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.

The Parties have caused this Local Interconnection Agreement to be executed on their behalf on the dates set forth below.

CARRIER

FRONTIER

By: _____

By: _____

Typed: _____

Typed: _____

Title: _____

Title: ____

Date: _____

Date: _____

ATTACHMENT 1

INTERCONNECTION

ATTACHMENT 1 – INTERCONNECTION

The Parties hereto, agree to interconnect their facilities and networks for the transport of Local Traffic as follows:

SECTION 1. Interconnection Trunking Arrangements

1.1 The Parties will interconnect their networks as specified in the terms and conditions contained herein. POIs set forth in this Attachment, may be modified from time to time by either Party with the written consent of the other Party, which consent will not be unreasonably withheld. Carrier will agree to establish each POI at a technically feasible point on Frontier's network. In order to establish direct Interconnection, a POI is required at one or more of the following locations:

- a) POI at the Frontier local tandem office where available which will provide switched Interconnection to Frontier End Users served by subtending host and remote offices
- b) POI at the Frontier Host Office, which will provide switched Interconnection to Frontier's End Users' served by that host office and subtending remote offices

1.2 In order for Carrier to establish a POI, a request will need to be submitted using the POI Request Form located at www.frontieronline.com

1.3 Each Party will be responsible for the engineering and construction of its own network facilities on its side of the POI, however, should Frontier be required to modify its network to accommodate the Interconnection request made by Carrier, Carrier agrees to pay Frontier reasonable charges for such modifications. If Carrier uses a third party network to reach the POI, Carrier will bear all third party Carrier charges for facilities and traffic in both directions on its side of the POI.

1.4 Carrier will be responsible for establishing separate trunk groups for:

1.4.1 Local Traffic including ISP Bound Traffic and locally-dialed Enhanced Services traffic

1.4.2 Access Services to enable Interexchange Carriers to originate and terminate traffic from/to Carrier or for Carrier and Frontier to exchange traffic other than Local Traffic

1.4.3 Transit Service traffic when connected to a Frontier tandem

1.4.4 Carrier's services as an interexchange service provider are subject to Frontier's access tariffs

1.4.5 Connecting Carrier's switch to the applicable E911 routers. If Carrier purchases such services from Frontier, they will be provided at full applicable tariff rates. For all 911/E911 traffic originating from Carrier, it is the responsibility of Carrier and the appropriate state or local public safety answering agency to negotiate the manner in which 911/E911 traffic from Carrier will be processed

1.5 The Parties mutually agree that all Interconnection facilities will be sized according to mutual forecasts and sound engineering practice, as mutually agreed to by the Parties. The Parties further agree that all equipment and technical Interconnections will be in conformance with all generally accepted industry standards with regard to facilities, equipment, and services

1.6 Interconnection will be provided via two-way trunks. The only compensation or other responsibility for payment for terminating traffic from the POI onward shall be Reciprocal Compensation, if applicable and/or Transit Service charges where a Frontier tandem is used to reach a third party's network and/or Switched Access charges where Carrier is acting as an Interexchange Carrier. The mutually agreed upon

technical and operational interfaces, procedures, grade of service and performance standards for Interconnection between the Parties will conform with all generally accepted industry standards with regard to facilities, equipment, and services. All Interconnection facilities and trunking will be ordered using industry standard ASR as referenced in Frontier's Local Service Provider Guide

1 7 Carrier will not expect Frontier's local end office switches to act as a tandem on the Carrier's behalf nor will Frontier expect the Carrier's local end office switches to act as a tandem on Frontier's behalf

1 8 This Agreement is applicable only to Frontier's serving areas. Frontier will not be responsible for Interconnections or contracts relating to any Carrier's Interconnection with any other service provider or telecommunications carrier

1 9 If Carrier provides service using an NPA-NXX assigned to a rate center where Frontier provides extended area service or a applicable regulatory authority approved optional calling plan, and Carrier chooses to indirectly interconnect by using the tandem switching facilities of a third party, Frontier will have no obligation to route and rate traffic to Carrier's NPA-NXX as an EAS call or pursuant to an optional calling plan unless Carrier has established a trunking and transiting arrangement for this traffic with Frontier and the other telecommunications carrier(s) utilizing the trunk and providing transiting service for the traffic

1 10 If a Carrier End User customer ports a number from Carrier to another carrier and Frontier routes a call to that ported number to Carrier, Carrier will route the call to the new carrier and may assess Frontier a charge not to exceed Frontier's charge for an non-queried call

1 11 Signaling Systems and Administration

1.11 1 The Parties will, where Frontier has the capability, interconnect their networks using SS7 signaling associated with all Interconnection trunk groups as defined in Telcordia GR-246 "Bell Communications Research Specification of Signaling Systems 7 (SS7) and GR-905, "Common Channel Signaling Network Interface Specification (CCSNIS) Supporting Interconnection, Message Transfer Part (MTP), and Integrated Services Digital Network (ISDN) User Part (ISUP) "including ISDN User Part ("ISUP") for trunk signaling and Transaction Capabilities Application Part ("TCAP") for CCS-based features in the Interconnection of their networks. For glare resolution, Frontier will have priority on odd trunk group member circuit identification codes, and carrier will have priority on even trunk group member circuit identification codes, unless otherwise mutually agreed

SECTION 2. Testing and Trouble Responsibilities

The Parties agree to:

2 1 Cooperatively plan and implement coordinated repair procedures for the local Interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner

2 2 Provide trained personnel with adequate and compatible test equipment to work with each other's technicians

2 3 Promptly notify each other when there is any change affecting the service requested, including the date service is to be started

2 4 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.

2.5 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.

2.6 Provide each other with a trouble reporting number to a work center that is staffed 24 hours a day/7 days a week.

2.7 Based on the trunking architecture, provide 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.

2.8 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:

2.8.1 No trouble is found in the Interconnection trunks; or

2.8.2 The trouble condition results from equipment, facilities or systems not provided by the Party whose personnel were dispatched; or

2.8.3 Trouble clearance did not otherwise require a dispatch, and upon dispatch requested for repair verification, the Interconnection trunk does not exceed maintenance limits

2.8.4 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

2.8.5 Billing for maintenance service is based on Frontier's respective tariff.

SECTION 3. Interconnection Forecasting.

3.1 Semi-annually Carrier will provide Frontier a one (1) year forecast for expected trunk utilization. Orders for trunks that exceed forecasted quantities for forecasted locations will be accommodated as facilities and/or equipment are available.

3.2 The forecasts will include the number, type and capacity of trunks as well as a description of major network projects anticipated for the following six months. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities that are reflected by a significant increase or decrease in trunking demand for the following forecast period.

3.3 If a trunk group is under 75 percent of centum call seconds capacity on a monthly average basis for each month of any six month period, either Party may issue an order to resize the trunk group, which will be left with not less than 25 percent excess capacity. The grade of service for all final facilities between Frontier's central office and Carrier's will be engineered to achieve P.01 grade of service.

SECTION 4. Reciprocal Compensation for the Transport and Termination of Interchanged Traffic.

4.1 The Parties agree to exchange ISP Bound Traffic on a bill and keep basis between the Parties such that neither Party owes the other Party any compensation for the origination, transport or termination of such traffic. The preceding sentence applies only to the exchange of traffic between these Parties and a separate determination of what ISP Bound Traffic was exchanged between Frontier and any other party adopting this Agreement under 47 U.S.C. § 252(i) shall be required in order to determine the appropriate compensation of ISP-Bound Traffic between Frontier and any such other party.

4.1.1 Neither Party expects to terminate material amounts of Local Traffic to the other Party, and to the extent the Parties terminate Local Traffic they expect the volume of Local Traffic each

Party terminates to be comparable, thereby justifying the use of combined trunks for Local Traffic and ISP Bound Traffic under Attachment 1, Section 1.4. As such it will not be possible to identify Local Traffic and the Parties will reciprocally compensate each other using bill and keep.

4.2 The Parties will exchange Enhanced Services traffic other than ISP-Bound Traffic on a bill and keep basis.

4.2.1 The fact that ISP Bound Traffic and de minimus amounts of Local Traffic are compensated for on a bill and keep basis shall not change the compensation set forth in this Agreement for any other traffic or services, including but not limited to facilities for Interconnection under Section 1 of this Attachment 1, Access Services traffic, wireless traffic, and Transit Service traffic.

4.3 All other Traffic, regardless of the protocols used in connection with such traffic, other than ISP Bound Traffic, Local Traffic, Enhanced Services Traffic, 911 traffic and Transit Service traffic, shall be terminated to a Party subject to that Party's tariffed access charges.

SECTION 5. Transit Service

5.1 Carrier shall compensate Frontier for Transit Service as follows:

Carrier shall pay Frontier a Transit Service charge as set forth in Attachment 7, Pricing for Transit Service originated by Carrier to any third party carrier, or terminated to Carrier from a third-party Incumbent Local Exchange Carrier.

5.1.1 Each Party acknowledges that Frontier does not have any responsibility to pay any charges for termination of any transit traffic originating from a non-Party's network.

ATTACHMENT 2

PRICING

Attachment 2 – PRICING

1.1 RECIPROCAL COMPENSATION

1.1.1 ISP Bound, pursuant to the Section 2.16 in the General Terms and Conditions, and Local wireline to wireline traffic will be terminated by the Parties on a Bill and Keep basis.

1.1.2 Transit Service—per MOU \$ 0.0061854/MOU

1.1.3 Wireline to Wireless traffic
or Wireless to Wireline traffic \$ 0.011/MOU

1.1.4 Carrier will provide accurate Calling Party Number ("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, Carrier agrees to pay the applicable intrastate terminating access charges for such traffic.

