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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

APPLICATION FOR APPROVAL OF
NEGOTIATED AGREEMENT BETWEEN
ALBION TELEPHONE COMPANY, INC.
AND SPRINT SPECTRUM L.P. d/b/a
SPRINT PCS NEXTEL WEST
CORPORATION NPCR, INC. d/b/a
NEXTEL PARTNERS

Case No.: ALB-7-07-02

**APPLICATION FOR APPROVAL OF
NEGOTIATED AGREEMENT**

1. Albion Telephone Company, Inc. ("Albion"), through its attorneys Givens Pursley LLP, hereby files this Application for Approval of Negotiated Agreement ("Agreement") between Albion and Sprint Spectrum L.P. d/b/a Sprint PCS Nextel West Corporation NPCR, Inc. d/b/a Nextel Partners ("Sprint"). A copy of the Agreement is submitted herewith.

2. This Agreement was reached through voluntary negotiations between Albion and Sprint and is submitted for Commission review and approval pursuant to Section 252(e) of the Telecommunications Act of 1996.

3. Section 252(e)(2) of the Telecommunications Act of 1996 directs that a state Commission may reject an agreement reached through voluntary negotiations if the Commission finds that: the agreement discriminates against a telecommunications carrier not a party to the

agreement; or the implementation of the agreement is not consistent with the public interest, convenience and necessity.

4. Albion respectfully submits that the Agreement does not discriminate and is consistent the public interest, and, therefore requests that the Commission approve this Agreement expeditiously. Approval of this Agreement will enable the parties to implement the Agreement and provide their respective customers with increased local telecommunications services choices.

5. The designated representative of each Party, for purposes of responding to inquiries in this matter is:

For Albion Telephone Company, Inc.:

Mike Dolezal
Albion Telephone Company, Inc.
P.O. Box 98
Albion, ID 83311

With copy to:

Conley E. Ward
Michael C. Creamer
Givens Pursley LLP
601 W. Bannock Street
P.O. Box 2720
Boise, ID 83701-2720

For Sprint:

Sprint
Attn: Manager, ICA Solutions
P.O. Box 7954
Shawnee Mission, KS 66207-0954

With copy to:

Sprint
Legal/Telecom Management Group
P.O. Box 7966
Shawnee Mission, KS 66208-0966

6. This Agreement does not affect the rights of non-parties and expeditious approval would further the public interest. Therefore, Albion requests that the Commission approve this Agreement without a hearing.

DATED this 30th day of May 2007.

GIVENS PURSLEY LLP

A handwritten signature in cursive script, appearing to read "Michael C. Creamer", written over a horizontal line.

Michael C. Creamer

Attorneys for Albion Telephone Company, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May 2007, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

Jean Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P.O. Box 83720
Boise, ID 83720-0074

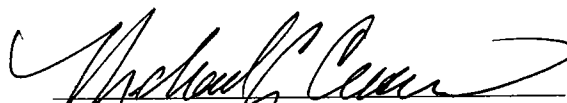
U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail

Sprint
Attn: Manager, ICA Solutions
P.O. Box 7954
Shawnee Mission, KS 66207-0954

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail

Sprint
Legal/Telecom Management Group
P.O. Box 7966
Shawnee Mission, KS 66207-0966

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery
 E-mail


Michael C. Creamer

**RECIPROCAL COMPENSATION
AGREEMENT**

By and Between

Albion Telephone Company, Inc.

and

**Sprint Spectrum L.P. d/b/a Sprint PCS
Nextel West Corporation
NPCR, Inc. d/b/a Nextel Partners**

For the State of Idaho

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This Reciprocal Compensation Agreement (“Agreement”), is entered into by and between Albion Telephone Company, Inc., an Idaho corporation (“ALBION”), Sprint Spectrum L.P. d/b/a Sprint PCS, a Delaware limited partnership, Nextel West Corporation, a Delaware corporation, and NPCR, Inc. d/b/a Nextel Partners, a Delaware corporation, (collectively referred to herein as “Sprint Nextel”), with offices at 6200 Sprint Parkway, Overland Park, Kansas 66251 (each referred to as a “Party” and collectively as “Parties”). This Agreement shall be deemed effective as of the date it is signed by both Parties (the “Effective Date”).

WHEREAS, Sprint Nextel is a Commercial Mobile Radio Service provider licensed by the FCC; and,

WHEREAS, ALBION is an incumbent Local Exchange Carrier (“LEC”) in the State of Idaho; and,

WHEREAS, the Parties exchange Telecommunication Traffic between their networks and wish to establish Reciprocal Compensation arrangements regarding such traffic as required under 47 U.S.C. §§ 251(a) and 251(b)(5); and,

NOW, THEREFORE, IN CONSIDERATION of the covenants contained herein, the Parties hereby agree as follows:

1. DEFINITIONS

Any term used in this Agreement that is not specifically defined herein shall have the definitions assigned to it (if any) in the Act. Any term used in this Agreement that is not defined herein or in the Act shall be interpreted in light of its ordinary meaning and usage, including any special or technical meaning or usage that such term may have within the telecommunications industry.

- 1.1. “Act” means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended and interpreted in the rules and regulations of the FCC.
- 1.2. “Commercial Mobile Radio Service” (“CMRS”) is as defined at 47 C.F.R § 20.3.
- 1.3. “Confidential Information” shall have the meaning ascribed in Section 19.
- 1.4. “End Office Switch” or “End Office” means the telephone company switch to which a telephone subscriber is connected that actually delivers dial tone to that subscriber, and also establishes line to line, line to trunk, and trunk to line connections.

- 1.5. "FCC" means the Federal Communications Commission.
- 1.6. "Interconnection" is direct or indirect connection through automatic or manual means (by wire, microwave, or other technologies such as store and forward) to permit the transmission or reception of messages or signals to or from points in the public switched network. 47 U.S.C. § 20.3.
- 1.7. "Interconnection Facilities" are the facilities or combination of facilities, circuits, service arrangements, trunks, and trunk groups used to deliver Telecommunications Traffic between the ALBION switch and the Sprint Nextel MSC. 47 U.S.C. § 20.3.
- 1.8. "Interconnection Point" ("IP") means any technically feasible point of demarcation where the exchange of traffic between two carriers takes place.
- 1.9. "Local Exchange Carrier" or "LEC" means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under Section 332(c), except to the extent that the FCC finds that such service should be included in the definition of such term. 47 U.S.C. § 153 (26).
- 1.10. "Major Trading Area" or "MTA" means the service areas based on the Rand McNally 1992 Commercial Atlas & Marketing Guide, 123rd edition, at pages 38-39. 47 C.F.R. §24.202(a).
- 1.11. "Mobile Switching Center" or "MSC" is a switching facility that is an essential element of the CMRS network which performs the switching for the routing of calls between and among its mobile subscribers and subscribers in other mobile or landline networks. The MSC is used to interconnect trunk circuits between and among End Office Switches and Tandem Switches, aggregation points, points of termination, or points of presence, also coordinates inter-cell and inter-system call hand-offs, and records all system traffic for analysis and billing.
- 1.12. "Reciprocal Compensation" means a compensation arrangement between two carriers in which each of the two carriers receives compensation from the other carrier for the Transport and Termination on each carrier's network facilities of Telecommunications Traffic that originates on the network facilities of the other carrier. 47 C.F.R. § 51.701(E).
- 1.13. "Commission" refers to the Idaho Public Utilities Commission.

- 1.14. "Tandem Switch" or "Tandem Office" is a switching facility that is used to interconnect trunk circuits between and among End Office Switches, aggregation points, points of termination, or points of presence.
- 1.15. "Telecommunications Traffic" is that traffic which originates and terminates within the same MTA. For purposes of determining whether traffic originates and terminates within the same MTA, and therefore whether the traffic is subject to reciprocal compensation, the location of the point of interconnection between the two carriers at the beginning of the call shall be used to determine the location of the mobile caller or called party.
- 1.16. "Termination" means the switching of Telecommunications Traffic at the terminating Party's End Office Switch, or equivalent facility, and delivery of such traffic to the called Party's premises.
- 1.17. "Transport" means the transmission and any necessary tandem switching of Telecommunications Traffic subject to Section 251(b)(5) of the Act from the Interconnection Point between the Parties to the terminating carrier's End Office Switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC.

2. INTERCONNECTION

This Agreement sets forth the rights and obligations of each Party to establish Interconnection to the extent described in this Agreement, to enable the exchange of Telecommunications Traffic between the networks of both Parties, and the Reciprocal Compensation rates to be charged for the exchange of such traffic pursuant to Section 251 and 252 of the Act.

- 2.1. Interconnection Point - The default Interconnection Point shall be at any mutually agreed upon tandem to which both Parties are connected, including any third-party Tandem Switch. Each Party shall be responsible for its own cost, including the cost of providing facilities from its network to the Interconnection Point, for the traffic that Party originates. Either Party shall be allowed to establish a different Interconnection Point for the traffic which that Party originates, provided that the new Interconnection Point does not increase the cost of transporting or terminating traffic for the other Party.
- 2.2. Traffic Exchanged
 - 2.2.1. The scope of the traffic subject to this Agreement shall be limited to that Telecommunications Traffic that originates from a subscriber on the network of one Party and is delivered to a

subscriber on the network of the other Party including, but not limited to, Telecommunications Traffic that is delivered via a third-party Tandem Switch.

2.2.2. The exchange of traffic between the Parties that is not Telecommunications Traffic as defined herein shall be accomplished using the existing toll telephone network.

2.2.3. The Parties agree that the exchange of traffic on ALBION's extended area calling service (EAS) routes shall be considered Telecommunications Traffic and compensation for the Termination of such traffic shall be paid pursuant to the terms of this Agreement. An NXX assigned to Sprint Nextel that is associated with an ALBION rate center shall be included in any EAS optional calling scope, or similar program to the same extent as any other NXX in the same rate center. EAS routes are those exchanges within a telephone exchange's local calling area, as defined in ALBION's general subscriber tariff.

2.3. General Provisions

Each Party shall construct, equip, maintain and operate its network in accordance with generally accepted engineering practices for telephone systems and in compliance with all applicable rules and regulations, as amended from time-to-time, of any regulatory body empowered to regulate any aspect of the facilities contemplated herein.

2.4. LERG Updates

It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to the Local Exchange Routing Guide (LERG) guidelines to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

2.5. SS7

SS7 Out of Band Signaling (CCS/SS7) shall be the signaling of choice where technically feasible for both Parties.

3. RATES AND CHARGES

3.1. The Parties agree to compensate one another for Telecommunications Traffic terminating on the network of one Party that originates on the other

Party's network at the rate set forth in Attachment 1. The Parties agree the rates shall become effective as of the Effective Date.

3.2. If the Telecommunications Traffic exchanged between the Parties is roughly balanced and falls within an agreed upon threshold ("Traffic Balance Threshold"), the Parties shall move to a bill and keep arrangement. The Parties agree that for purposes of this Agreement, the Traffic Balance Threshold is reached when the Telecommunications Traffic exchanged between the parties falls between 55% / 45% in either the wireless-to-landline or landline-to-wireless direction. When the actual usage data for three (3) consecutive months indicates that the Telecommunications Traffic exchanged falls within the Traffic Balance Threshold, then either Party may provide the other Party a written request, along with verifiable information to support such request, to eliminate billing for Reciprocal Compensation on an actual MOU basis. Upon written consent by the Party receiving the request, which shall not be withheld unreasonably, no billing for Reciprocal Compensation will ensue on a going forward basis from the date of the request. In the event the Parties do not agree to the provisions of this section, either Party may invoke the Dispute Resolution procedures as set forth in Section 19.

3.3. Notwithstanding the provisions of Section 6 herein, each Party shall, upon reasonable notice to the other Party, have the right to audit all billing and traffic records to verify their accuracy and consistency with the terms of this Agreement whenever the auditing Party believes the ratio of terminating to originating traffic between the Parties has become substantially disproportionate. Under no circumstance will either Party be responsible for compensation for chat-line or conference calling traffic.

3.4. Transit Traffic

Telecommunications Traffic that originates on either Party's network and terminates on the other Party's network via a third-party tandem (indirect traffic) will be charged at the network usage rate for Termination as set forth in Attachment 1. The originating Party is responsible for, and agrees to pay, any transit charges that may be assessed by the third-party tandem provider to deliver the originating Party's Telecommunications Traffic to the other Party.

3.4.1. The compensation rate for indirect traffic shall be subject to renegotiation between the Parties upon the written request of either Party if a transiting (third-party tandem) telecommunications provider, whose facilities or services are used in the Transport and Termination in connection with such

traffic, changes its applicable rates, terms or conditions for those intermediary services.

4. BILLING AND PAYMENT OF CHARGES

4.1. Measurement Standards

4.1.1. For purposes of billing compensation for the exchange of Telecommunications Traffic, billed minutes of use (MOU) will be based upon conversation time. Conversation time will be determined from actual usage recordings. Usage measurement begins when the terminating recording switch receives answer supervision from the terminating end user. The measurement of terminating call usage ends when the terminating entry switch receives or sends a release message, whichever occurs first. Measured MOUs are aggregated at the end of the billing cycle and then rounded to the nearest whole minute.

4.1.2. Any required mileage measurement shall be based on the industry standard Vertical and Horizontal Coordinate (V&H) mileage measurement process.

4.2. Bill Exchange

4.2.1. Format

ALBION will prepare its bill in accordance with its existing CABS / SECABS billing systems. Sprint Nextel will prepare its bill in accordance with the OBF (CABS BOS) industry standards. The Parties will make an effort to conform to current and future OBF (CABS BOS) standards, insofar as is reasonable.

4.2.2. Timing

The Parties will exchange billing information on a monthly basis. All bills will be due when rendered and will be considered past due thirty (30) days after the bill date.

4.2.3. Billing Disputes

The Parties agree that they will each make a good faith effort to resolve any billing dispute. If any portion of an amount due to a billing Party under this Agreement is subject to a dispute between the Parties, the billed Party shall, within thirty (30) days of its receipt of the invoice containing such disputed amount or discovery of a billing error, give written notice to

the billing Party of the amount it disputes (“Disputed Amount”) and include in such notice the specific details and reasons for disputing each item. However, billed Party may not dispute any amount more than 12 months from date of billing.

4.2.3.1. The Billed Party shall pay all undisputed amounts to billing Party when due.

4.2.3.2. If the dispute is resolved in favor of the billed Party and the billed Party has withheld payment of the disputed amount, no interest, or penalties will apply.

4.2.3.3. If the dispute is resolved in favor of the billed Party and the billed Party has paid the disputed amount, the billing Party will issue credit or reimbursement to the billed Party of the amounts paid in accordance with the terms of the resolution of the dispute.

4.2.3.4. If the dispute is resolved in favor of the billing Party and the billed Party has withheld payment of the disputed amount then such amount shall bear interest at the rate for late payments as set forth in Section 5 herein from the due date until payment is rendered.

4.2.3.5. any payments withheld shall be due and payable within thirty (30) days of resolution of the dispute.

4.2.4. Submission of Billings

The Parties will submit billing information to each other at the addresses set forth below. Separate billings will be forwarded by Albion to Sprint Nextel for each Operating Code Number used by Sprint Spectrum L.P., Nextel West Corporation, and NPCR, Inc., respectively, who each shall be deemed an individual “billed Party” with respect to their obligation to pay billed amounts and for purposes of resolving billing disputes.

Albion:
Albion Telephone Company, Inc.
Attn: Julie Lumb
225 West North Street
P.O. Box 98
Albion, ID 83311

Sprint Nextel (Sprint PCS Accounts)
Sprint Nextel Access Verification
P. O. Box 6827
Shawnee Mission, Kansas 66207-0942

Sprint Nextel (Nextel Accounts)
KSOPHL0412 -4A309
P. O. Box 7942
Overland Park, KS 66207-0942

4.3. Taxes

The billing Party shall charge and collect from the billed Party, and the billed Party agrees to pay to the billing Party, appropriate federal, state, and local taxes where applicable, except to the extent the billed Party notifies the billing Party and provides appropriate documentation that the billed Party qualifies for a full or partial exemption.

5. LATE PAYMENT CHARGES

If any undisputed amount due on a billing statement issued by one Party is not received by the other Party on the payment due date, then the billing Party may charge, and the billed Party agrees to pay, at the billing Party's option, interest on the past due balance at a rate equal to one and one-half percent (1 ½%) per month. Late payment charges shall be included on the next statement, except that late payment charges accrued on a Disputed Amount shall be due and owing as provided in a final determination of such dispute without the need for inclusion on the billing Party's monthly statement.

6. AUDITS

Either Party may conduct an audit of the other Party's books and records pertaining to the services provided under this Agreement no more than once per twelve (12) month period to evaluate the other Party's accuracy of billing, data and invoicing in accordance with this Agreement. Any audit shall be performed as follows: (a) following at least thirty (30) business days prior written notice to the audited Party, (b) subject to the reasonable scheduling requirements and limitations of the audited Party, (c) at the auditing Party's sole expense, (d) of a reasonable scope and duration, (e) in a manner so as not to interfere with the audited Party's business operations, and (f) in compliance with the audited Party's security rules.

7. IMPAIRMENT OF SERVICE

- 7.1. The characteristics and methods of operation of any circuits, facilities or equipment of either Party that are connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not interfere with or impair the service provided over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in providing its services. Neither shall the characteristics and methods of operation of the same circuits, facilities or equipment cause damage to the other Party's network, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities, or create hazards to the employees of either Party or to the public (each hereinafter referred to as an "Impairment of Service").
- 7.2. If either Party causes an Impairment of Service, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, then the Impaired Party may at its option temporarily discontinue the use of the affected circuit, facility or equipment.

8. TROUBLE REPORTING

- 8.1. In order to facilitate trouble reporting and to coordinate the repair of Interconnection Facilities, trunks, and other Interconnection arrangements provided by the Parties under this Agreement, each Party has established a single point of contact available 24 hours per day, seven days per week, at telephone numbers to be provided by the Parties. Each Party shall call the other at these respective telephone numbers to report trouble with connection facilities, trunks, and other Interconnection arrangements, to inquire as to the status of trouble ticket numbers in progress, and to escalate trouble resolution.

8.1.1. 24 Hour Network Management Contact

For ALBION:
NOC Contact Number:
Gary Earl 208-312-3236
gary@atcnet.net

For SPRINT NEXTEL:

Contact Number:

888-859-1400

Email:

NMC-NOCCManagers@sprint.com

NMC-NOCCSupervisors@sprint.com

- 8.2. Before either Party reports a trouble condition, it must first use its reasonable efforts to isolate the trouble to the other Party's facilities, service, and arrangements. Each Party will advise the other of any critical nature of the inoperative facilities, service, and arrangements and any need for expedited clearance of trouble. In cases where a Party has indicated the essential or critical need for restoration of the facilities, services or arrangements, the other Party shall use its best efforts to expedite the clearance of trouble.

9. TERM AND TERMINATION

- 9.1. This Agreement shall commence on the Effective Date and have an initial term of one year, unless earlier terminated as provided for in this Agreement, and shall continue in force and effect thereafter, for successive one-year terms unless replaced by another agreement or terminated by either Party upon written notice to the other Party (sixty) 60 days' prior to the end of the current term.
- 9.2. Notwithstanding Section 9.1, this Agreement shall be terminated in the event that:
- 9.2.1. the FCC revokes, cancels, does not renew or otherwise terminates Sprint Nextel' authorization to provide CMRS in the area served by ALBION, or the State Commission revokes, cancels, or otherwise terminates ALBION's certification to provide local service;
- 9.2.2. Either Party shall have the right to terminate this Agreement at any time upon written notice to the other Party in the event:
- 9.2.2.1. .the other Party is in arrears in the payment of any undisputed amount due under this Agreement for more than ninety (90) days, and the Party does not pay such sums within ten (10) business days of the other Party's written demand for payment;
- 9.2.2.2. the other Party is in material breach of the provisions of this Agreement and that breach continues for a period of thirty (30) days after the non-breaching Party notifies the breaching Party of such breach, including a

reasonably detailed statement of the nature of the breach; or

9.2.2.3. the other Party becomes bankrupt, or insolvent, makes a general assignment for the benefit of, or enters into any similar arrangement with creditors, or files a voluntary petition under any bankruptcy, insolvency or similar laws, or proceedings are instituted against it under any such laws seeking the appointment of a receiver, trustee or liquidator instituted against it which are not terminated within sixty (60) days of such commencement..

9.3. Upon expiration or request for termination of this Agreement, either Party may make written request to negotiate a new Agreement, pursuant to Section 252 of the Act. Upon receipt of such request to negotiate, the same terms, conditions, and rates set forth in this Agreement will continue in effect, as were in effect at the end of the latest term, or renewal, so long as negotiations are continuing pursuant to the Act. If either Party initiates an arbitration or mediation before the appropriate State Commission or FCC pursuant to Section 252 of the Act,, this Agreement will continue in effect only until the issuance of an Order, whether a final non-appealable order or not, by the State Commission or FCC resolving the issues set forth in such arbitration or mediation request. If neither Party files for arbitration or mediation and the parties have not mutually agreed to continue negotiations, then the Agreement shall immediately terminate.

10. LIABILITY UPON TERMINATION

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

11. AMENDMENTS

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

12. ASSIGNMENT

- 12.1. Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party, which consent shall not be unreasonably withheld, shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party.
- 12.2. Nothing in this Agreement shall prohibit Sprint Nextel from enlarging its CMRS network through management contracts with third-parties for the construction and operation of a CMRS system under the Sprint and or Nextel brand name and license. Traffic originating on such extended networks shall be treated as Sprint PCS traffic subject to the terms, conditions, and rates of this Agreement. Traffic traversing such extended networks shall be deemed to be and treated under this Agreement as "Sprint Nextel telecommunications traffic" when it originates on such extended network and terminates on ALBION's network, and as "ALBION telecommunications traffic" when it originates upon ALBION's network and terminates upon such extended network. Telecommunications traffic traversing on such extended networks shall be subject to the terms, conditions, and rates of this Agreement.
- 12.3. Either Party may enter into subcontracts with third-parties or affiliates as defined in the Act for the performance of any of its duties or obligations under this Agreement.

13. FORCE MAJEURE

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided however, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease.

14. GOVERNING LAW

- 14.1. This Agreement shall be governed by and construed and enforced in accordance with the Act, the applicable laws of the state of Idaho and the applicable Commission and FCC Rules and Regulations as amended. The Parties agree that venue for any actions that may be brought by either Party to enforce or interpret this Agreement shall be the State Commission or state or federal district courts in the State of Idaho, where appropriate.
- 14.2. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines that subsequently may be adopted by any federal, state or local governmental authority. Any modifications to this Agreement that may be necessitated by changes in applicable law shall be effected through good faith negotiations concerning modifications to this Agreement.

15. INDEPENDENT CONTRACTOR RELATIONSHIP

The persons implementing this Agreement on behalf of each Party shall be solely that Party's employees or contractors and shall be under the sole and exclusive direction and control of that Party. They shall not be considered employees of the other Party for any purpose. Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment of labor, hours of labor, health and safety, working conditions and payment of wages. Each Party shall also be responsible for its own expenses involved in all activities related to the subject of this Agreement and for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, workers' compensation, disability insurance, and federal and state withholding. Each Party shall indemnify the other for any loss, damage, liability, claim, demand, or penalty that may be sustained by reason of its failure to comply with this provision.

16. INDEMNIFICATION

- 16.1. Each Party (the "Indemnifying Party") shall indemnify and hold harmless the other Party ("Indemnified Party") from and against loss, cost, claim liability, damage, and expense (including reasonable attorney's fees) to customers and other third parties for:
- 16.1.1. damage to tangible personal property or for personal injury proximately caused by the negligence or willful misconduct of the Indemnifying Party, its employees, agents or contractors;

- 16.1.2. claims for infringement of patents arising from combining the Indemnified Party's facilities or services with, or the using of the Indemnified Party's services or facilities in connection with, facilities of the Indemnifying Party.
- 16.2. Notwithstanding this indemnification provision or any other provision in the Agreement, neither Party, nor its parent, subsidiaries, affiliates, agents, servants, or employees, shall be liable to the other for Consequential Damages (as defined in Section 20.3).
- 16.3. The Indemnified Party will notify the Indemnifying Party promptly and in writing of any claims, lawsuits, or demands by customers or other third parties for which the Indemnified Party alleges that the Indemnifying Party is responsible under this section, and, if requested by the Indemnifying Party, will tender the defense of such claim, lawsuit or demand.
 - 16.3.1. If 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.
 - 16.3.2. 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.
 - 16.3.3. The Parties will cooperate in every reasonable manner with the defense or settlement of any claim, demand, or lawsuit.
- 16.4. Neither Party shall accept the terms of a settlement that involves or references the other Party in any matter without the other Party's approval.

17. LIMITATION OF LIABILITY

- 17.1. No liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants, employees, officers, directors, or partners for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, 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.

17.2. Except as otherwise provided in Section 19, no Party shall be liable to the other Party for any loss, defect, or equipment failure caused by the conduct of the first Party, its agents, servants, contractors or others acting in aid or concert with that Party, except in the case of gross negligence or willful misconduct.

17.3. Except as provided in Section 19, no Party shall be liable to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages.

17.4. DISCLAIMER

EXCEPT AS OTHERWISE PROVIDED HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR INTENDED OR PARTICULAR PURPOSE WITH RESPECT TO SERVICES PROVIDED HEREUNDER. ADDITIONALLY, NEITHER PARTY ASSUMES ANY RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY THE OTHER PARTY WHEN THIS DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD-PARTY.

18. DISPUTE RESOLUTION

Except as provided under Section 252 of the Act with respect to the negotiation or approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following dispute resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

18.1. Informal Resolution of Disputes

At the written request of a Party ("Informal Resolution Request"), each Party will appoint a knowledgeable, responsible representative, empowered to resolve such dispute, to meet within thirty (30) days of such written request, and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions

