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02 DEC 6 PM 3 43

December 3, 2002

Hon. Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

DOCKET NO.

02-01276

Re: Petition for approval of Collocation License Agreement
between United Telephone-Southeast, Inc. and Maxcess, Inc.

Dear Chairman Kyle:

Enclosed are an original and thirteen copies of the Petition of United Telephone-Southeast, Inc. for approval of a Master Collocation License Agreement between United Telephone-Southeast, Inc. and Maxcess, Inc.

Also enclosed is a check in the amount of \$50.00 for the filing fees for both companies. Please contact me or Laura Sykora if you have any questions.

Sincerely,

James B. Wright
James B. Wright

JBW:sm

Enclosures

cc: Laura Sykora
Kaye Odum
Daniel Well (Maxcess)
Tim Phillips, CAPD (w/encl.)

BEFORE THE
TENNESSEE REGULATORY AUTHORITY

IN RE:	)	
Petition for Approval of a Collocation	)	
License Agreement Negotiated between	)	Docket No.
United Telephone-Southeast, Inc. and	)	_____
Maxcess, Inc.	)	

PETITION

United Telephone-Southeast, Inc. ("Sprint") files this request for approval of a Master Collocation License Agreement dated July 6, 2000 (the "Agreement") negotiated between Sprint and Maxcess, Inc. ("CLEC") pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act"). In support of this request, Sprint shows the following:

1. Sprint and CLEC have successfully negotiated the Agreement that provides for the collocation by CLEC on Sprint's premises for the purpose of the CLEC housing equipment to provision telecommunications services. A copy of the Agreement is attached and incorporated herein by reference.

2. Pursuant to Section 252(e) of the Telecommunications Act of 1996, Sprint is submitting the Agreement to the Tennessee Regulatory Authority ("TRA") for its consideration and approval. Prior to the Memorandum Opinion and Order of the Federal Communications Commission released October 4, 2002 in WC Docket No. 02-89, FCC 02-276, ("FCC Order"), Sprint did not consider collocation agreements as interconnection agreements under Section 252(e) of the Act. The FCC Order, in paragraph 8, held that an agreement

pertaining to collocation was an interconnection agreement and thus Sprint is filing this Agreement for approval.

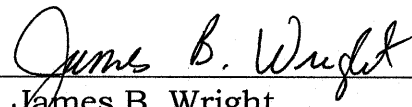
3. In accordance with Section 252(e) of the Act, the TRA is charged with approving or rejecting the negotiated Agreement between Sprint and CLEC within 90 days of its submission. The Act provides that the TRA may only reject such an agreement if it finds that the agreement or any portion of the agreement discriminates against a telecommunications carrier not a party to the agreement or the implementation of the agreement or any portion thereof is not consistent with the public interest, convenience and necessity.

4. Sprint avers that the Agreement is consistent with the standards for approval. The approval of said Agreement provides for the ability of competitors in the local exchange market to lease space owned by Sprint.

5. Pursuant to Section 252(i) of the Act, once this Agreement is approved, Sprint will make the terms and conditions of the Agreement available to any other requesting telecommunications carrier.

Sprint respectfully requests that the Tennessee Regulatory Authority approve the Agreement negotiated between these parties.

Respectfully submitted,
United Telephone-Southeast, Inc.

By: 
James B. Wright

This 3rd day of December, 2002



MASTER COLLOCATION LICENSE AGREEMENT

July 6, 2000

Maxcess, Inc.

and

**SPRINT AFFILIATED LOCAL TELEPHONE
OPERATING COMPANIES**

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SPRINT LOCAL TELEPHONE COMPANIES MASTER COLLOCATION LICENSE AGREEMENT

This Agreement is made this 6th day of July, 2000, by and between Maxcess, Inc. (the "Licensee") and the Sprint affiliated local telephone operating companies listed on Attachment A ("Sprint").

1. DEFINITIONS.

For the purposes of this Agreement, the following terms or phrases shall have the meaning set forth below:

- 1.1. "Act" means the Communications Act of 1934, as amended.
- 1.2. "Cable Vault" shall mean a location in the Building where facilities enter the Building from the Outside Cable Duct and access the Inner Duct for distribution within the Building.
- 1.3. "Central Office Building" or "Building" shall mean a structure (not including a controlled environment vault ("CEV")) housing Sprint equipment that is under the control of Sprint and for which Sprint has the right to grant access and/or occupation by third parties.
- 1.4. "Collocation Point of Termination" shall mean the physical demarcation point in a Central Office Building, specified by Sprint, between Sprint facilities and Licensee-provided facilities. The Collocation Point of Termination is the only location where facilities of Sprint and Licensee shall be interconnected under this Agreement.
- 1.5. "Collocation Space" shall mean an area of space as agreed between the parties, located in a Building to be used by Licensee to house communications equipment. Additionally, roof or wall space used for wireless interconnection shall be included in the definition where applicable.
- 1.6. "Controlled Environment Vault" shall mean a structure other than a Central Office Building which is controlled by Sprint and which is suitable for collocation of telecommunications equipment.
- 1.7. "Date of Occupancy" shall mean the date on which Licensee first occupies the Collocation Space pursuant to this Agreement.
- 1.8. "Inner Duct" or "Conduit" shall mean any passage or opening in, on, under, over or through the Sprint Central Office Building cable or conduit systems.
- 1.9. "LOE" shall mean Licensee-owned equipment.

- 1.10. "Outside Cable Duct" shall mean any space located outside the Central Office Building and owned by or under the control of Sprint through which Sprint runs its cable, conduit or other associated facilities.
- 1.11. "Licensee" shall mean Maxcess, Inc.
- 1.12. "Property" shall mean the Building along with any real estate owned, leased or controlled by Sprint and used by Sprint in any way relating to the Building.
- 1.13. "Tariffed Service" shall mean the interconnection of Licensee's equipment and Sprint's equipment pursuant to the Sprint Access Service tariffs as filed with the Federal Communications Commission ("FCC"), or applicable state tariffs.

2. TERM.

- 2.1. This Agreement shall be deemed effective upon execution by both Parties, provided however that if Customer has any outstanding past due obligations to Sprint, this Agreement will not be effective until such time as any past due obligations with Sprint are paid in full.
- 2.2. This Agreement shall terminate the later of five years from the date of execution, or when the last Collocation Site License attached to the Agreement terminates.

3. SCOPE OF AGREEMENT.

- 3.1. This Agreement states the general terms and conditions upon which, from time to time, Sprint will grant to Licensee a non-exclusive license to gain access to and occupy the Collocation Space, and to gain access to and to use the Cable Vault, Inner Duct and other associated facilities as may be necessary, for the sole and exclusive purpose of providing telecommunications service as specifically identified on a completed, numbered and dated Site Collocation License executed by both Parties (which Site Collocation License shall be in substantially the form attached as Attachment B). Such service will be provided by installing, maintaining and operating Licensee's equipment, which will interconnect with telecommunications services and facilities provided by Sprint or others in accordance with this Agreement.
- 3.2. Prices and fees for collocation and other services under this Agreement, are contained in the price list attached hereto as Attachment C. In the event Sprint files tariffs for pricing of collocation and other services covered by this agreement, such tariffs will control over Attachment C as of the date the tariff becomes effective.

4. PHYSICAL COLLOCATION PROCESS.

4.1. Selection and Application

- 4.1.1. Upon Licensee's selection of a Property in which it desires to collocate its Equipment, Sprint will issue a collocation application form to Licensee.

- 4.1.2. Licensee will complete the application, and return it, along with the appropriate Application Fee, to Sprint. The application shall include complete details of the collocation and interconnection requested, including, but not limited to, specific floor space, power, and environmental conditioning requirements. Completed applications must be accompanied by the applicable Application Fee.
- 4.1.3. If collocation space is unavailable or a Licensee withdraws its request, the Application Fee, less the costs incurred by Sprint (e.g., engineering record search and administrative activities required to process the application), will be refunded.
- 4.1.4. Application Intervals. Sprint shall provide confirmation of space availability for one (1) to five (5) applications submitted within ten (10) calendar days from the receipt of a completed application and application fee. For six (6) to twenty (20) applications, Sprint shall provide confirmation of space availability within twenty-five (25) calendar days from the receipt of a completed application and application fee. Should Licensee submit twenty-one (21) or more application request within five (5) business days, confirmation of space availability will be increased by five (5) calendar days for every five (5) additional reports requested or fraction thereof. In addition to response time for confirmation of space availability, and additional twenty (20) calendar days will be required for estimated price.
- 4.1.5. Sprint will provide pricing for the collocation as set out the application within 30 days of receipt of the application.
- 4.2. Denial of Application. After notifying the Licensee that the Sprint has no available space in the requested Central Office ("Denial of Application"), the Sprint will allow the Licensee, upon request, to tour the entire Central Office within ten (10) calendar days of such Denial of Application. In order to schedule said tour within ten (10) calendar days, the request for a tour of the Central Office must be received by the Sprint within five (5) calendar days of the Denial of Application.
- 4.3. If Licensee contests Sprint's notice that there is not sufficient space in the Central Office, the parties agree to seek expedited resolution of the dispute at the Commission pursuant to Section 251(c)(6) of the Act.
- 4.4. Upon agreement of the Parties to the terms of the specific collocation application, such terms will be memorialized in a Site Collocation License executed by the parties. Each Site Collocation License executed by the parties shall contain a description of the specific Property, Collocation Space and Equipment, together with a statement of the effective date, the term of that Site Collocation License, and conditions for renewal of that Site Collocation License. The Site Collocation License shall also contain a statement incorporating and affirming the terms and conditions of this Agreement.

- 4.5. Each Site Collocation License will state the fee due to Sprint and other charges due pursuant to that Site Collocation License according to Attachment C or the applicable tariff. Unless provided otherwise in the Site Collocation License, rent and other charges will be payable in advance, monthly on the first of the month. Variable charges will be payable upon receipt of Sprint's invoice.
- 4.6. Caged Physical Construction Intervals. Where caged physical collocation space and associated requirements are available, Sprint will make good faith efforts to provide caged physical collocation within ninety (90) calendar days from the receipt of the signed Site Collocation License, subject to additional time for asbestos removal or extraordinary construction as mutually agreed upon by Licensee and Sprint.
- 4.7. Cageless Physical Construction Intervals. Where cageless physical collocation space and associated requirements are available, Sprint will make good faith efforts to provide cageless physical collocation within sixty (60) calendar days from the receipt of the signed Site Collocation License, subject to additional time for asbestos removal or extraordinary construction as mutually agreed upon by Licensee and Sprint.
- 4.8. Construction. Sprint shall permit Licensee or its designated subcontractor to perform the construction of physical collocation arrangements, provided, however, that any such Licensee subcontractor shall be subject to Sprint's approval, which such approval shall not be unreasonably withheld. Approval by Sprint shall be based on the same criteria it uses in approving contractors for its own purposes.
- 4.8.1. To the extent Sprint performs the construction of the physical collocation arrangement, Sprint shall construct the Collocated Space in compliance with mutually agreed collocation request. Any deviation to Licensee's order must thereafter be approved by Licensee. The Parties acknowledge that Licensee approved deviations may require additional construction time and may incur additional Licensee expenses. Licensee shall pay the incremental cost incurred by Sprint as the result of any Licensee Change Order applicable to construction of any collocation space.
- 4.8.2. At the request of the Licensee, Sprint shall provide detailed Telephone Equipment drawings depicting the location, type, and cable termination requirements (i.e., connector type, number and type of pairs, and naming convention) for Sprint Point of Termination Bay(s) to Licensee within fifteen (15) business days of acceptance of Licensee's request for Collocated Space.
- 4.8.3. At the request of the Licensee, Sprint shall provide detailed drawings depicting the exact path, with dimensions, for Licensee Outside Plant Fiber ingress and egress into Collocated Space within ten (10) business days of the acceptance of Licensee's request for Collocated Space.

- 4.8.4. At the request of the Licensee, Sprint shall provide detailed power cabling connectivity information including the sizes and number of power feeders to Licensee within ten (10) business days of the acceptance of Licensee's request for Collocated Space.
- 4.8.5. To the extent Sprint performs the construction of the physical collocation arrangement, Sprint shall provide positive confirmation to Licensee when construction of Collocated Space is 50% completed. This confirmation shall also include confirmation of the scheduled completion and turnover dates.
- 4.8.6. Licensee and Sprint will complete an acceptance walk through of those portions of the physical collocation arrangement provided by Sprint. Exceptions that are noted during this acceptance walk through shall be corrected by Sprint within five (5) business days after the walk through except where circumstances reasonably warrant additional time. In such event, subject to Licensee's consent, which shall not be unreasonably withheld, Sprint shall be given additional time. The correction of these exceptions from the original collocation request shall be at Sprint's expense. When the physical collocation arrangement provided by Sprint is ready for occupancy by Licensee, Licensee will execute an Access Customer Estimate or Billing Advisory Form provided by Sprint.
- 4.9. The Licensee must place operational telecommunications equipment in the collocated space and connect with Sprint's network within 180 calendar days of the date of execution of the Access Customer Estimate or Billing Advisory Form, or other time period mutually agreed to by the Licensee and Sprint, or the space must be relinquished to Sprint. Sprint may extend the beginning of use beyond the 180 day period upon a demonstration by the Licensee that circumstances beyond the Licensee's control prevented the 180 day deadline from being met.

5. USE OF COMMON AREAS.

- 5.1. As part of a Site Collocation License granted hereunder, Licensee, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by Sprint from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas adjacent to the Building for vehicles of persons while working for or on behalf of Licensee at the Collocation Space; provided, however, that Sprint shall have the right to reserve parking spaces for Sprint's exclusive use or use by other occupants of the Building. Sprint does not guarantee that there is or will be sufficient parking spaces in parking areas to meet Licensee's needs. Sprint does not guarantee that restroom facilities or water will be available. All common areas shall remain under the exclusive control and management of Sprint, and Sprint shall have the right to change the level, location and arrangement of parking areas and other common areas as

Sprint may deem necessary. Use of all common areas shall be subject to such reasonable rules and regulations as Sprint may from time to time impose.

- 5.2. Water. Sprint, where water is available for its own use, shall furnish running water from regular Building outlets for drinking, lavatory and toilet purposes drawn through fixtures installed by Sprint, for the non-exclusive use of Licensee, Sprint and any other building occupant. Licensee shall not waste or permit the waste of water.
- 5.3. Security Service. Sprint shall furnish Building and Property security in accordance with its normal business practices. Other than the locks on the entrances to the Collocation Space, Sprint shall provide no security specific to Licensee's Collocation Space. Sprint shall not be liable to Licensee or any other party for loss of or damage to the Collocation Space or LOE unless Sprint has failed to provide Building and Property security in accordance with its normal business practices.
- 5.4. Elevator Service. Sprint shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which Licensee has access pursuant to the terms of this Agreement 24 hours a day, seven days a week. Freight elevator service when used by Licensee's contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Sprint.

6. SPRINT'S SERVICES AND OBLIGATIONS.

- 6.1. For the term of this Agreement, unless earlier terminated, Sprint shall furnish the following services under a properly executed Site Collocation License:
- 6.2. Interconnection. Sprint shall permit a collocating telecommunications carrier to interconnect its network, via cross-connect facilities, with that of another collocating telecommunications carrier at the Sprint premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises. Sprint may provide such cross-connect facilities at the expense of the Licensee per the Licensees request.
- 6.3. Transmission Facility Options. For both Physical Collocation and Virtual Collocation, Licensee may purchase unbundled transmission facilities (and any necessary Cross-Connection) from Sprint, provide its own transmission facilities, or utilize the transmission facilities of a third party. The transmission facilities shall be terminated at the Licensee's collocation space or at a mutually agreed upon location within Sprint's Premise.
 - 6.3.1. If a Licensee occupies more than one Collocation Space location within the Building, Licensee may interconnect its equipment contained in the two separate Collocation Space locations.
- 6.4. Basic Service Description - Physical Collocation. Physical collocation provides Licensee with collocation space (cageless or secured) and associated requirements

such as power and environmental conditioning within a Sprint Collocation Space to locate certain fiber optic, microwave or other wireless facilities and equipment, for the purposes of accessing UNEs, providing telecommunications services, and a connection to certain Sprint provided services.

- 6.5. Rate Categories. Collocation Services consist of the rate categories described generally below. Specific regulations governing the provision of these rate elements are set forth following:

6.5.1. Application Fee. The application fee is a nonrecurring charge that recovers the cost of processing the application for collocation and provides for the preliminary work needed to determine if Sprint Collocation Space and facilities are available to meet the Licensee's collocation request. The application fee will be assessed once for each application submitted per Sprint Collocation Space, and is not dependent upon the amount of collocation space requested.

6.5.2. DC Power. The DC power rate element consists of both a recurring monthly rate and a nonrecurring charge. The nonrecurring charge recovers the cost of delivering Sprint DC power to the Licensee's collocation space and is assessed per foot of power lead provided to the collocation space occupied by the Licensee. A separate power lead is required for each 7 foot equipment bay located in the Licensee's collocation space. The recurring monthly rate recovers the cost of providing 48 volt DC power to the Licensee's collocation space, and is assessed per fuse amperage ordered.

6.5.3. Collocation Space. Collocation space is available in single-bay increments (i.e. a Licensee may purchase space in increments small enough to collocate a single rack, or bay, of equipment) and will be charged at the per square foot floor space monthly rate. Collocation space includes associated environmental support systems such as AC power (one 115V 15amp circuit), lighting, heating and air conditioning.

6.5.4. Security Enclosure. The security enclosure rate element consists of both a fixed and per linear foot nonrecurring charge. Security enclosures are available at the Licensee's option, and the associated nonrecurring charges recover the cost of constructing a lockable, eight foot high, wire mesh security fence surrounding the perimeter of the Licensee's collocation space.

6.5.5. Conduit Space - Per Foot. The conduit space - per foot rate element is assessed on a per linear foot per month basis and provides for the Licensee's use of conduit duct space from the designated interconnection point to the Licensee's collocation space.

- 6.5.6. Conduit Space - Vault. The conduit space - vault rate element is assessed on a per foot of a 9-conduit vault per month basis and provides for the Licensee's use of Sprint's cable vault and supporting structures.
- 6.5.7. Electrical Cross-Connect. The electrical cross-connect rate element is assessed on a per connection per month basis and recovers the cost of connecting the Licensee's terminating equipment to tariffed services provided by Sprint. Electrical cross-connections are available at the DS0, DS1 and DS3 levels.
- 6.5.8. Riser Space. The riser space rate element is assessed on a per foot per month basis and provides a cable path between the cable vault and the Licensee's collocation space.
- 6.5.9. Diverse Riser Space. The diverse riser space rate element is assessed on a per foot per month basis and provides a second cable path between the cable vault and the Licensee's collocation space.
- 6.5.10. Cable Pull and Splice. The cable pull and splice rate element is assessed based on per half hour (or portion thereof) additional labor rates and recovers the cost of Sprint personnel pulling the Licensee's fiber optic cable from the interconnection point in a manhole outside Sprint Collocation Space to the cable vault, and splicing the Licensee's cable to the riser cable in the cable vault.
- 6.5.11. Installation and Maintenance. The installation and maintenance rate element is assessed based on per half hour (or portion thereof) additional labor rates and recovers the cost of installing and/or maintaining Licensee provided outside plant (e.g., entrance cable, riser cable, and conduit).
- 6.5.12. Interconnection Rearrangement. The interconnection rearrangement rate element is a nonrecurring charge assessed when an existing Sprint provided high capacity service or multiplexed high capacity service is reconfigured into a high capacity service under an expanded interconnection arrangement or vice versa, or from one expanded interconnection arrangement to another within the same Sprint Collocation Space.
- 6.6. Establishment of Collocation Space Enclosure. If requested by Licensee, prior to the occupancy of the Collocation Space by the Licensee, Sprint will establish a secure enclosure defining the location of the Licensee's Collocation Space (the "Collocation Space Enclosure"). The Collocation Space Enclosure and any other improvements thereto, all of which taken together shall constitute the "Collocation Space".
- 6.7. Shared Caged Collocation
 - 6.7.1. Sprint may allow Licensee to share the Licensee's caged collocation arrangement pursuant to terms and conditions agreed to by the Licensee

("Host") and other telecommunications carriers ("Guests") with the following exceptions: (1) where local building code does not allow Shared (Subleased) Cage Collocation, and (2) where Sprint's Premises is located within a leased space and Sprint is prohibited by said lease from offering such an option. The Licensee shall notify the Sprint in writing upon execution of any agreement between the Host and its Guest within twelve (12) calendar days of its execution and prior to any Firm Order. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall contain a certification by the Licensee that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement between the Sprint and the Licensee.

6.7.2. Shared Collocation Interfaces. Licensee shall be the sole interface and responsible party to Sprint for the purpose of submitting applications for initial and additional equipment placements of Guest; for assessment of rates and charges applicable to the Collocations space; and for the purposes of ensuring that the safety and security requirements of this Agreement are fully complied with by the Guest, its employees and agents.

6.7.3. Guest Interconnection. Notwithstanding the foregoing, Guest may arrange directly with Sprint for the provision of the interconnecting facilities between Sprint and Guest and for the provisions of the services and access to unbundled network elements and Sprint will bill the Guest directly for these services.

6.7.4. Service Ordering. Sprint will not place unreasonable restrictions on a Licensee's use of a cage, and as such will allow a Licensee to contract with other CLECs to share the cage in a sublease-type arrangement. If two (2) or more CLECs who have interconnection agreements with Sprint utilize a shared collocation cage, Sprint will permit each CLEC to order UNEs to and provision service from that shared collocation space, regardless of which CLEC was the original Collocator.

6.8. Adjacent Collocation

6.8.1. Sprint will provide adjacent collocation arrangements where space within the Central Office is exhausted, subject to technical feasibility. Sprint and Licensee will mutually agree on the location of the designated space on Sprint's property where the adjacent structure (such as a CEV or similar structure) will be placed. Sprint will not withhold agreement as to the site desired by the Licensee, subject only to reasonable safety and maintenance requirements.

6.8.2. Construction. Should Licensee elect Adjacent Collocation, the Licensee must arrange with a Sprint certified contractor to construct an Adjacent Collocation structure. Licensee shall provide a concrete pad, the structure housing the arrangement, HVAC, lighting, and all facilities that connect the structure (i.e. racking, conduits, etc.) to Sprint's point of

interconnection. Sprint will provide a standard offering of 100 AMPS of AC power to the adjacent structure when Central Office Switchboard AC capacity exists to the extent technically feasible. At its option, Licensee may choose to provide its own AC power to the adjacent structure as long as the AC power source is from the same provider as Sprint's. The Licensee will provide DC power to the adjacent structure.

6.8.3. Construction Approval. Sprint maintains the right to review the Licensee plans and specifications prior to construction of an Adjacent Collocation Arrangement(s). Sprint shall complete its review within thirty (30) calendar days. Sprint may inspect the Adjacent Collocation Arrangement(s) following construction and prior to commencement of Licensee services, to ensure the design and construction comply with submitted plans. Sprint may require the Licensee to correct any deviations from approved plans found during such inspection(s).

6.9. Environmental Controls. Sprint shall furnish air conditioning and/or other environmental controls for the area in which the Collocation Space is located in a manner consistent with those provided elsewhere in the Building. Sprint shall furnish air conditioning and/or other environmental controls for the Collocation Space based on information provided by Licensee to Sprint in its application which Licensee hereby represents to Sprint is sufficient to allow the LOE to function without risk of harm or damage to the Collocation Space, the Building or any equipment or facilities of Sprint or any other occupant of the Building. These environmental conditions shall adhere to Telecordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed standards.

6.9.1. If Licensee locates equipment or facilities in the Collocation Space which Sprint determines, in the exercise of its sole discretion, affect the temperature or other environmental conditions otherwise maintained by Sprint in the Building, Sprint reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Collocation Space, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by Licensee's equipment or facilities shall be paid by Licensee to Sprint. If supplementary air conditioning units or other environmental control devices are required for more than one Licensee each Licensee will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation.

6.10. Electricity. If Sprint, in the exercise of its reasonable business judgment, determines that the electricity provided to Licensee pursuant to this Section is insufficient to support the activity being carried on by the Licensee in the Collocation Space, Sprint may require the installation of additional electrical circuits to provide Licensee with additional electricity and Licensee shall reimburse Sprint for any expenses incurred in making such additional electrical

circuits available to Licensee's Collocation Space. Licensee shall also pay for additional electricity provided via these circuits.

6.10.1. Licensee covenants and agrees that Sprint shall not be liable or responsible to Licensee for any loss, damage or expense which Licensee may sustain or incur if either the quality or character of electrical service is changed or is no longer suitable for Licensee's requirements.

6.10.2. Licensee covenants and agrees that its use of electric current shall never exceed the capacity of existing feeders to the Building or the Collocation Space, when reviewed in conjunction with electrical usage of other occupants in the Building.

6.10.3. Central office power supplied by Sprint into the Licensee equipment area, shall be supplied in the form of power feeders (cables) on cable racking into the designated Licensee equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of Licensee equipment. The termination location shall be as agreed by the parties.

6.10.4. Sprint shall provide power as requested by Licensee to meet Licensee's need for placement of equipment, interconnection, or provision of service.

6.10.5. Sprint power equipment supporting Licensee's equipment shall:

6.10.5.1. Comply with applicable industry standards (e.g., Telecordia, NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout or at minimum, at parity with that provided for similar Sprint equipment;

6.10.5.2. Have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for Licensee equipment, or, at minimum, at parity with that provided for similar Sprint equipment;

6.10.5.3. Provide, upon Licensee's request, the capability for real time access to power performance monitoring and alarm data that impacts (or potentially may impact) Licensee traffic;

6.10.5.4. Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of Licensee equipment plus or minus 2 feet to the left or right of Licensee's final request; and

6.10.5.5. Provide feeder cable capacity and quantity to support the ultimate equipment layout for Licensee equipment in accordance with Licensee's collocation request.

6.10.6. Sprint shall provide cabling that adheres to Telecordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;

6.10.7. Sprint shall provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines.

6.10.8. Sprint will provide Licensee with written notification within ten (10) business days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Licensee equipment located in Sprint facility. Sprint shall provide Licensee immediate notification by telephone of any emergency power activity that would impact Licensee equipment.

6.11. Fire Safety System. Subject to the provisions of Section 6.6.3 hereof, Sprint 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 Collocation Space 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. Sprint shall furnish fire and smoke detection systems designed to comply with the NFPA 72E Standard on Automatic Fire Detectors in effect as of the collocation date.

6.11.1. Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Sprint as required by applicable fire codes.

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

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

- 6.12. Repairs. Sprint shall, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishment or decorating to the Collocation Space, Building and Property, in a manner consistent with Sprint's normal business practices.
- 6.12.1. Sprint shall not be obligated to inspect the Collocation Space, make any repairs or perform any maintenance unless first notified of the need in writing by Licensee. If Sprint shall fail to commence such repairs or maintenance within 20 days after written notification, provided that such delays are not caused by Licensee, Licensee's sole right and remedy shall be, after further notice to Sprint, to make such repairs or perform such maintenance and to deduct that cost and expenses from the physical collocation fees payable; provided, however, that the amount of such deduction shall not exceed the reasonable value of such repairs or maintenance.
- 6.12.2. Sprint shall, where practical, provide Licensee with 24 hours prior notice before making repairs and/or performing maintenance on the Collocation Space; provided, however, that Sprint shall have no obligation to provide such notice if Sprint 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 Collocation Space, or if required to do so by any court or governmental authority. Work shall be completed during normal working hours or at other times identified by Sprint; provided, however, that Licensee shall pay Sprint for overtime and for any other expenses incurred if such work is done during other than normal working hours at Licensee's request. Licensee shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.
- 6.12.3. The cost of all repairs and maintenance performed by or on behalf of Sprint to the Collocation Space which are, in Sprint's reasonable judgment, beyond normal repair and maintenance, or are made necessary as a result of misuse or neglect by Licensee or Licensee's employees, invitees or agents, shall be paid by Licensee to Sprint within 10 days after being billed for such repairs and maintenance by Sprint.
- 6.12.4. Sprint shall provide Licensee with notice via email three (3) business days prior to those instances where Sprint or its subcontractors perform work which is known to be a service affecting activity. Sprint will inform Licensee by email of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Sprint learns that such outage has occurred.
- 6.13. Interruption of Services. Sprint reserves the right to stop any service when Sprint deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Sprint agrees to use its best efforts not to interfere with Licensee's use of Collocation Space. Sprint 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, or other causes beyond the reasonable control of Sprint.

6.13.1. No such interruption of service shall be deemed an eviction or disturbance of Licensee's use of the Collocation Space or any part thereof, or render Sprint liable to Licensee for damages, by abatement of Licensee Fees or otherwise, except as set forth in the Tariff, or relieve Licensee from performance of its obligations under this Agreement or the applicable Site Collocation License. Licensee hereby waives and releases all other claims against Sprint for damages for interruption or stoppage of service.

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

6.14. Licensee Right of Access. Subject to reasonable building rules and any applicable Security Arrangements, Licensee shall have the right of entry 24 hours per day to the Building, common areas, Collocation Space and common cable space.

6.14.1. Sprint, at Licensee's expense, may issue non-employee photo identification cards for each Licensee employee or vendor. Temporary identification cards may otherwise be provided by Sprint for employees or agents, contractors and invitees of Licensee who may require occasional access to the Collocation Space.

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

6.14.3. Sprint reserves the right to close and keep locked all entrance and exit doors of the Building during hours Sprint may deem advisable for the adequate protection of the Building. Use of the Building at any time it is unattended by appropriate Sprint personnel, or on Sundays and state and federal or other holidays recognized by Sprint, or, if Licensee's Collocation Space is not fully segregated from areas of the building containing Sprint equipment, shall be subject to such reasonable rules and regulations as Sprint may from time to time prescribe for its own employees and third party contractors.

7. LICENSEE'S OBLIGATIONS.

7.1. Allocation of Collocation Space. Licensee may reserve Collocation space for its future use in Sprint's Premises. Sprint shall notify Licensee in writing if another Telecommunications Carrier requests Collocation space that is reserved by Licensee. Licensee shall, within five (5) Business Days of receipt of such notice, provide Sprint either (i) written notice that Licensee relinquishes such space or (ii) enforce its reservation of space. Failure of Licensee to respond to Sprint within the foregoing five (5) Business Day period shall be deemed an election by Licensee to relinquish such space.

- 7.2. Subcontractor and Vendor Approval. Licensee shall select an equipment installation vendor which has been approved as a Sprint Certified Vendor to perform all installation work required in the Physical Collocation Space. Sprint shall provide Licensee with a list of Certified Vendors upon request. The Certified Vendor shall be responsible for installing Licensee's equipment and components, performing operational tests after installation is complete, and notifying Licensee upon successful completion of installation. The Certified Vendor shall bill Licensee directly for all work performed pursuant to this Agreement and Sprint shall have no liability for nor responsibility to pay such charges imposed by the Certified Vendor. In addition, Sprint shall allow Licensee to have a Sprint-approved vendor install updates to Collocated equipment, including software updates.
- 7.3. Restrictions. Licensee shall not be permitted to collocate equipment if used solely for switching or to provide enhanced services. All collocated equipment must comply with Telecordia Network Equipment Building Systems (NEBS) Level 1 safety requirements.
- 7.4. Extraordinary Construction Costs. Licensee will be responsible for all extraordinary costs, as determined in accordance with the Act, incurred by Sprint to prepare the Collocation space for the installation of Licensee's equipment and for extraordinary costs to maintain the Collocation space for Licensee's equipment on a going-forward basis. Extraordinary costs may include costs for such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, increasing the DC power system infrastructure capacity, increasing the capacity of the standby AC system (if available) or the existing commercial power facility, conversion of non-Collocation space, compliance with federal and state requirements, or other modifications required by local ordinances. Sprint will charge for these extraordinary costs on a time-sensitive or time-and-materials basis and will allocate the costs fairly among itself, Licensee and other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to Licensee prior to commencing such work. Extraordinary costs will only be billed to Licensee if such costs have been authorized by Licensee. Sprint must advise Licensee if extraordinary costs will be incurred.
- 7.5. Sprint Inspection. Sprint shall have the right to inspect Licensee's completed installation of equipment and facilities prior to Licensee turning up such equipment and facilities. Licensee shall provide written notification to Sprint when Licensee has completed its installation of equipment and facilities in the Collocation space, and Sprint shall, within five (5) Business Days of receipt of such notice, either (i) inspect such Collocation space or (ii) notify Licensee that Sprint is not exercising its right to inspect such Collocation space at that time and that Licensee may turn up its equipment and facilities. Failure of Sprint to either inspect the Collocation space or notify Licensee of its election not to inspect such space within the foregoing five (5) Business Day period shall be deemed an election by Sprint not to inspect such Collocation space. Licensee shall have the right to be present at such inspection, and if Licensee is found to be in non-

compliance with the terms and conditions of this Agreement that relate to the installation and use of Licensee's Collocated equipment and facilities, Licensee shall modify its installation to achieve compliance prior to turning up its equipment and facilities.

- 7.6. Access Right of Sprint. Sprint shall have access to Licensee's Collocation Space at all times, via pass key or otherwise, to allow Sprint to react to emergencies, to maintain the space (not including Licensee's equipment), and to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Sprint, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. If a secure enclosure defining the location of the Licensee's Collocation Space has been established, and if conditions permit, Sprint will provide Licensee with notice (except in emergencies) of its intent to access the Collocation Space, thereby providing Licensee the option to be present at the time of access. Licensee shall 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.
- 7.7. Inspection and Janitorial. Licensee shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. Licensee shall promptly notify Sprint of any damage to the Collocation Space or of the need to perform any repair or maintenance of the Collocation Space, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical and other mechanical facilities in the Collocation Space). Licensee shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.
- 7.8. Security Arrangements. Licensee agrees to abide by all of Sprint's security practices for non-Sprint employees with access to the Building, including, without limitation:
- 7.8.1. Licensee will supply to Sprint, and update as changes occur, a list of its employees or approved vendors who require access to the Building. The list will include the social security numbers of all such individuals. Sprint may reasonably object to any person on the list, in which case that person will be denied entry into the building. Sprint's objections will be consistent with the grounds for denying access to personnel of its own contractors or for denying employment directly with Sprint.
- 7.8.2. Licensee is responsible for returning identification and access cards, codes, or keys of its terminated employees or its employees who no longer require access to the Collocation Space. All cards, codes, or keys must be returned upon termination of the applicable Site Collocation License. Unreturned or replacement cards, codes, or keys may be subject to a fee at the discretion of Sprint.
- 7.8.3. Licensee's employees, agents, invitees and vendors must display identification cards at all times.

- 7.8.4. Licensee will assist Sprint in validation and verification of identification of its employees, agents, invitees and vendors by providing a telephone contact available 24 hours a day, seven days a week to verify identification.
- 7.8.5. In a manner consistent with Building regulations, Licensee shall list all furniture, equipment and similar articles Licensee desires to remove from the Collocation Space or the Building and deliver a copy to Sprint and procure a removal permit from building security authorizing Building employees to permit such articles to be removed.
- 7.8.6. Before leaving the Collocation Space unattended, Licensee shall close and securely lock all doors and windows and shut off unnecessary equipment in the Collocation Space. Any injury to persons or damage to the property of Sprint or any other party with equipment in the Building resulting from Licensee's failure to do so shall be the responsibility of Licensee. Licensee will defend and indemnify Sprint from and against any claim by any person or entity resulting in whole or in part from Licensee's failure to comply with this section.
- 7.8.7. Licensee agrees that Sprint may provide a security escort to Licensee personnel while in the Building. While such escort shall not be a requirement to Licensee's entry into the Building, Licensee must allow the security escort to accompany Licensee personal at all times and in all areas of the Building, including the Collocation Space, if so requested.
- 7.8.8. Licensee shall post in a prominent location visible from the common Building area, the names and telephone numbers of emergency contact personnel along with names and telephone numbers of their superiors for 24 hour emergency use by Sprint. Licensee shall promptly update this information as changes occur.
- 7.9. Electricity. Licensee will provide Sprint with written notification within ten (10) business days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Sprint equipment located in Licensee facility. Licensee shall provide Sprint immediate notification by telephone of any emergency power activity that would impact Sprint equipment.
- 7.10. Interruption of Services. Licensee shall provide Sprint with written notice three (3) business days prior to those instances where Licensee or its subcontractors perform work, which is to be a known service affecting activity. Licensee will inform Sprint by email of any unplanned service outages. The parties will then agree upon a plan to manage the outage so as to minimize customer interruption. Notification of any unplanned service outage shall be made as soon as practicable after Licensee learns that such outage has occurred so that Sprint can take any action required to monitor or protect its service.

- 7.11. Telephone. Licensee may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by Licensee and at Licensee's expense, Sprint will provide basic telephone service with a connection jack in the Collocation Space.
- 7.12. Fire Protection Systems. Licensee shall, with the prior written consent of Sprint, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that Licensee may not install or use sprinklers or carbon dioxide fire suppression systems within the Building or the Collocation Space.
- 7.12.1. If any governmental bureau, department or organization or Sprint's 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 Collocation Space, such changes, modifications or additions shall be made by Sprint and Licensee shall reimburse Sprint for the cost thereof.
- 7.12.2. If any governmental bureau, department or organization or Sprint's 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 Collocation Space of Licensees in general are located, such changes, modifications, or additions shall be made by Sprint and Licensee shall reimburse Sprint for the cost thereof in the same proportion as the size of the Licensee's Collocation Space as compared to the total available collocation space in the affected portion of the Building.
- 7.13. Hazardous Materials. Licensee shall identify and shall notify Sprint in writing of any Hazardous Materials Licensee may bring onto the Property, and will provide Sprint 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.*). Licensee, its agents and employees shall transport, store and dispose of Hazardous Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. Licensee will promptly notify Sprint of any releases of Hazardous Materials and will copy Sprint on any notification of or correspondence with any governmental agency which may be required by any environmental law as a result of such release.
- 7.13.1. Licensee shall provide Sprint 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 shall be labeled in accordance with 29 C.F.R. 1910.1200, and applicable state regulations if such regulations are more stringent.

7.13.2. If Sprint discovers that Licensee has brought onto Sprint's Property Hazardous Materials without notification, or is storing or disposing of such materials in violation of any applicable environmental law, Sprint may, at Sprint's option and without penalty, terminate the applicable Site Collocation License or, in the case of pervasive violation, this Agreement or suspend performance hereunder. Licensee shall be responsible for, without cost to Sprint, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. Licensee shall also be responsible for removing and disposing of all Hazardous Materials on its Collocation Space at the termination of the applicable Site Collocation License or this Agreement. If Sprint elects to terminate the applicable Site Collocation License or this Agreement or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials contrary to the terms of this Agreement, Licensee shall have no recourse against Sprint and shall 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 Sprint for defaults under the applicable Site Collocation License or this Agreement.

7.13.3. Licensee shall indemnify and hold harmless Sprint, 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, Sprint or asserted against Sprint by any other party or parties (including, without limitation, Sprint's employees and/or contractors and any governmental entity) arising out of, or in connection with, Licensee's use, storage or disposal of Hazardous Materials.

7.13.4. For purposes of this Section, "Hazardous Materials" shall mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation, asbestos) 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.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall survive the termination, cancellation, modification or recession of this Agreement.

7.14. Various Prohibited Uses. Licensee shall not do or permit anything to be done upon the Collocation Space, or bring or keep anything thereon which 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. Licensee shall not do or permit anything to be done upon the Collocation Space which may in any way create a nuisance, disturb, endanger, or otherwise interfere with the telecommunications services of Sprint, any other occupant of the Building, their patrons or customers, or the occupants of neighboring property, or injure the reputation of the Property.

7.14.1. Licensee shall not exceed the Uniformly Distributed Live Load Capacity.

7.14.2. Licensee shall 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 Collocation Space, without the prior written consent of Sprint.

7.14.3. Licensee shall not use the name of the Building or Sprint for any purpose other than that of the business address of Licensee, or use any picture or likeness of the Building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Sprint.

7.14.4. Licensee shall not exhibit, sell or offer for sale, rent or exchange in the Collocation Space or on the Property any article, thing or service except those ordinarily embraced within the use of the Collocation Space specified in Section 2 of this Agreement without the prior written consent of Sprint.

7.14.5. Licensee shall not place anything or allow anything to be placed near the glass of any door, partition or window which Sprint determines is unsightly from outside the Collocation Space; 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. Licensee shall lend its full cooperation to keep such areas free from all obstruction and in a clean and neat condition, move all supplies, furniture and equipment directly to the Collocation Space as soon as received, and move all such items and waste, other than waste customarily removed by employees of the Building.

7.14.6. Licensee shall not, without the prior written consent of Sprint: install or operate any lead-acid batteries, refrigerating, heating or air conditioning apparatus or carry on any mechanical business in the Collocation Space. Sprint may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.

7.14.7. Licensee shall not use the Collocation Space for housing, lodging or sleeping purposes;

- 7.14.8. Licensee shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space; or
- 7.14.9. Licensee shall not permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Collocation Space or permit the presence of any animals except those used by the visually impaired.
- 7.15. Rules of Conduct. Licensee, its employees, agents, contractors, and business invitees shall
- 7.15.1. comply with all rules and regulations which Sprint 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 Collocation Space and its tenants and occupants, and
- 7.15.2. comply, at its own expense, with all ordinances which are applicable to the Collocation Space 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 Collocation Space during the Term of this Agreement or any extension hereof.
- 7.16. Alterations. Licensee shall not make installations, alterations or additions in or to the Collocation Space without submitting plans and specifications to Sprint and securing the prior written consent of Sprint in each instance. Sprint's consent shall not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Collocation Space that do not adversely affect the Building's appearance, value, structural strength and mechanical integrity. Such work shall be done at the sole expense of Licensee.
- 7.16.1. All installations, alterations and additions shall be constructed in a good and workmanlike manner and only new and good grades of material shall be used, and shall comply with all insurance requirements, governmental requirements, and terms of this Agreement. Work shall be performed at such times and in such manner as to cause a minimum of interference with Sprint's transaction of business. Licensee shall permit Sprint to inspect all construction operations within the Collocation Space and to approve contractors, which approval shall not be unreasonably withheld. If alterations are made by Licensee's contractors, Licensee shall furnish to Sprint prior to commencement thereof, building permits and certificates of insurance or performance bonds of Licensee's contractors and sub-contractors. Any such insurance to be provided by Licensee's contractors or sub-contractors shall provide for coverage in amounts not less than as required by Sprint of Licensee under Section 9 of this Agreement. 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 shall be furnished to Sprint. Licensee and its contractors and sub-contractors shall hold Sprint harmless from all claims, costs, damages,

liens and expenses which may arise out of or be connected in any way with installations, alterations or additions.

7.16.2. All installations, alterations and additions which take the form of fixtures, except trade fixtures, placed in the Collocation Space by and at the expense of Licensee or others shall become the property of Sprint, and shall remain upon and be surrendered with the Collocation Space. Upon termination of this Agreement, however, Sprint shall have the right to require Licensee to remove such fixtures and installations, alterations or additions at Licensee's expense, and to surrender the Collocation Space in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.

7.16.3. All fixtures and other equipment to be used by Licensee in, about or upon the Collocation Space shall be subject to the prior written approval of Sprint, which shall not be unreasonably withheld.

7.17. Fireproofing Policy. Licensee shall not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Collocation Space or the Building, outside or inside, without the prior written consent of Sprint. If Licensee desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of Licensee. Sprint shall have the right of prior approval of such utility or service connections, and shall direct where and how all connections and wiring for such service shall 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 Sprint's fireproofing policy, any penetrations by Licensee, whether in the Collocation Space, the Building or otherwise, shall be sealed as quickly as possible by Licensee with Sprint-approved fire barrier sealants, or by Sprint at Licensee's cost.

7.18. Equipment Grounding. LOE shall be connected to Sprint's grounding system.

7.19. Representations and Warranties. Licensee hereby represents and warrants that the information provided to Sprint in any application or other documentation relative to Licensee's request for telecommunications facility interconnection and Central Office Building collocation as contemplated in this Agreement is and shall be true and correct, and that Licensee has all necessary corporate and regulatory authority to conduct business as a telecommunications carrier. Any violation of this Section shall be deemed a material breach of this Agreement.

8. RIGHTS RESERVED TO SPRINT.

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

- 8.2. To change the name or street address of the Building;
- 8.3. To install and maintain signs on the exterior and interior of the Building or anywhere on the Property;
- 8.4. To designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverages, foods, towels, vending machines or toilet supplies used or consumed in the Collocation Space;
- 8.5. To have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding Licensee's safes;
- 8.6. To enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Sprint deems necessary. Licensee hereby waives any claim for damage, injury, interference with Licensee's business, any loss of occupancy or quiet enjoyment of the Collocation Space, and any other loss occasioned by the exercise of Sprint's access rights, except in the event such damages result solely from the gross negligence or willful misconduct of Sprint.
- 8.7. To use any means Sprint may deem proper to open Collocation Space doors or enclosures in an emergency. Entry into the Collocation Space obtained by Sprint by any such means shall not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of Licensee from the Collocation Space or any portion thereof;
- 8.8. If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives available, Sprint shall have the right, for good cause shown, and upon 30 days prior notice, to reclaim the Collocation Space or any portion thereof, any Inner Duct, Outside Cable Duct, Cable Vault space or other Sprint-provided facility in order to fulfill its common carrier obligations, any order or rule of the state commission or the FCC, or Sprint's tariffs to provide telecommunications services to its end user customers. In such cases, Sprint will reimburse Licensee for reasonable direct costs and expenses in connection with such reclamation;
- 8.9. To utilize the space within the Building in such a manner as will best enable it to fulfill its own service requirements, including assigning the Collocation Space and other collocation space to other parties;
- 8.10. To require all persons entering or leaving the Building during such hours as Sprint 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 Collocation Space or the Property. Sprint assumes no responsibility and shall not be liable for any damage resulting from the admission or refusal to admit any unauthorized person or from the admission of any authorized person to the Building, provided that such damage is not the result of gross negligence or willful misconduct on the part of Sprint;

- 8.11. To approve the weight, size and location of safes, computers and all other heavy articles in and about the Collocation Space 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 Collocation Space only at such times and in such a manner as Sprint shall direct and in all events at Licensee's sole risk and responsibility;
- 8.12. At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Collocation Space, 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 Collocation Space or any part of the Property all material and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities, provided that Sprint shall limit inconvenience or annoyance to Licensee as reasonably possible under the circumstances;
- 8.13. To do or permit to be done any work in or about the Collocation Space or the Property or any adjacent or nearby building, land, street or alley;
- 8.14. To grant to anyone the exclusive right to conduct any business or render any service on the Property, provided such exclusive right shall not operate to exclude Licensee from the use expressly permitted by the applicable Site Collocation License or this Agreement, unless Sprint exercises its right to terminate the applicable Site Collocation License or this Agreement with respect to all or a portion of the Collocation Space;
- 8.15. To close the Building at such reasonable times as Sprint may determine, subject to Licensee's right to admittance under such reasonable regulations as shall be prescribed from time to time by Sprint;
- 8.16. If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives, to require Licensee to move to equivalent space in the Building upon receipt of sixty (60) days written notice from Sprint, in which event, Sprint shall pay all moving costs, and the License Fee provided for herein shall remain the same;
- 8.17. To designate all spaces to be occupied by Licensee under the applicable Site Collocation License;
- 8.18. To perform all work, using Sprint employees or contractors, necessary to ready the Collocation Space for Licensee's use;
- 8.19. To exercise all other rights reserved by Sprint pursuant to the provisions of the applicable Site Collocation License or this Agreement; and
- 8.20. To inspect the installation of LOE in the Collocation Space prior to the connection of facilities to the Collocation Point of Termination.

9. INSURANCE.

- 9.1. Licensee shall carry insurance, at Licensee's expense, insuring Licensee and, except for worker's compensation, naming Sprint as additional insured and/or loss payee, as its interest may appear. Such insurance shall contain such terms and conditions, provide such coverages and exclusions and be written by such companies as Sprint shall, in the exercise of its sole discretion, find satisfactory. As of the Commencement Date, Licensee shall maintain the following coverages in the following amounts; provided, however, that Sprint retains the right to require additional and/or different coverages and amounts during the Term of this Agreement:
- 9.1.1. Commercial general liability, occurrence form, in limits of not less than \$1,000,000 combined single limit for bodily injury, personal injury and property damage liability insurance to include coverage for products/completed operations and explosion, collapse and underground liability;
 - 9.1.2. "All Risk" property insurance on a full replacement cost basis, insuring Licensee's real and personal property situated on or within the Property. Licensee may elect to insure business interruption and contingent business interruption, as it is agreed that Sprint has no liability for loss of profit or revenues should an interruption of service occur;
 - 9.1.3. Business auto insurance, including all owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 combined single limit for bodily injury and property damage liability;
 - 9.1.4. Worker's compensation insurance in accordance with statutory requirements, and employers' liability with a minimum amount of \$500,000 per accident; and
 - 9.1.5. Umbrella or excess liability in an amount not less than \$5,000,000 per occurrence and aggregate to provide excess limits over all primary liability coverages.
- 9.2. The limits of the insurance policies obtained by Licensee as required above shall in no way limit Licensee's liability to Sprint should Licensee be liable to Sprint under the terms of the applicable Site Collocation License or this Agreement or otherwise.
- 9.3. Licensee shall furnish to Sprint a certificate or certificates of insurance, satisfactory in form and content to Sprint, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled or materially altered without first giving at least 30 days prior written notice to Sprint.
- 9.4. All policies required of the Licensee shall contain evidence of the insurer's waiver of the right of subrogation against Sprint for any insured loss covered thereunder. All policies of insurance shall be written as primary policies and not contributing

with or in excess of the coverage, if any, that Sprint may carry. Any other provisions contained in this Section or elsewhere in the applicable Site Collocation License or this Agreement notwithstanding, the amounts of all insurance required to be obtained by Licensee shall not be less than an amount sufficient to prevent Sprint from becoming a co-insurer.

10. INDEMNIFICATION.

10.1. Licensee shall indemnify and hold Sprint harmless from any and all claims arising from:

10.1.1. Licensee's use of the Collocation Space;

10.1.2. the conduct of Licensee's business or from any activity, work or things done, permitted or suffered by Licensee in or about the Collocation Space or elsewhere;

10.1.3. any and all claims arising from any breach or default in the performance of any obligation on Licensee's part to be performed under the terms of this Agreement; and

10.1.4. any negligence of the Licensee, or any of Licensee's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.

10.2. If any action or proceeding is brought against Sprint by reason of any such claim, Licensee, upon notice from Sprint, shall defend same at Licensee's expense employing counsel satisfactory to Sprint. Licensee, as a material part of the consideration to Sprint, hereby assumes all risk of damage to property or injury to persons in, upon or about the Collocation Space arising from any cause other than the sole negligence of Sprint, and Licensee hereby waives all claims in respect thereof against Sprint.

10.3. Licensee shall at all times indemnify, defend, save and hold harmless Sprint and the Collocation Space free, clear and harmless from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of Licensee, or out of any work performed, material furnished, or obligations incurred by Licensee in, upon or otherwise in connection with the Collocation Space. Licensee shall give Sprint written notice at least 10 business days prior to the commencement of any such work on the Collocation Space in order to afford Sprint the opportunity of filing appropriate notices of non-responsibility. However, failure by Sprint to give notice does not reduce Licensee's liability under this section.

10.3.1. If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, Licensee shall give Sprint written notice thereof as soon as Licensee obtains such knowledge.

- 10.3.2. Licensee shall, at its expense, within 30 days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Sprint, at the cost and for the account of Licensee, from obtaining such discharge and release if Licensee fails or refuses to do the same within the 30 day period.
- 10.3.3. If Licensee has first discharged the lien as provided by law, Licensee may, at Licensee's expense, contest any mechanic's lien in any manner permitted by law.

11. LIMITATION OF LIABILITY.

- 11.1. SPRINT SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF LICENSEE'S EQUIPMENT AND OTHER PROPERTY ONLY IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY SPRINT'S SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.
- 11.2. SPRINT WILL NOT BE LIABLE FOR (A) ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, (B) ANY COMMERCIAL LOSS OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR PROFITS), OR (C) ANY LOSS, DAMAGE OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM USE OF OR INABILITY TO USE THE COLLOCATION SPACE EITHER SEPARATELY OR IN COMBINATION WITH OTHER EQUIPMENT OR SOFTWARE, BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT OR ANY OTHER LEGAL THEORY, WHETHER OR NOT SPRINT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

12. PARTIAL DESTRUCTION.

- 12.1. If the Collocation Space or a portion thereof sufficient to make the Collocation Space substantially unusable shall be destroyed or rendered unoccupiable by fire or other casualty, Sprint may, at its option, restore the Collocation Space to its previous condition. The applicable Site Collocation License shall not terminate unless, within 90 days after the occurrence of such casualty, Sprint notifies Licensee of its election to terminate the applicable Site Collocation License. If Sprint does not elect to terminate the applicable Site Collocation License, Sprint shall repair the damage to the Collocation Space caused by such casualty.
- 12.2. Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of Licensee, its agents, employees, contractors, Licensees, customers or business invitees, unless Sprint otherwise elects, the applicable Site Collocation License shall not terminate, and, if Sprint elects to make such repairs, Licensee shall reimburse Sprint for the cost of such repairs, or Licensee shall repair such damage, including damage to the Building and the area surrounding it, and the License Fee shall not abate.

- 12.3. If the Building shall be damaged by fire or other casualty to the extent that portions are rendered un-occupiable, notwithstanding that the Collocation Space may be directly unaffected, Sprint may, at its election within 90 days of such casualty, terminate the applicable Site Collocation License by giving written notice of its intent to terminate the applicable Site Collocation License. The termination as provided in this paragraph shall be effective 30 days after the date of the notice.
- 12.4. Notwithstanding any other provision of this Agreement, Sprint shall not be liable for any repair or restoration until, and then only to the extent that, insurance proceeds are received.

13. EMINENT DOMAIN.

- 13.1. If the Property, or any portion thereof which includes a substantial part of the Collocation Space, shall be taken or condemned by any competent authority for any public use or purpose, the Term of the applicable Site Collocation License shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose. If any condemnation proceeding shall be 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 grade makes it necessary or desirable to remodel the Property to conform to the changed grade, Sprint shall have the right to terminate the applicable Site Collocation License upon not less than 30 days notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Sprint to Licensee for such cancellation, and the Licensee shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

14. LICENSE TERMINATION.

- 14.1. At the termination of the applicable Site Collocation License or this Agreement, by lapse of time or otherwise, or upon any termination of Licensee's right to possession without termination of the applicable Site Collocation License, the following provisions shall apply.
- 14.2. Surrender of Collocation Space. Licensee shall surrender possession and vacate the Collocation Space within 30 days, and deliver possession thereof to Sprint, and hereby grant to Sprint full and free license to enter into and upon the Collocation Space in such event with or without process of law and to expel or remove Licensee and to 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 Sprint hereunder or by operation of law.
- 14.3. Surrender of Keys. Licensee shall surrender all keys, access cards and Sprint-provided photo identification cards to the Collocation Space and the Building to

Sprint, and shall make known to Sprint the combination of all combination locks remaining on the Collocation Space.

- 14.4. Vacate Collocation Space. Licensee shall remove its equipment from the Collocation Space within 30 days.
- 14.5. Return of Collocation Space. Licensee shall return to Sprint the Collocation Space and all equipment and fixtures of Sprint in as good a condition and state of repair as when Licensee originally took possession, normal wear and tear or damage by fire or other casualty excepted. Licensee shall be responsible to Sprint for the cost of any repairs that shall be made necessary by the acts or omissions of the Licensee or of its agents, employees, contractors or business invitees. Sprint reserves the right to oversee Licensee's withdrawal from the Collocation Space and Licensee agrees to comply with all directives of Sprint regarding the removal of equipment and restoration of the Collocation Space, including, without limitation, Sprint's directive to return the Collocation Space in other than its original condition on the Date of Occupancy; provided, however, that Licensee shall not be responsible for placing the Collocation Space in other than its original condition if to do so would put Licensee to additional expense above and beyond that which would be necessary to return the Collocation Space in its original condition.
- 14.6. Removal of Additions. All installations, additions, hardware, non-trade fixtures and improvements, temporary or permanent, except movable furniture and equipment belonging to Licensee, in or upon the Collocation Space, whether placed there by Licensee or Sprint, shall be Sprint's property and shall remain upon the Collocation Space, all without compensation, allowance or credit to Licensee; provided, however, that if prior to such termination or within 10 days thereafter, Sprint so directs, Licensee shall promptly remove the installations, additions, hardware, non-trade fixtures and improvements, placed in or upon the Premise by Licensee, failing which Sprint may remove the same, and Licensee shall, upon demand, pay to Sprint the cost of such removal and of any necessary restoration of the Collocation Space. No cable shall be removed from Inner Duct or Outside Cable Duct except as directed by Sprint.
- 14.7. Property Presumed Abandoned. All fixtures, installations, and personal property belonging to Licensee not removed from the Collocation Space upon termination of the applicable Site Collocation License or this Agreement and not required by Sprint to have been removed as provided in the applicable Site Collocation License or this Agreement, shall be conclusively presumed to have been abandoned by Licensee and title thereto shall pass to Sprint under this Agreement as if by a Bill of Sale.
- 14.8. Delay of Surrender. If the Collocation Space is not surrendered at the termination of the applicable Site Collocation License, Licensee shall indemnify Sprint against loss or liability resulting from delay by Licensee in so surrendering the Collocation Space, including, without limitation, any claims made by any succeeding tenant founded on such delay.

15. DEFAULT OF SPRINT.

- 15.1. It is agreed that if Sprint fails or refuses to perform any of the provisions, covenants or conditions of the applicable Site Collocation License or this Agreement, Licensee, prior to exercising any right or remedy Licensee may have against Sprint on account of such default, shall give a 30 day written notice to Sprint of such default, specifying in the notice the default with which Sprint is charged.
- 15.2. If the default complained of is of such a nature that it can be cured or rectified by Sprint, but cannot with reasonable diligence be rectified or cured within the 30 day period, then such default shall be deemed to be rectified or cured if Sprint shall, within that 30 day period, commence the rectification and curing thereof and shall continue thereafter with all due diligence to cause such rectification and curing to proceed.

16. DEFAULT OF LICENSEE.

- 16.1. If Licensee defaults in the prompt payment of any portion of the charges (and such default shall continue for 10 or more days after it is due and payable) or in the performance or observance of any other provision of the applicable Site Collocation License or this Agreement (and such default shall continue for 30 or more days after notice thereof shall have been given to Licensee), then Licensee shall be deemed in default and Sprint may enforce the performance of the applicable Site Collocation License or this Agreement in any manner provided by law.
- 16.2. Unless Licensee shall cure the default upon the date and time set forth in the notice, Sprint shall have the right, without further notice or demand, to:
 - 16.2.1. terminate Licensee's right to possession, without terminating the applicable Site Collocation License or this Agreement, or re-enter and remove all person and property without prejudice to Sprint's remedies for breach of contract, or arrears of Total Fees, and
 - 16.2.2. resume possession of the Collocation Space occupied by Licensee and declare the Term of the applicable Site Collocation License or this Agreement ended and terminate all of the rights of Licensee in and to the Collocation Space, and Licensee shall pay Sprint all unpaid Total Fees due under the applicable Site Collocation License or this Agreement for the remainder the original term hereof.
- 16.3. 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 30 day period, then such default shall be deemed to be rectified or cured if Licensee shall, within the 30 day period, commence to rectify and cure the default and shall complete such rectification and cure with all due diligence and, in any event, within 40 days from the date of giving of such notice.

- 16.4. Litigation. Licensee shall pay all Sprint's costs, charges and expenses, including the fees of counsel, agents and others retained by Sprint, incurred in enforcing Licensee's obligations hereunder or incurred by Sprint in any litigation, negotiation or transaction in which Licensee causes Sprint, without Sprint's fault, to become involved or concerned.
- 16.5. Expenditures by Sprint. Whenever under any provision of this Agreement, Licensee shall be obligated to make any payment or expenditure, or to do any act or thing, or to incur any liability whatsoever, and Licensee fails, refuses or neglects to perform as required herein, Sprint shall be entitled, but shall 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 Licensee. In such event, the amount thereof with interest thereon as hereinafter provided, shall be collectible on demand. All such interest amounts shall be at lower of the rate of 1.5% per month or the highest lawful rate calculated per month until repayment by Licensee in full.

17. REMEDIES OF SPRINT.

- 17.1. If the owner of the Building or Sprint 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, transfers assignment or material change in the Lease gives rise to an obligation which is inconsistent with this Agreement, Sprint's performance under the applicable Site Collocation License or this Agreement shall be excused to the extent of the inconsistency. Sprint hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation shall in no way obligate Sprint to incur any out of pocket expenses in its efforts to avoid such inconsistencies.
- 17.2. All rights and remedies of Sprint herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law.

18. BANKRUPTCY.

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

19. CONFIDENTIALITY AND PUBLICITY.

- 19.1. All information which is disclosed by one party ("Disclosing Party") to the other ("Recipient") in connection with this Agreement, or acquired in the course of performance of this Agreement, shall be deemed confidential and proprietary to

the Disclosing Party and subject to this Agreement, such information including but not limited to, orders for services, usage information in any form, and CPNI as that term is defined by the Act and the rules and regulations of the FCC ("Confidential and/or Proprietary Information").

- 19.2. During the term of this Agreement, and for a period of one (1) year thereafter, Recipient shall
 - 19.2.1. use it only for the purpose of performing under this Agreement,
 - 19.2.2. hold it in confidence and disclose it only to employees or agents who have a need to know it in order to perform under this Agreement, and
 - 19.2.3. safeguard it from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.
- 19.3. Recipient shall have no obligation to safeguard Confidential Information
 - 19.3.1. which was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party,
 - 19.3.2. which becomes publicly known or available through no breach of this Agreement by Recipient,
 - 19.3.3. which is rightfully acquired by Recipient free of restrictions on its Disclosure, or
 - 19.3.4. which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.
- 19.4. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, provided that Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient agrees to comply with any protective order that covers the Confidential Information to be disclosed.
- 19.5. Each Party agrees that in the event of a breach of this Article 19 by Recipient or its representatives, Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 19.6. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, symbols or words from which the other Party's name may reasonably be inferred or implied in any product, service, advertisement, promotion, or any other publicity matter, except that nothing in this paragraph shall prohibit a Party from engaging in valid comparative advertising. This section shall confer no rights on a Party to the

service marks, trademarks and trade names owned or used in connection with services by the other Party or its Affiliates, except as expressly permitted by the other Party.

- 19.7. Neither Party shall produce, publish, or distribute any press release nor other publicity referring to the other Party or its Affiliates, or referring to this Agreement, without the prior written approval of the other Party. Each party shall obtain the other Party's prior approval before discussing this Agreement in any press or media interviews. In no event shall either Party mischaracterize the contents of this Agreement in any public statement or in any representation to a governmental entity or member thereof.
- 19.8. Except as otherwise expressly provided in this Article 19, nothing herein shall be construed as limiting the rights of either Party with respect to its customer information under any applicable law, including without limitation § 222 of the Act.

20. ASBESTOS.

- 20.1. Licensee is aware the Building in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and Licensee hereby releases and agrees to hold Sprint harmless from any and all liability to Licensee or any of its employees, agents or invitees as a result thereof. Licensee acknowledges that it has inspected the Collocation Space and found the Collocation Space to be in a condition satisfactory to Licensee for its intended use.

21. SUBORDINATION.

- 21.1. Any applicable Site Collocation License and this Agreement shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments) that may be placed on the Collocation Space and Licensee agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

22. ASSIGNMENT.

- 22.1. This Agreement and any Site Collocation License hereunder are not assignable in part; any attempt to assign this Agreement or any Site Collocation License hereunder in part will be considered a material breach hereof.
- 22.2. This Agreement and any Site Collocation License hereunder are not assignable in whole by Licensee without the prior written consent of Sprint, which consent shall not be unreasonably withheld; provided, however, that Licensee may assign this Agreement and any Site Collocation License hereunder in whole to a subsidiary or affiliate of Licensee if such subsidiary or affiliate (i) agrees in writing to be bound by the terms of this Agreement and any Site Collocation License hereunder, and (ii) provides Sprint with any and all evidence of its compliance with the terms hereof as would have been required of Licensee had this Agreement and any Site

Collocation License hereunder not been assigned, including, but not limited to, current certificates of insurance as required by Section 9 hereof.

- 22.3. Any attempt to assign this Agreement and any Site Collocation License hereunder without such prior written consent shall be void and of no effect. Sprint's consent to any assignment of this Agreement and any Site Collocation License hereunder shall not be deemed a waiver of the need to obtain such consent as to any future assignment or of Sprint's right to withhold consent to such assignment. If Licensee requests that Sprint consent to the assignment of this Agreement and any Site Collocation License hereunder, Licensee shall pay all costs and expenses, including, but not limited to, reasonable attorneys' fees, of Sprint in evaluating, processing, documenting, administering and approving such assignment, whether or not the requested assignment is eventually approved.
- 22.4. In no event shall this Agreement or any rights or privileges hereunder be an asset of Licensee under any bankruptcy, insolvency or reorganization proceedings.
- 22.5. Sprint may assign this Agreement and any Site Collocation License hereunder and thereafter shall not be liable hereunder.
- 22.6. Subject to the terms of this Agreement, Sprint and Licensee agree that the applicable Site Collocation License and this Agreement shall bind and inure to the benefit of the respective successors and assigns of both Sprint and Licensee.

23. ENTIRE AGREEMENT.

- 23.1. This Agreement, and any Exhibits which are made a part of this Agreement, subject only to the terms of any applicable tariff on file with the state Commission or the FCC, contains the entire agreement between the parties.

24. NO PARTNERSHIP.

- 24.1. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturers or of any other association between Sprint and Licensee.

25. MISCELLANEOUS.

- 25.1. Force Majeure. Wherever there is provided in the applicable Site Collocation License or this Agreement a time limitation for performance of any construction, repair, maintenance or service, the time provided for shall be extended for as long as, and to the extent that, delay in compliance with such limitation is due to an act of God, strikes, governmental control or other factors beyond the reasonable control of Sprint or Licensee.
- 25.2. Unenforceable Provisions. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a court or regulatory agency to be invalid, void, or unenforceable, the remainder of this Agreement, and

all applications thereof, not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

- 25.3. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment to the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Act to the Parties or in which the FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, Amended Rules), either Party may, by providing written notice to the other party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.
- 25.4. Contingency. This Agreement is subject to change, modification, or cancellation as may be required by a regulatory authority or court in the exercise of its lawful jurisdiction.
- 25.5. Notice. Any notice to be given by either party to the other pursuant to the provisions of this Agreement or of any law, present or future, shall be given in writing by personal service, by certified or registered mail with postage prepaid and return receipt requested, or by recognized courier service to the other party for whom it is intended.
- 25.6. Any notice or demand to Sprint shall be addressed to:

Sprint
Vice-President - Carrier Services
Mailstop: KSOPHM0316-3B925
Sprint
6480 Sprint Parkway
Overland Park, KS 66251

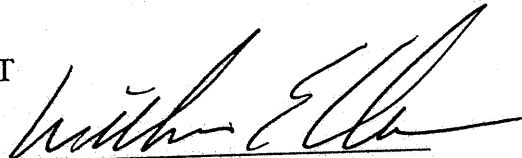
Any notice or demand to Licensee shall be addressed to:
Daniel H. Webb
Chief Technical Officer
MAXCESS, Inc.
100 West Lucerne Circle
Suite 500
Orlando, FL 32801

- 25.6.1. Any party to this Agreement may change its address for the purpose of receiving notices or demands by a written notice to the other party, given in the manner described in this Section. Such notice of change of address shall not become effective, however, until the actual receipt by the other party.
- 25.7. Headings. The headings of this Agreement are for convenience only and shall not be used to construct or modify the terms of this Agreement.
- 25.8. Execution in Counterparts. This Agreement may be executed in copies, each of which shall constitute an original, but any of which taken together shall constitute one in the same document. In the event of a conflict between the provisions of any original Agreement with the provisions of any other original Agreement, the provisions of Sprint's original Agreement will govern and control.
- 25.9. Brokers. Licensee warrants that it has had no dealings with any broker or agent in connection with this Agreement, and covenants to pay, hold harmless and indemnify Sprint 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 Agreement or the negotiation thereof.
- 25.10. Waiver of Default. Sprint and Licensee agree that the waiver by either party of a breach of any term, covenant, or condition contained herein shall not be deemed a waiver of any subsequent breach of the same any other term, covenant or condition.
- 25.11. Changes to Agreement. This Agreement and all of its terms, provisions, covenants and conditions cannot be changed or terminated orally. This Agreement may only be modified or amended by an instrument in writing executed by Sprint and Licensee.
- 25.12. Agreement Effective. Submission of this instrument for examination or signature by Sprint does not constitute a reservation of or option for license, and it is not effective, as a license or otherwise, until execution and delivery by both Sprint and Licensee.
- 25.13. Representations. Neither Sprint nor its agents have made any representation or warranties with respect to the Collocation Space of this Agreement except as expressly set forth herein; no rights, easements, or licenses shall be acquired by Licensee by implication or otherwise unless expressly set forth herein.
- 25.14. Work Stoppages. In the event of work stoppages, Sprint may establish separate entrances for use by personnel of Licensee. Licensee shall comply with any emergency operating procedures established by Sprint to deal with work stoppages.
- 25.15. Governing Law. The laws of the State of Kansas shall govern the validity, construction, performance and effect of this Agreement.

25.16. Authorized Representatives. The individuals executing this Agreement on behalf of Licensee represent and warrant to Sprint they are fully authorized and legally capable of executing this Agreement on behalf of Licensee.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

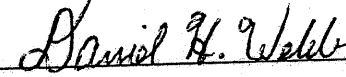
SPRINT

By: 

William E. Cheek
(Printed Name)

V.P. Sales and Account Management
(Title)

MAXCESS, INC.

By: 

Daniel H. Webb
(Printed Name)

Chief Technical Officer
(Title)

Attachment A

SPRINT AFFILIATED LOCAL TELEPHONE OPERATING COMPANIES

Sprint – Florida, Inc.
Central Telephone Company of Virginia
The United Telephone Company of Pennsylvania
United Telephone Company of New Jersey, Inc.
United Telephone Company of Ohio
United Telephone Company of Indiana, Inc.
United Telephone Company of Texas, Inc.
Central Telephone Company of Texas
Sprint Missouri, Inc.
United Telephone Company of Kansas (*)
Sprint Minnesota, Inc.
United Telephone Company of the West (*)
Central Telephone Company – Nevada Division
United Telephone Company of the Northwest (Oregon)
United Telephone Company of the Northwest (Washington)
Carolina Telephone and Telegraph Company; Central Telephone Company – North Carolina
Division
United Telephone Company of the Carolinas
United Telephone – Southeast, Inc.

(*) United Telephone of Kansas also includes the service areas of United Telephone Company of Southcentral Kansas, United Telephone company of Eastern Kansas, and United Telephone Company of Southeast Kansas. United Telephone Company of the West operates in Nebraska and Wyoming under a single company name.

Attachment B

SITE COLLOCATION LICENSE AGREEMENT TO MASTER COLLOCATION AGREEMENT

_____ and _____ are Parties to a Master Collocation Agreement dated _____, 200__. Capitalized terms used in this Site Collocation License Agreement have the same meaning as such terms in the Master Collocation Agreement unless otherwise indicated.

Part I Terms

1. Site name (central office name):
2. Site code (CLLI code):
3. Site address:
4. Site Legal Description:
5. ___ The Site is owned by Sprint.

___ The Site is leased by Sprint. A copy of the lease is attached to this Site Collocation License.

6. Type of Physical Collocation
___ Caged Collocation
___ Cageless Collocation
7. Description of Licensee's Equipment:
8. Effective Date of Lease:
9. Term:
10. Renewal Options:
11. Sprint contact for emergencies:
12. Licensee contact for emergencies:
13. Special Provisions:
14. Notice:

Sprint:

Licensee:

Part II Compensation

1. ITEMIZED LISTING OF FEES

Rate Element, Unit of Measure	NRC or MRC ¹	Rate per Unit	Quantity	Total (Rate X Quantity)
APPLICATION FEE, Per Application	NRC	\$		\$
COLLOCATION SPACE, Per Square Foot	MRC	\$		\$
DC POWER, Per Fuse Amp	MRC	\$		\$
DC POWER, Per Power Lead, Per Foot	NRC	\$		\$
SECURITY ENCLOSURE, Per Square Foot -or- Per Fixed And Per Linear Foot	NRC	\$		\$
CONDUIT SPACE-PER FOOT, Per Linear Foot	MRC	\$		\$
CONDUIT SPACE-VAULT, Per Linear Foot	MRC	\$		\$
RISER SPACE, Per Foot	MRC	\$		\$
DIVERSE RISER SPACE, Per Foot	MRC	\$		\$

Rate Element, Unit of Measure	NRC or MRC ¹	Rate per Unit	Quantity	Total (Rate X Quantity)
INTERCONNECTION REARRANGEMENT, Per Service Reconfigured	NRC	\$		\$
CABLE PULL AND SPLICE, Per Half Hour	NRC	\$		\$
INSTALLATION AND/OR MAINTENANCE, Per Half Hour	NRC	\$		\$
<i>Cross-connects are usually ordered after the collocation is set-up, therefore the actual quantity may not be known at the time this agreement is signed. The Licensee will pay the rates shown below for each cross-connect ordered during the term of this agreement.</i>				
DS0 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$	Total cross - connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
100 DS0 ELECTRICAL CROSS- CONNECTS (via 100 feet of 100 pair cable, with 100-pin connecting block), Per <u>100</u> 2-Wire Connections	MRC	\$	Total cross- connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
DS1 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$	Total cross- connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
DS3 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$	Total cross- connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
¹ "MRC" shall mean monthly recurring charge, "NRC" shall mean non-recurring charge.				

2. ADJUSTMENTS

All rates will be subject to adjustment at the end of the initial term under Part I, Section 9 above.

Attachment C
PRICE LIST

Section I: Florida, Indiana, Missouri, and Nevada.					
Rate Element, Unit of Measure	NRC or MRC ¹	Florida	Indiana	Missouri	Nevada
APPLICATION FEE, Per Application	NRC	\$3,548.35	\$3,522.13	\$3,263.08	\$3,654.75
COLLOCATION SPACE, Per Square Foot	MRC	\$6.19	\$3.73	\$5.10	\$5.82
DC POWER, Per Fuse Amp	MRC	\$11.41	\$11.99	\$11.19	\$11.56
DC POWER, Per Power Lead, Per Foot	NRC	\$25.66	\$26.66	\$24.90	\$25.66
SECURITY ENCLOSURE - 100 Per 100 Square Feet	NRC	\$9,473.59	N/A	N/A	N/A
SECURITY ENCLOSURE - 200 Per 200 Square Feet	NRC	\$13,263.53	N/A	N/A	N/A
SECURITY ENCLOSURE - FIXED, Per Enclosure	MRC	N/A	\$3,213.60	\$3,280.40	\$3,154.30
SECURITY ENCLOSURE - PER FOOT, Per Linear Foot	MRC	N/A	\$25.00	\$25.00	\$25.00
CONDUIT SPACE-PER FOOT, Per Linear Foot	MRC	\$0.37	\$0.34	\$0.41	\$0.37
CONDUIT SPACE-VAULT, Per Linear Foot	MRC	\$1.16	\$0.93	\$1.27	\$1.18
DS0 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$0.94	\$1.19	\$0.85	\$0.96

Section I: Florida, Indiana, Missouri, and Nevada.

Rate Element, Unit of Measure	NRC or MRC ¹	Florida	Indiana	Missouri	Nevada
100 DS0 ELECTRICAL CROSS-CONNECTS (via 100 feet of 100 pair cable, with 100-pin connecting block), Per <u>100</u> 2-Wire Connections	MRC	N/A	N/A	N/A	N/A
DS1 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$2.93	\$3.84	\$2.72	\$2.99
DS3 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$25.85	\$33.62	\$24.11	\$26.47
RISER SPACE, Per Foot	MRC	\$4.45	\$3.36	\$4.25	\$4.25
DIVERSE RISER SPACE, Per Foot	MRC	\$4.45	\$3.36	\$4.25	\$4.25
INTERCONNECTION REARRANGEMENT, Per Service Reconfigured	NRC	\$85.00	\$115.46	\$89.24	\$78.42
CABLE PULL AND SPLICE, Per Half Hour	NRC	See Labor Rates Below.	See Labor Rates Below.	See Labor Rates Below.	See Labor Rates Below.
INSTALLATION AND/OR MAINTENANCE, Per Half Hour	NRC	See Labor Rates Below.	See Labor Rates Below.	See Labor Rates Below.	See Labor Rates Below.
LABOR RATES - BASIC, 1 st Half Hour	NRC	\$44.12	\$40.00	\$40.00	\$50.00
LABOR RATES - BASIC, Each Additional Half Hour	NRC	\$17.91	\$25.00	\$30.00	\$35.00
LABOR RATES - OVERTIME, 1 st Half Hour	NRC	\$47.22	\$50.00	\$45.00	\$65.00

Section I: Florida, Indiana, Missouri, and Nevada.

Rate Element, Unit of Measure	NRC or MRC ¹	Florida	Indiana	Missouri	Nevada
LABOR RATES - OVERTIME, Each Additional Half Hour	NRC	\$21.01	\$35.00	\$35.00	\$50.00
LABOR RATES - PREMIUM, 1 st Half Hour	NRC	\$50.33	\$60.00	\$50.00	\$80.00
LABOR RATES - PREMIUM, Each Additional Half Hour	NRC	\$24.12	\$50.00	\$40.00	\$65.00
¹ "MRC" shall mean monthly recurring charge, "NRC" shall mean non-recurring charge.					

Section II: Ohio and Pennsylvania.			
Rate Element, Unit of Measure	NRC or MRC ¹	Ohio	Pennsylvania
APPLICATION FEE, Per Application	NRC	\$3,464.53	\$3,627.55
COLLOCATION SPACE, Per Square Foot	MRC	\$3.46	\$4.19
DC POWER, Per Fuse Amp	MRC	\$12.02	\$11.80
DC POWER, Per Power Lead, Per Foot	NRC	\$26.75	\$25.53
SECURITY ENCLOSURE - 100 Per 100 Square Feet	NRC	N/A	N/A
SECURITY ENCLOSURE - 200 Per 200 Square Feet	NRC	N/A	N/A
SECURITY ENCLOSURE - FIXED, Per Enclosure	MRC	\$3,192.90	\$3,159.00
SECURITY ENCLOSURE - PER FOOT, Per Linear Foot	MRC	\$25.00	\$25.00
CONDUIT SPACE-PER FOOT, Per Linear Foot	MRC	\$0.33	\$0.35
CONDUIT SPACE-VAULT, Per Linear Foot	MRC	\$0.95	\$1.12
DS0 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$1.18	\$1.02
100 DS0 ELECTRICAL CROSS- CONNECTS (via 100 feet of 100 pair cable, with 100-pin connecting block), Per <u>100</u> 2-Wire Connections	MRC	N/A	N/A

Section II: Ohio and Pennsylvania.			
Rate Element, Unit of Measure	NRC or MRC ¹	Ohio	Pennsylvania
DS1 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$3.75	\$3.19
DS3 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$32.95	\$28.20
RISER SPACE, Per Foot	MRC	\$3.14	\$3.54
DIVERSE RISER SPACE, Per Foot	MRC	\$3.14	\$3.54
INTERCONNECTION REARRANGEMENT, Per Service Reconfigured	NRC	\$99.56	\$81.92
CABLE PULL AND SPLICE, Per Half Hour	NRC	See Labor Rates Below.	See Labor Rates Below.
INSTALLATION AND/OR MAINTENANCE, Per Half Hour	NRC	See Labor Rates Below.	See Labor Rates Below.
LABOR RATES - BASIC, 1 st Half Hour	NRC	\$40.00	\$39.30
LABOR RATES - BASIC, Each Additional Half Hour	NRC	\$25.00	\$21.40
LABOR RATES - OVERTIME, 1 st Half Hour	NRC	\$50.00	\$45.85
LABOR RATES - OVERTIME, Each Additional Half Hour	NRC	\$35.00	\$26.90

Section II: Ohio and Pennsylvania.

Rate Element, Unit of Measure	NRC or MRC ¹	Ohio	Pennsylvania
LABOR RATES - PREMIUM, 1 st Half Hour	NRC	\$60.00	\$49.50
LABOR RATES - PREMIUM, Each Additional Half Hour	NRC	\$50.00	\$30.90
¹ "MRC" shall mean monthly recurring charge, "NRC" shall mean non-recurring charge.			