

with a copy to:

Brooks Fiber Communications of  
Michigan, Inc.  
2855 Oak Industrial Drive, NE  
Grand Rapids, Michigan 49506  
Attention: Regional Vice-President  
Facsimile: (616) 224-5108

To Ameritech:

Ameritech Information Industry Services  
350 North Orleans, Floor 3  
Chicago, IL 60654  
Attn.: Vice President - Network Providers  
Facsimile: (312) 335-2927

with a copy to:

Ameritech Information Industry Services  
350 North Orleans, Floor 3  
Chicago, IL 60654  
Attn.: Vice President and General Counsel  
Facsimile: (312) 595-1504

or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) three (3) days after mailing in the case of first class or certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

**28.14 Publicity and Use of Trademarks or Service Marks.** Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.

**28.15 Section 252(l) Obligations.** (a) If either Party enters into an agreement (the "Other Agreement") approved by the Commission pursuant to Section 252 of the Act or files a tariff approved by the Commission which provides for the provision of arrangements covered in this Agreement within the State of Michigan to another requesting Telecommunications Carrier, including itself or its Affiliate, such Party shall make available to the other Party such arrangements upon the same rates, terms and conditions as those provided in the Other

**Agreement or tariff. At its sole option, the other Party may avail itself of either (i) the Other Agreement or tariff in its entirety or (ii) the prices, terms and conditions of the Other Agreement or tariff that directly relate to any of the following duties as a whole:**

- (1) Interconnection - Section 251(c)(2) of the Act (Sections 4.0 and 5.0 of this Agreement); or
- (2) Exchange Access - Section 251(c)(2) of the Act (Section 6.0 of this Agreement); or
- (3) Unbundled Access - Section 251(c)(3) of the Act (Section 9.0 of this Agreement); or
- (4) Resale - Section 251(c)(4) of the Act (Section 10.0 of this Agreement); or
- (5) Collocation - Section 251(c)(6) of the Act (Section 12.0 of this Agreement); or
- (6) Number Portability - Section 251(b)(2) of the Act (Section 13.0 of this Agreement); or
- (7) Access to Rights of Way - Section 251(b)(4) of the Act (Section 15.0 of this Agreement); or
- (8) E911 and 911 Services - Section 271(c)(2)(B)(vii)(I) of the Act; or
- (9) Directory Assistance - Section 271(c)(2)(B)(vii)(II); or
- (10) Operator Call Completion Services - Section 271(c)(2)(B)(vii)(III); or
- (11) Directory Listing - Section 271(c)(2)(B)(viii) of the Act; or
- (12) Access to Databases - Section 271(c)(2)(B)(x).

(b) If a Party is subject to an order of the FCC or the Commission that provides for the provision of arrangements covered in this Agreement and such order is generally applicable to the other Party, such other Party may, at its sole option, avail itself of the rates, terms and conditions of such order.

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

**28.17 No Third Party Beneficiaries; Disclaimer of Agency.** This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

**28.18 No License.** No license under patents, copyrights or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

**28.19 Dispute Escalation and Resolution.** Except as otherwise provided herein, any dispute, controversy or claim (individually and collectively, a "Dispute") arising under this Agreement shall be resolved in accordance with the procedures set forth in this Section 28.19. In the event of a Dispute between the Parties relating to this Agreement and upon the written request of either Party, each of the Parties shall appoint a designated representative who has authority to settle the Dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the Dispute and negotiate in good faith in an effort to resolve such Dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one Party to the other Party shall be honored. If the Parties are unable to resolve issues related to a Dispute within thirty (30) days (or such shorter period as the circumstances may require) after the Parties' appointment of designated representatives as set forth above, then either Party may file a complaint with (i) the Commission in accordance with the procedures applicable to the resolution of disputes among carriers in the State of Michigan, (ii) the FCC or (iii) a court having proper jurisdiction over such Dispute and both Parties.

**28.20 Survival.** The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement, including without limitation, Sections 19.4, 19.14, 20.4, 21.0, 22.0, 24.0, 25.0, 28.7, 28.9, 28.12, 28.14, 28.18 and 28.19.

**28.21 Scope of Agreement.** This Agreement is intended to describe and enable specific Interconnection and access to unbundled Network Elements and compensation arrangements between the Parties. This Agreement does not obligate either Party to provide arrangements not specifically provided herein.

**28.22 Entire Agreement.** The terms contained in this Agreement and any Schedules, Exhibits, tariffs and other documents or instruments referred to herein, which are incorporated into this Agreement by this reference, constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written, other than the agreements between the Parties (or their Affiliates) identified in Section 18.0. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified by a writing signed by an officer of each Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

BROOKS FIBER COMMUNICATIONS  
OF MICHIGAN, INC.

AMERITECH INFORMATION  
INDUSTRY SERVICES, A DIVISION  
OF AMERITECH SERVICES, INC., ON  
BEHALF OF AMERITECH MICHIGAN

By: Craig Yang  
Printed: Craig Yang  
Title: President

By: Neil E. Cox  
Printed: NEIL E. COX  
Title: PRESIDENT

**SCHEDULE 3.0**  
**IMPLEMENTATION SCHEDULE**

<b>LATA</b>	<b>Ameritech Interconnection Wire Center (AIWC)</b>	<b>Brooks Fiber Interconnection Wire Center (BIWC)</b>	<b>Interconnection Activation Date</b>
348	GDRPMIBL20T	GDRQMIBODS0	Complete
348	TRCYMIMN20T	TRCYMIWTDS0	11/96

## PRICING SCHEDULE - MICHIGAN - PRE-JANUARY 1, 1997 PRICING <sup>1</sup>

This Pricing Schedule - Michigan - Pre-January 1, 1997 Pricing shall only be operative and effective on and from the Effective Date until December 31, 1996. On and after January 1, 1997, this Pricing Schedule - Michigan - Pre-January 1, 1997 Pricing shall cease to be of any force and effect and the terms of the Pricing Schedule - Michigan shall apply thereafter during the term of this Agreement.

### I. Reciprocal Compensation

If the number of minutes of Local Traffic terminated by either Party on the other Party's network is greater than five percent (5%), plus or minus, of the number of minutes of Local Traffic terminated by the other Party, the Parties shall compensate each other for the transport and termination of Local Traffic at the rate of \$0.015 per minute of use.

### II. BLV/BLVI Traffic

Rate = \$0.90 per Busy Line Verification  
\$1.10 per Busy Line Verification Interrupt  
(in addition to \$0.90 for Busy Line Verification)

### III. Transiting

Rate = \$0.002 per minute

### IV. Unbundled Network Elements

#### A. Unbundled Loop Rates

##### 1. Loops - Business - two wire

Rate = \$8.00 per month plus \$0.21 cross-connection charge per Loop

##### Loops - Business - four wire

Rate = \$16.00 per month plus \$0.42 cross-connection charge per Loop

##### 2. Loops - Residential - two wire

Rate = \$11.00 per month plus \$0.21 cross-connection charge per Loop

##### Loops - Residential - four wire

Rate = \$22.00 per month plus \$0.42 cross-connection charge per Loop

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<sup>1</sup> These rates, terms and conditions shall apply unless altered by the Commission prior to December 31, 1996. If such action occurs, the resulting rates, terms and conditions shall apply until December 31, 1996.

**B. Non-Recurring Charges**

1. **Unbundled Loops**

Not applicable pre January 1, 1997.

2. **Number Portability<sup>2</sup>**

Not applicable pre January 1, 1997.

**C. Additional Loop Conditioning Charges<sup>3</sup>**

Loop Type	Additional Charges per Loop
Electronic Key Line	Rates based on cost
ISDN	\$22.50 per month per Loop
HDSL 2W	Rates based on cost
HDSL 4W	Rates based on cost
ADSL 2W	Rates based on cost

**V. Interim Telecommunications Number Portability<sup>4</sup>**

Rate = \$1.14 per ported number per month including ninety-nine (99) call paths.

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<sup>2</sup> See Section 13.6.

<sup>3</sup> The Additional Loop Conditioning Charges are only applicable if the distance requested on an ordered Loop exceeds such Loop's corresponding transmission characteristics as set forth in Section 9.4.5.

<sup>4</sup> See Section 13.6.

**PRICING SCHEDULE — MICHIGAN<sup>5</sup>**

I. Reciprocal Compensation

Rate = \$0.015 per minute

II. BLV/BLVI Traffic

Rate = \$0.90 per Busy Line Verification  
\$1.10 per Busy Line Verification Interrupt  
(in addition to \$0.90 for Busy Line Verification)

III. Transiting

Rate = \$0.002 per minute

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<sup>5</sup> This Pricing Schedule - Michigan shall be applicable upon the expiration in accordance with its terms of the Pricing Schedule - Michigan - Pre-January 1, 1997.

IV Unbundled Network Elements

A. Unbundled Loop Rates

1. Subject to Section 9.0, Brooks Fiber may procure unbundled Loops from Ameritech at the following Central Offices at the rates<sup>1</sup> set forth below the respective Central Offices:

Loop Type	Monthly Rates	
	Ameritech Central Office	
	Grand Rapids BL (GDRPMIBL) <sup>2</sup> Holland (HLLDMIMN) <sup>2</sup>	Grand Rapids EP (GDRPMIEP) Grand Rapids ES (GDRPMIES) Grand Rapids SO (GDRPMISO) Grand Rapids WS (GDRPMIWS) Grand Rapids YO (GDRPMIYO) Grand Rapids ZQ (GDRPMIZQ) Wyoming Lenox (WYNGMILX) Comstock Park (CMPKMICP) Lansing (LNNGMIMN) Lansing NW (LNNGMINW) Lansing SO (LNNGMISO) Ann Arbor MN (ANARMIMN) Ann Arbor SE (ANARMISE)
Analog 2W	\$ 8.60	\$11.10
Analog 4W	\$17.20	\$22.20
ADSL 2W/HDSL 2W	\$ 8.60	\$11.10
ADSL 4W/HDSL 4W	\$17.20	\$22.20
BRI ISDN	\$ 8.60	\$11.10
PBX Ground Start Coin	\$ 8.60	\$11.60
Coin	\$ 8.60	\$11.60
Electronic Key Line	\$ 8.60	\$11.60

<sup>1</sup> Carrier Common Line (CCL) charges and End User Common Access Line (EUCAL) charges shall not apply to Loops.

<sup>2</sup> Loops at Grand Rapids BL (GDRPMIBL) and Holland (HLLDMIMN) shall be available at the rates set forth on this Pricing Schedule only if such Loops are used on the conditions (including the payments of the amounts specified in Section 1 of the Settlement Agreement) contained in the Settlement Agreement.

2. Brooks Fiber may procure unbundled Loops from Ameritech at other Ameritech Central Offices not listed above at the applicable tariff rates.

B. Non-Recurring Charges

Date of Acceptance of Service Order	Service Order Charge <sup>3</sup>	Line Connection Charge <sup>4</sup>
Prior to 6/1/97	\$30	\$50
On or after 6/1/97	\$30	\$35

C. Additional Loop Conditioning Charges<sup>5</sup>

Loop Type	Additional Charges per Loop
Electronic Key Line	Rates based on cost
ISDN	\$22.50 per month per Loop
HDSL 2W	Rates based on cost
HDSL 4W	Rates based on cost
ADSL 2W	Rates based on cost

V. Interim Telecommunications Number Portability

See Section 13.6.

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<sup>3</sup> The Service Order Charge is a per-occasion charge applicable to any number of Loops ordered for the same location and same Customer account.

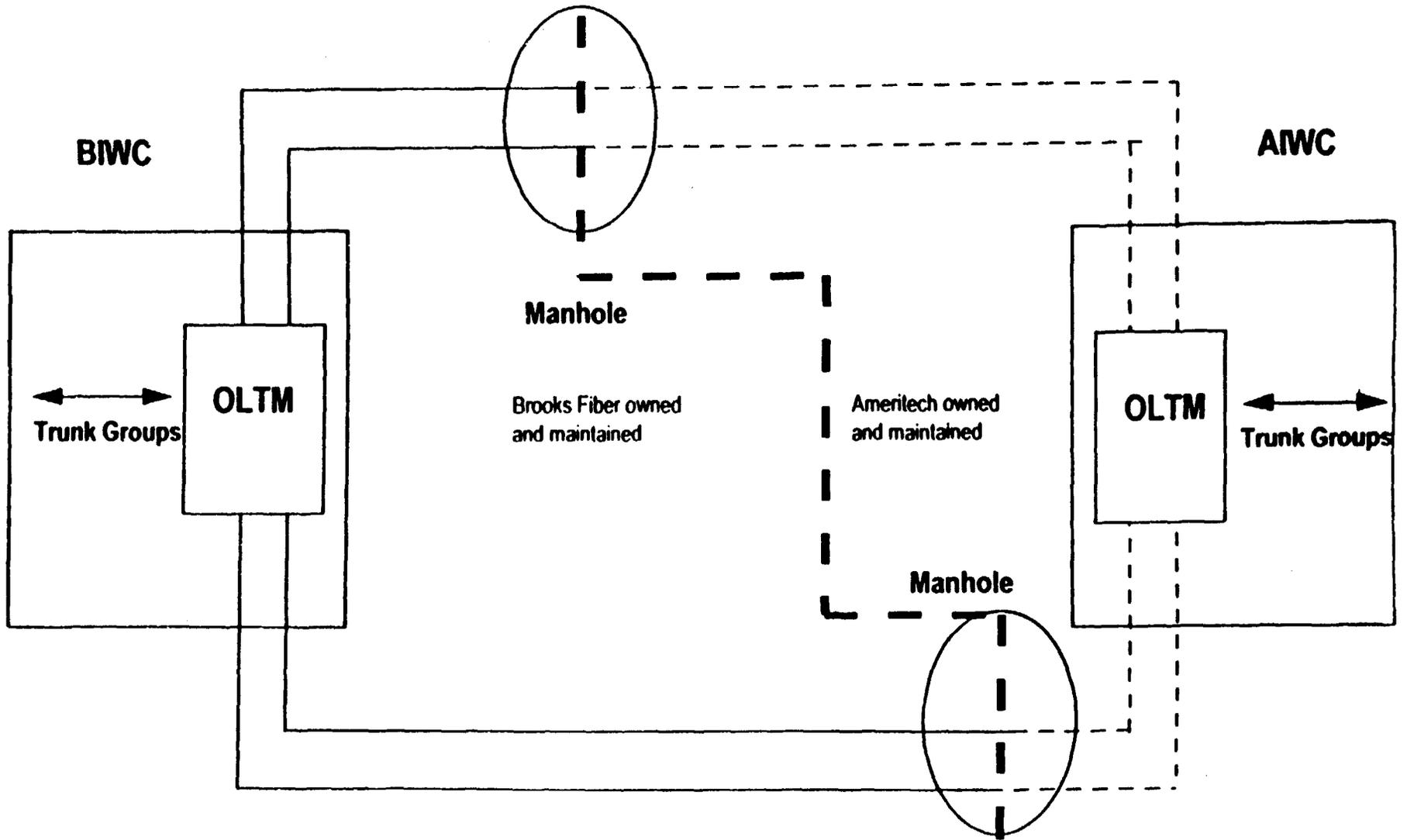
<sup>4</sup> The Line Connection Charge applies to each Loop purchase.

<sup>5</sup> The Additional Loop Conditioning Charges are only applicable if the distance requested on an ordered Loop exceeds such Loop's corresponding transmission characteristics as set forth in Section 9.4.5.

9. Within thirty (30) days of its receipt of the Network Element Bona Fide Request quote, the requesting Party must either confirm its order for such Network Element pursuant to the Network Element Bona Fide Request quote or seek arbitration by the Commission pursuant to Section 252 of the Act.

10. If a Party to a Network Element Bona Fide Request believes that the other Party is not requesting, negotiating or processing the Network Element Bona Fide Request in good faith, or disputes a determination, or price or cost quote, such Party may seek mediation or arbitration by the Commission pursuant to Section 252 of the Act.

# Exhibit B: Brooks Fiber/Ameritech Fiber Meet



**Case No. U-11178**

**AGREEMENT BY AND BETWEEN  
BROOKS FIBER COMMUNICATIONS**

**AND**

**AMERITECH**

**FOR ENHANCED 9-1-1 SERVICE**

**Dated May 1, 1996**

**AGREEMENT BY AND BETWEEN  
BROOKS FIBER COMMUNICATIONS  
AND  
AMERTECH  
FOR ENHANCED 9-1-1 SERVICE**

This agreement ("Agreement") is made this 29th day of April, 1996 (the "Effective Date"), between Ameritech Michigan ("Ameritech"), a Michigan Corporation, and Brooks Fiber Communications of Michigan, Inc. ("Exchange Carrier"), a Michigan corporation doing business as Brooks Fiber Communications (both individually, the "Party" and collectively, the "Parties").

**WITNESSETH:**

WHEREAS, Ameritech possesses a network capable of providing specific Enhanced 9-1-1 Service ("E911") to Exchange Carrier as further described in Exhibit A;

WHEREAS, this network provides a means of forwarding 9-1-1 calls delivered from Exchange Carrier's Network to an Ameritech Control Office for the further purpose of routing to an Ameritech designated primary Public Safety Answering Point ("PSAP") or to designated alternate locations and displaying the originating caller's telephone number or central office identification code, plus the street address to an attendant position console of the PSAP or designated alternate location;

WHEREAS, Ameritech will provide access to a centralized Automatic Location Identification/Data Management System ("ALI/DMS") data base for the purpose of storing and updating information required for the provisioning of E911 service and will provide certain services to Exchange Carrier in connection with using this data base;

WHEREAS, Exchange Carrier desires to purchase Enhanced 911 Service for the provisioning of such service to Exchange Carrier's subscribers.

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, the parties hereto agree as follows:

1. Definition of Terms

For purposes of this Agreement, the following terms shall mean:

- 1.1 *Affiliate* (including the terms "Affiliate of" and "Affiliated with") means a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled By or is Under Common Control With, the specified Person.
- 1.2 *Agreement* means the terms and conditions, and any other exhibit(s), attachment(s), addendum, or document(s), attached hereto and made a part hereof [or incorporated herein by reference] including any written amendments to this Agreement which have been signed by duly authorized representatives of the Parties.
- 1.3 *Ameritech Companies* means Ameritech Michigan, its parent, (Ameritech Corporation) and subsidiaries and affiliates controlled directly or indirectly by Ameritech Corporation.
- 1.4 *Automatic Location Identification* ("ALI") means a feature by which the service address associated with the calling party's listed telephone number identified by ANI as defined herein, is forwarded to the PSAP for display. Additional telephones with the same number as the calling party's, including, but not limited to, secondary locations and off-premise extensions will be identified with the service address of the calling party's listed number.
- 1.5 *Automatic Number Identification* ("ANI") means a feature by which the calling party's telephone number is automatically forwarded to the E911 Control Office and to the PSAP display and transfer office.
- 1.6 *Compensation* means monetary amounts due from one party to the other for facilities provided and/or services rendered under this Agreement.
- 1.7 *Confidential Information* means any information or data disclosed by a party (the "Disclosing Party") to the other party (the "Recipient") under or in contemplation of this Agreement and which (a) if in tangible form or other media that can be converted to readable

form, is clearly marked as proprietary, confidential, or private when disclosed or (b) if oral or visual, is identified as proprietary, confidential or private on disclosure and is summarized in a writing so marked and delivered within ten (10) days following such disclosure.

- 1.8 *Control* (including the terms "Controlled By" and "Under Common Control With") means the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.
- 1.9 *Control Office* means the central office providing tandem switching capability for E911 calls. It controls switching of ANI information to the PSAP and also provides the SR (as defined herein), feature, standard speed calling features, call transfer capability and certain maintenance functions for each PSAP.
- 1.10 *Service Agency* means the public agency, the State or any local government unit or special purpose district which has the authority to provide police, fire fighting, medical or other emergency services, which has requested the local telephone company to provide an E911 telecommunications service for the purpose of voice-reporting emergencies by the public.
- 1.11 *Customer Name and Address Information (CNA)* may include the name, service address and telephone numbers of an exchange carrier's subscribers for a particular exchange calling area. This data includes nonpublished listings, coin telephone information and published listings.
- 1.12 *Data Management System ("DMS")* means a system of manual procedures and computer processes used to create, store and update the data required to provide the Selective Routing ("SR") and ALI features.
- 1.13 *Emergency Services* may include but are not limited to police, fire, ambulance, rescue and medical service.
- 1.14 *End Office or Central Office ("EO" or "CO")*, means the Ameritech point of presence in the E911 system which receives originating E911 calls
- 1.15 *E911: Enhanced 911 (E911) Service* provides completion of 911 calls via dedicated trunking facilities and includes Automatic Number Identification (ANI), Automatic Location Identification (ALI) and/or Selective Routing (SR).

1.16 *Exchange* means a geographic area established for the furnishing of local telephone service under a local tariff. It consists of one or more wire centers together with the associated facilities used in furnishing communications service within the area.

1.17 *Person* means a natural person, corporation, general partnership, joint venture, limited partnership, limited liability company, trust, business trust, business association or other legally recognized business association.

1.18 *Public Safety Answering Point (PSAP)*: An answering location for 911 calls originating in a given area. A PSAP may be designed as Primary or Secondary, which refers to the order in which calls are directed for answering. Primary PSAPs respond first; Secondary PSAPs receive calls on a transfer basis only, and generally serve as a centralized answering location for a particular type of emergency call. PSAPs are staffed by employees of Service Agencies such as police, fire or emergency medical agencies or by employees of a common bureau serving a group of such entities.

1.19 *Selective Routing (SR)*: An E911 feature that routes an E911 call from a Control Office to the designated primary PSAP based upon the identified number of the calling party.

1.20 *Service Line* means a telecommunications link from the Central Office terminating at the PSAP.

2. Term

Except as otherwise provided herein, Ameritech shall provide the E911 service for an initial term of one (1) year commencing on the Effective Date. This Agreement shall automatically renew thereafter until either Party gives the other Party notice of termination at least ninety (90) days prior to the expiration of the initial term or subsequent to the initial term, except as otherwise provided herein including but not limited to, termination due to an Ameritech price change.

3. Service and Facilities Provided

3.1 Ameritech will provide Exchange Carrier with multiplexing at the Ameritech Central Office at rates, terms and conditions provided in

Amentech's tariffs. Ameritech will also provide Exchange Carrier with trunking from the Ameritech Central Office to the designated Ameritech Control Office(s) with sufficient capacity (as described in Exhibit "C") to route Exchange Carrier's originating 9-1-1 calls over Service Lines to the designated primary PSAP or to designated alternate locations. Such trunking will be provided at the rate described in Exhibit C, herein. If Exchange Carrier forwards the ANI information of the calling party to the Control Office, Amentech will forward that calling number and the associated street address to the PSAP for display. If no ANI is forwarded by Exchange Carrier, Amentech will furnish a Central Office identification code for display at the PSAP

- 3.2 Exchange Carrier will provide the necessary trunking to route originating 9-1-1 traffic from Exchange Carrier's end office(s) to the Ameritech Central Office(s). The meet points for primary and diverse routes are identified in Exhibit B. Exchange Carrier may, at its option, acquire such trunking from Ameritech at rates, terms and conditions provided in Ameritech's tariffs.
- 3.3 Ameritech will provide to Exchange Carrier, in paper or magnetic tape format, an Addressing and Routing file that will specify which E911 Control Office serves as the jurisdictional 9-1-1 answering point for subscribers within the Exchange served by Exchange Carrier. The Addressing and Routing file will be provided by NPA or NXX upon request. A specified rate found in the rate table of Exhibit C, herein will apply for each initial request for each NPA. Until such time as a mechanized process for provision of this information is made available by Amentech and, at intervals determined by Ameritech, Ameritech shall provide to Exchange Carrier in a paper format, at no additional charge to Exchange Carrier, any updates to the addressing and routing file.
- 3.4 Ameritech will coordinate access to the ALI/DMS data base for the initial loading and updating of Exchange Carrier subscriber information. Access coordination will include:
  - a. Ameritech providing format requirements and a mailing address for Exchange Carrier to supply an electronic version of subscriber telephone numbers, addresses and other information both for the initial load and (where applicable) updates; as set forth in Exhibit A herein. Ameritech shall confirm receipt of this data as described in Section 3.9, below.
  - b. Coordination of error resolution involving entry and update activity;

- c. Use of the ALI/DMS data base for the provisioning of specific E911 routing information on each access line; and
  - d. Updating the ALI/DMS data base from paper records of service order activity supplied by Exchange Carrier. The charge for this service is separate and described in Exhibit C herein under the category "Optional Manual Update."
  - e. Provide Exchange Carrier with reference data required to ensure that Exchange Carrier's subscribers will be routed to the correct Control Office when originating a 9-1-1 call. This reference data will be provided no later than ten (10) calendar days after the receipt of a service order from Exchange Carrier.
- 3.5 Exchange Carrier shall pay Ameritech a one-time charge of \$850.00 (eight hundred and fifty dollars) per E911 Control Office. This charge shall be designated the E911 Control Office Software Enhancement charge. Although the services offered in this Agreement and the charges described in Exhibit C herein contemplate that each NXX will reside in a single Control Office, Exchange Carrier may, at its sole option, designate that a NXX shall reside in more than one E911 Control Office.
- 3.6 In the event of an Ameritech or Exchange Carrier trunk failure, the Party owning the trunk will notify the other Party of such failure within four (4) hours of the occurrence. The Parties will exchange a list containing the names and telephone numbers of the support center personnel responsible for provisioning the E911 service between the Parties.
- 3.7 Ameritech will provide the order number and circuit identification code before the service due date.
- 3.8 Ameritech shall inform Exchange Carrier of any planned conversion or changes of the E911 network which would have a material effect on the services provided Exchange Carrier under this Agreement sixty days prior to such conversion or change being implemented by Ameritech.
- 3.9 Exchange Carrier or its third party agent will provide CNA data to Ameritech for use in entering the data into the 9-1-1 data base. The initial entry of the CNA data will be provided to Ameritech in a format prescribed by Ameritech. Exchange Carrier is responsible for providing Ameritech updates to the CNA data and error corrections which may occur during the entry of CNA data to the 911 Data

Management System. Ameritech will confirm receipt of such data and corrections by the next working day by providing Exchange Carrier with a report of the number of items sent, number of items entered correctly, and number of errors.

3.10 Exchange Carrier will monitor the 9-1-1 circuits for the purpose of determining originating network traffic volumes. Exchange Carrier will notify Ameritech if the traffic study information indicates that additional circuits are required to meet the current level of 9-1-1 call volumes.

#### 4.0 Facilities Requirements

Exchange Carrier is at all times responsible to construct, equip, maintain and operate its system so as to provide adequate facilities for the provision of service (including E911 Service) to the public and consistent with the purposes and requirements of this agreement.

#### 5.0 Compensation

Compensation for the E911 services and facilities provided under this Agreement (i) are set forth in the Exhibits attached hereto, (ii) shall remain firm fixed for the initial twelve (12) month term of this Agreement, and (iii) may be revised after such initial term pursuant to written notice given to Exchange Carrier no less than sixty (60) days in advance of the effective date of the price revision and, unless for reasons beyond Ameritech's reasonable control Ameritech's costs materially increase, prices shall not increase (expressed as a percentage of the price in effect immediately preceding the increase) by more than 10% per year.

Where Ameritech offers the same services on the same basis and at similar volumes to another customer within the State in which services are provided pursuant to this Agreement, Ameritech agrees to offer the services described herein to Exchange Carrier on terms which are no less favorable than the terms these same services are offered to other customers. If during the term of this Agreement, Ameritech enters into an agreement or contract with

any other customer to provide the same service described herein at a lower rate, or on terms and conditions that are materially different or more favorable than those set forth herein, Ameritech will notify Exchange Carrier within thirty (30) calendar days and offer such services to Exchange Carrier at rates, terms and conditions that are no less favorable than those provided to such other third party.

Any amounts due which are invoiced pursuant to this Agreement shall be payable by the thirtieth (30th) day from the date of receipt of such invoice. Either Party shall inform the other Party, in writing, of any amount(s) included in the final or actual portion of the invoice, which may be in dispute. The date of such disputed amount(s) shall be extended to thirty (30) calendar days from the original due date of the invoice. Post payment disputed amounts shall also be declared in writing to the other Party subsequent to the payment and receipt of funds applicable to the final or actual portion of any invoice. Such post payment disputed amounts which are resolved in favor of the party who paid the disputed amount shall be payable to said party by the thirtieth (30th) day from the date the dispute was resolved. When the payment date falls on a weekend or holiday, the due date shall be the next business day.

#### 6.0 Limitation of Liability/Indemnity

6.1 To the extent not prohibited by law, each party shall defend indemnify the other and hold it harmless against any loss, cost, claim, injury or liability arising out of negligence or willful misconduct by it or its agents or contractors in connection with its provision of facilities and services or other performance under this Agreement. The Indemnified Party agrees to notify the other party promptly, in writing, of any written claims, lawsuits, or demand for which the other party is responsible and to cooperate in every reasonable way to facilitate defense or settlement of claims.

- 6.2 The indemnifying party under this Section agrees to defend any suit brought against the other party for any such loss, cost, claim, injury or liability. The indemnifying party will not be liable under this Section for settlement by the indemnified party of any claim, lawsuit or demand if the indemnifying party has not approved the settlement in advance unless the indemnifying party has had the defense of the claim, lawsuit or demand tendered to it in writing, and has failed wrongfully to assume such defense.
- 6.3 Without limiting the generality of the foregoing, to the extent that any services are performed in the State of Ohio each party hereby waives any immunity from its obligations to defend, indemnify and hold harmless the other party, its corporate affiliates, their officers, employees and agents against and from claims by employees of each party, which immunity would otherwise arise by operation of Ohio Revised Code §§4123.74 and 4123.41 and Section 35, Article II, Ohio Constitution or any other statute or constitutional provision.
- 6.4 Each party shall use reasonable efforts to perform its commitments under this Agreement; however, neither party shall be liable to the other for any loss, nor for defects or equipment failures, caused by conduct of the other party, the other party's agents, servants, contractors or others acting in aid or in concert with the other party.
- 6.5 In the case of any loss, cost, claim, injury or liability arising from the negligence or willful misconduct of both parties, each party shall bear, and its obligations under Section 8 shall be limited to, that portion of the resulting expense caused by its (including that of its agents, servants, contractors or others acting in aid or concert with it) negligence or misconduct.
- 6.6 Except for indemnity obligations which arise with respect to third party claims, each party's liability to the other for any loss, cost, claim, injury, liability or expense, including reasonable attorney's fees, relating to or arising out of any negligent act or omission in its performance of this Agreement (not involving willful or wanton misconduct), whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.
- 6.7 Neither party shall have any liability whatsoever to or through the other for any indirect, special, or consequential damages, including, but not limited to loss of anticipated profits or revenue

or other economic loss in connection with or arising from anything said, omitted or done hereunder, even if the other party has been advised of the possibility of such damages.

6.8 Ameritech is not liable for the accuracy and content of CNA data Exchange Carrier delivers to Ameritech. Rather, Exchange Carrier is responsible for the accuracy and content of such data and Ameritech is the custodian of such data and is responsible for maintaining the accuracy and content of that data as delivered.

6.9 Notwithstanding Ameritech's agreement to indemnify contained herein, under no circumstances shall Ameritech incur any liability, direct or indirect, to any Person who dials or attempts to dial, the digits "9-1-1" or to any other Person on whose behalf a 9-1-1 call is made.

6.10 These remedies shall be exclusive of all other remedies against Ameritech or Exchange Carrier, their affiliates, subsidiaries or parent corporation (including their directors, officers, employees or agents).

#### 7.0 Record Retention

Except as otherwise required by law or agreed to in writing, each Party shall maintain all books, records, contracts, instruments, data and other documents, including all accounting records, and any other information that may be stored on any computer medium (collectively, the "Records"), relating to the performance of its obligations under this Agreement for a period which shall be the greater of: (i) twelve (12) months, (except for mechanized records which shall be kept for two (2) months) or (ii) each party's existing corporate records retention policy, if any, or (iii) the period required by applicable federal, state or local laws. Each Party may review the other Party's records, at the reviewing Party's sole expense, upon thirty (30) days' prior written notice to such Party. Such review will be conducted during the non-reviewing Party's

normal business hours and, while on such Party's premises, the reviewing Party and/or its agent shall abide by the non-reviewing Party's established security regulations and such other reasonable conditions as the non-reviewing Party may deem appropriate.

**8.0 Dispute Resolution between Executives.**

Other than those matters involving injunctive relief as a remedy, the parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within seven (7) business days after delivery of this notice, the receiving party shall submit to the other a written response. The notice and the response shall include (i) a statement of each party's position and a summary of the arguments supporting that position, and (ii) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within fifteen (15) business days after delivery of the disputing party's notice, the executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored.

- (a) All negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of federal and state rules of evidence and shall not be admissible for any

purpose, in any form or in substance, in any subsequent litigation or alternate dispute resolution should the negotiations pursuant to this Section not resolve any dispute.

- (b) If the matter has not been resolved within forty-five (45) days of the disputing party's notice, or if the parties fail to meet within thirty (30) days, either party may, but shall not be required to, initiate non-binding mediation of the controversy or claim under the then-current Center for Public Resources ("CPR") Model Procedure for Mediation of Business Disputes or proceed with any other remedy permitted under law or equity.
- (c) Continued Performance. Ameritech shall continue to provide services under this Agreement during the dispute resolution proceedings and Exchange Carrier shall continue to make payments to Ameritech in accordance with this Agreement.

#### 9.0 Miscellaneous

9.1 Compliance. Each party shall comply with all applicable federal, state, and local laws, rules, and regulations applicable to its performance under this Agreement.

9.2 Independent Contractor. Each party shall perform services hereunder as an independent contractor and nothing herein shall be construed as creating any other relationship between the parties. Each party and each parties' contractor shall be solely responsible for the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to their employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts. Each party has sole authority and responsibility to hire, fire and otherwise control its employees.

9.3 Force Maieure. Neither party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence such as acts of nature, acts of civil or military authority, government regulations, embargoes,