

remedies. Should the dispute be found in WINSTAR's favor, USWC will reimburse WINSTAR the resolved amount plus interest from the date of payment at the late payment factor of the Intrastate Access Service Tariffs, General Regulations for the state in which the service is rendered.

4. If WINSTAR is repeatedly delinquent in making its payments, USWC may, in its sole discretion, require a deposit to be held as security for the payment of charges. "Repeatedly delinquent" means being thirty (30) days or more delinquent for three (3) consecutive months. The deposit may not exceed the estimated total monthly charges for a two (2) month period. The deposit may be a cash deposit, a letter of credit with terms and conditions acceptable to USWC in its sole discretion, or some other form of mutually acceptable security.
5. Interest will be paid on cash deposits at the rate applying to deposits under applicable Commission rules, regulations, or tariffs. Cash deposits and accrued interest will be credited to WINSTAR's account or refunded, as appropriate, upon the earlier of the termination of this Agreement or one full year of timely payments in full by WINSTAR. The fact that a deposit has been made does not relieve WINSTAR from any requirements of this Agreement.

#### **F. Taxes**

Each party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party.

#### **G. Force Majeure**

Neither party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). In the event of a labor dispute or strike the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

## **H. Limitation of Liability**

1. Each Party shall be liable to the other for direct damages for any loss, defect or equipment failure resulting from the causing Party's conduct or the conduct of its agents or contractors in performing the obligations contained in this Agreement.
2. Neither party shall be liable to the other under this Agreement for indirect, incidental, consequential, or special damages, including (without limitation) damages for lost profits, lost revenues, lost savings suffered by the other Party regardless of the form of action, whether in contract, warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result.
3. Nothing contained in this Section shall limit either Party's liability to the other for willful or intentional misconduct.
4. Nothing contained in this Section shall limit either Party's obligations of indemnification as specified in the Indemnity Section of this Agreement.

## **I. Indemnity**

1. With respect to third party claims, each of the Parties agrees to release, indemnify, defend and hold harmless the other Party and each of its officers, directors, employees and agents (each an "Indemnitee") from and against and in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated including, but not limited to, costs and attorneys' fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for loss, damage to, or destruction of property, whether or not owned by others, resulting from the indemnifying Party's performance, breach of Applicable Law, or status of its employees, agents and subcontractors; or for failure to perform under this Agreement, regardless of the form of action.
2. The indemnification provided herein shall be conditioned upon:
  - a. The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of any liability that the indemnifying Party might have, except to the extent that such failure prejudices the indemnifying Party's ability to defend such claim.
  - b. The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the

indemnified Party may engage separate legal counsel only at its sole cost and expense.

- c. In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party.

## **J. Intellectual Property**

1. Each Party hereby grants to the other Party the limited, personal and nonexclusive right and license to use its patents, copyrights and trade secrets but only to the extent necessary to implement this Agreement or specifically required by the then applicable federal and state rules and regulations relating to interconnection and access to telecommunications facilities and services, and for no other purposes. Nothing in this Agreement shall be construed as the grant to the other Party of any rights or licenses to trademarks.
2. The rights and licenses under Section J.1. above are granted "AS IS" and the other Party's exercise of any such right and license shall be at the sole and exclusive risk of the other Party. Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding (hereinafter "claim") by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision of any facilities by either Party under this Agreement constitutes infringement, or misuse or misappropriation of any patent, copyright, trade secret, or any other proprietary or intellectual property right of any third party.
3. WINSTAR shall not, without the express written permission of USWC, state or imply that; 1) WINSTAR is connected, or in any way affiliated with USWC or its affiliates, 2) WINSTAR is part of a joint business association or any similar arrangement with USWC or its affiliates, 3) USWC and its affiliates are in any way sponsoring, endorsing or certifying WINSTAR and its goods and services, or 4) with respect to WINSTAR advertising or promotional activities or materials, that the resold goods and services are in any way associated with or originated from USWC or any of its affiliates. Nothing in this paragraph shall prevent WINSTAR from truthfully describing the network elements it uses to provide service to its customers.
4. Nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, logo, trademark, tradename, trade secret or any other intellectual property right now or hereafter owned, controlled or licensable by either Party. WINSTAR may not use any patent, copyright, logo, trademark, tradename, trade secret or other intellectual property right of USWC or its affiliates without execution of a separate agreement between the Parties.

5. Notwithstanding the above, unless otherwise prohibited by USWC pursuant to an applicable provision herein, WINSTAR may use the phrase "WINSTAR is a reseller of U S WEST Communications services" (the "Authorized Phrase") in WINSTAR's printed materials provided:
  - a. The Authorized Phrase is not used in connection with any goods or services other than USWC services resold by WINSTAR.
  - b. WINSTAR's use of the Authorized Phrase does not, in USWC's sole discretion, cause customers to believe that WINSTAR is USWC.
  - c. The Authorized Phrase, when displayed, appears only in text form (WINSTAR may not use the U S WEST logo) with all letters being the same font and point size. The point size of the Authorized Phrase shall be no greater than one fourth the point size of the smallest use of WINSTAR's name and in no even shall exceed 8 point size.
  - d. WINSTAR shall provide all printed materials to USWC for its prior written approval.
  - e. If USWC determines that WINSTAR's use of the Authorized Phrase causes customer confusion, USWC may in its sole discretion, immediately terminate WINSTAR's right to use the Authorized Phrase.
  - f. Upon termination of the WINSTAR's right to use the Authorized Phrase or termination of this Agreement, all permission or right to use the Authorized Phrase shall immediately cease to exist and WINSTAR shall immediately cease any and all such use of the Authorized Phrase. WINSTAR shall either promptly return to USWC or destroy all materials in its possession or control displaying the Authorized Phrase.
6. WINSTAR acknowledges the value of the marks "U S WEST" and "U S WEST Communications" (the "Marks") and the goodwill associated therewith and acknowledges that such goodwill is a property right belonging to U S WEST, Inc. and USWC respectively (the "Owners"). WINSTAR recognizes that nothing contained in this Agreement is intended as an assignment or grant to WINSTAR of any right, title or interest in or to the Marks and that this Agreement does not confer any right or license to grant sublicenses or permission to third parties to use the Marks and is not assignable. WINSTAR will do nothing inconsistent with the Owner's ownership of the Marks, and all rights, if any, that may be acquired by use of the Marks shall inure to the benefit of the Owners. WINSTAR will not adopt, use (other than as authorized herein,) register or seek to register any mark anywhere in the world which is identical or confusingly similar to the Marks or which is so similar thereto as to constitute a deceptive

colorable imitation thereof or to suggest or imply some association, sponsorship, or endorsement by the Owners. The Owners make no warranties regarding ownership of any rights in or the validity of the Marks.

**K. Warranties**

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**L. Assignment**

Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party provided that each Party may assign this Agreement to a corporate affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

**M. Default**

If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other provision of this Agreement, and such default or violation shall continue for thirty (30) days after written notice thereof, the other Party may seek legal and/or regulatory relief. The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

**N. Disclaimer of Agency**

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.

**O. Severability**

The Parties recognize that the FCC is promulgating rules addressing issues contained in this Agreement. In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable in any respect under law or regulation, the parties will negotiate in good faith for replacement language. If replacement language cannot be agreed upon, either party may seek regulatory intervention, including negotiations pursuant to Sections 251 and 252 of the Act.

**P. Nondisclosure**

1. All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with customer specific, facility specific, or usage specific information, other than customer information communicated for the purpose of publication of directory database inclusion, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information. A Party who delivers Proprietary Information via an oral communication may request written confirmation that the Party receiving the information understands that the material is Proprietary Information.
2. Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.
3. Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only in connection with this Agreement. The Party receiving Proprietary Information will treat it with the same degree of care as it affords to its own Proprietary Information. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.
4. Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:
  - a. was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written records prepared prior to delivery by the disclosing Party; or

- b. is or becomes publicly known through no wrongful act of the receiving Party; or
  - c. is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; or
  - d. is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
  - e. is disclosed to a third person by the disclosing Party without similar restrictions on such third person's rights; or
  - f. is approved for release by written authorization of the disclosing Party; or
  - g. is required to be made public by the receiving Party pursuant to applicable law or regulation provided that the receiving Party shall give sufficient notice of the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.
5. **Effective Date Of This Section.** Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the date of this Agreement.

**Q. 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.

**R. Dispute Resolution**

If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents ("Dispute") cannot be settled through negotiation, it shall be resolved by arbitration conducted by a single arbitrator engaged in the practice of law, under the then current rules of the American Arbitration Association ("AAA"). The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all Disputes. The arbitrator shall not have authority to award punitive damages. All expedited procedures prescribed by the AAA rules shall apply. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration shall occur in Denver, Colorado. Nothing in this Section shall be construed to waive or limit either Party's right to seek relief from

the Commission or the Federal Communications Commission as provided by state or federal law.

No Dispute, regardless of the form of action, arising out of this Agreement, may be brought by either Party more than two (2) years after the cause of action accrues.

**S. Controlling Law**

This Agreement was negotiated by the Parties in accordance with the terms of the Act and the laws of the state where service is provided hereunder. It shall be interpreted solely in accordance with the terms of the Act and the applicable state law in the state where the service is provided.

**T. 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.

**U. Responsibility for Environmental Contamination**

Neither Party shall be liable to the other for any costs whatsoever resulting from the presence or release of any environmental hazard that either Party did not introduce to the affected work location. Both Parties shall defend and hold harmless the other, its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any environmental hazard that the indemnifying party, its contractors or agents introduce to the work locations or (ii) the presence or release of any environmental hazard for which the indemnifying party is responsible under applicable law.

**V. Notices**

Any notices required by or concerning this Agreement shall be sent to the Parties at the addresses shown below:

USWC  
Director Interconnection Services  
1801 California, Suite 2350  
Denver, CO 80202

WINSTAR  
Robert G. Berger  
Vice President, Regulatory/Legal  
1146 Nineteenth Street, N.W., Suite 250  
Washington, D.C. 20036

cc: Sherman Ackley  
Vice President of Operations  
WINSTAR  
7799 Leesburg Pike, 4th Floor  
Tysons Corner, VA 22043

Each Party shall inform the other of any changes in the above addresses.

**W. Responsibility of Each Party**

Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations or, (ii) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal and, (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

**X. No Third Party Beneficiaries**

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

**Y. Referenced Documents**

All references to Sections, Exhibits, and Schedules shall be deemed to be references to Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, WINSTAR practice, USWC practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, WINSTAR practice, USWC practice, or publication of industry standards (unless WINSTAR elects otherwise). Should there be any inconsistency between or among publications or standards, WINSTAR shall elect which requirement shall apply.

## **Z. Publicity and Advertising**

Neither party shall publish or use any advertising, sales promotions or other publicity materials that use the other party's logo, trademarks or service marks without the prior written approval of the other party.

## **AA. Amendment**

WINSTAR and USWC may mutually agree to amend this Agreement in writing. Since it is possible that amendments to this Agreement may be needed to fully satisfy the purposes and objectives of this Agreement, the Parties agree to work cooperatively, promptly and in good faith to negotiate and implement any such additions, changes and corrections to this Agreement.

## **BB. Executed in Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

## **CC. Headings of No Force or Effect**

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

## **DD. Cancellation Charges**

Except as provided pursuant to a Network Element Network Interconnection and Unbundled Element Request, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

## **EE. Regulatory Approval**

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC and shall, at all times, be subject to review by the Commission or the FCC. In the event any such review rejects any portion of this Agreement, renders it inoperable or creates any ambiguity of requirement for further amendment, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification.

## **FF. Compliance**

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

**GG. Compliance with the Communications Law Enforcement Act of 1994 ("CALEA")**

Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with CALEA. Each party shall indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party for such noncompliance and shall at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

**HH. Entire Agreement**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**WinStar Wireless of Washington, Inc.**

**U S WEST Communications, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Name Printed/Typed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPENDIX A  
US WEST AND WINSTAR INTERCONNECTION RATES  
WASHINGTON**

**INTERCONNECTION - LOCAL EXCHANGE**

*Local Call Termination*

**BILL & KEEP**

*Entrance Facility*

DS1, Electrical  
DS3, Electrical

Proposed Price Recurring	Proposed Price Nonrecurring
-----------------------------	--------------------------------

\$99.78	\$563.92
\$404.24	\$668.95

*Direct Trunked Transport*

DS1 - 0 Miles  
DS1 - Over 0 to 8  
DS1 - Over 8 to 25  
DS1 - Over 25 to 50  
DS1 - Over 50

Proposed Price Fixed	Proposed Price Per Mile
-------------------------	----------------------------

None	None
\$41.72	\$0.67
\$41.72	\$0.84
\$41.73	\$2.97
\$41.73	\$3.49

DS3 - 0 Miles  
DS3 - Over 0 to 8  
DS3 - Over 8 to 25  
DS3 - Over 25 to 50  
DS3 - Over 50

None	None
\$283.30	\$13.83
\$284.17	\$15.03
\$291.31	\$39.19
\$293.91	\$44.74

*Multiplexing, per arrangement*

DS3 to DS1

Price Recurring	Price Nonrecurring
--------------------	-----------------------

\$218.58	\$418.45
----------	----------

*Local Transit Traffic Rate*

Tandem Switching, per MOU

**Price**

\$0.006000

**COMMON CHANNEL SIGNALLING ACCESS SERVICE**

*Entrance Facility*

DS1  
DS3

Price Recurring	Price Nonrecurring
--------------------	-----------------------

\$99.78	\$563.92
\$404.24	\$668.95

*Direct Link Transport*

DS0 - 0 Miles  
DS0 - Over 0 to 8  
DS0 - Over 8 to 25  
DS0 - Over 25 to 50  
DS0 - Over 50

Price Fixed	Price Per Mile
----------------	-------------------

None	None
\$20.89	\$0.13
\$20.88	\$0.10
\$20.88	\$0.10
\$20.89	\$0.17

DS1 - 0 Miles	None	None
DS1 - Over 0 to 8	\$41.72	\$0.67
DS1 - Over 8 to 25	\$41.72	\$0.84
DS1 - Over 25 to 50	\$41.73	\$2.97
DS1 - Over 50	\$41.73	\$3.49

**Direct Link Transport**

	Price Fixed	Price Per Mile
DS3 - 0 Miles	None	None
DS3 - Over 0 to 8	\$283.30	\$13.83
DS3 - Over 8 to 25	\$284.17	\$15.03
DS3 - Over 25 to 50	\$291.31	\$39.19
DS3 - Over 50	\$293.91	\$44.74

**CCS Link - First Link**  
**CCS Link - Each additional Link**

	Price Recurring	Price Nonrecurring
CCS Link - First Link	None	\$504.68
CCS Link - Each additional Link	None	\$72.42

**STP Port - Per Port**

STP Port - Per Port	\$208.57	None
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**Multiplexing**

DS1 to DS0	\$221.08	None
DS3 to DS1	\$218.58	None

**PHYSICAL AND VIRTUAL COLLOCATION**

See federal interexchange tariff for equivalent service.

**ANCILLARY SERVICES**

**Directory Assistance**

Price per Call - Facilities-Based Providers

Price Recurring
\$0.34

**Unbundled Loops**

	Price Recurring	Price Nonrecurring
Unbundled Loops	\$13.37	Retail minus 17%
2-wire DS0 EICT	\$1.41	\$339.61
4-wire DS0 EICT	\$1.79	\$339.61

**APPENDIX B  
ENGINEERING REQUIREMENTS  
TRUNK FORECAST FORMS**

**INTERCONNECTION CHECKLIST  
MEET POINT**

**DATE OF MEETING:**

**Interconnector Information**

Name:	
Address:	
City, State, Zip:	
Technical Contact Person:	
Technical Contact Person Telephone #:	
USWC Negotiator:	
USWC Negotiator Telephone #:	
<b>Desired U S WEST Central office</b>	
CLLI:	
Central Office address:	
City, State:	
Meet Point Address:	

**Equipment**

Manufacture/ model#	Quantity	

**Cable Makeup**

Number of cables:	
Number of fibers per cable:	
Distance from USWC to Meet Point	
Distance from WINSTAR to Meet Point	

**Service Requirements**

	Year 1	Year 2	Year 3
DS3			
DS1			

**Remarks:**

**Please attach a sketch of the requested meet point arrangement:**

**Appendix B – PAGE 2  
INTERCONNECTION CHECKLIST  
ADDITIONAL TRUNKING**

**Interconnector Information**

Name:	
Address:	
City, State, Zip:	
Technical Contact Person:	
Technical Contact Person Telephone #:	
USWC Negotiator:	
USWC Negotiator Telephone #:	
<b>Desired Central office (TANDEM)</b>	
CLLI:	
Central Office address:	
City, State:	
Meet Point Address:	

**Service Requirements**

	Year 1	Year 2	Year 3
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			
USWC End Office:			
- Terminating CCS (peak busy hr)			
- Number Portability:			
Arrangements			
Call paths per # ported			

**Remarks:**

**Please attach a sketch of the agreed upon meet point arrangement**

APPENDIX C

Agreement Number \_\_\_\_\_

**U S WEST POLE AND ANCHOR ATTACHMENT AND/OR INNERDUCT OCCUPANCY  
GENERAL TERMS AND CONDITIONS**

This is an Agreement between \_\_\_\_\_ ("Joint User") and **U S WEST Communications, Inc.** ("USWC"), for a general license to install/attach and maintain Joint User's communications facilities ("Facilities") to USWC's Poles and Anchors and/or placement of Facilities on or within USWC's Innerduct (collectively Poles/Innerduct") described in the Attachment(s) which is/are incorporated herein by this reference ("License").

**1. SCOPE.**

- 1.1. Subject to the provisions of this Agreement, USWC agrees to issue to Joint User for any lawful communications purpose, a nonexclusive, revocable License authorizing Joint User to attach, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct owned in whole or in part by USWC. Any and all rights granted to Joint User shall be subject to and subordinate to any future local, state and/or federal requirements.
- 1.2. Except as expressly provided herein, nothing in this Agreement shall be construed to compel USWC to construct, install, modify, or place any Poles/Innerduct or other facility for use by Joint User.
- 1.3. USWC provides access to Poles/Innerduct in accordance with the applicable local, state or federal law, rule, or regulation, incorporated herein by this reference, which governs this Agreement in the state in which Poles/Innerduct is provided.

**2. TERM.**

Any License issued under this Agreement shall continue in effect for the term specified in the License. This Agreement shall continue during such time Joint User is providing Poles/Innerduct attachments under any one or more License(s) to this Agreement.

**3. TERMINATION.**

- 3.1. Either party may terminate this Agreement for Cause provided written notice specifying the Cause for termination and requesting correction within thirty (30) days is given the other party and such Cause is not corrected within such thirty (30) day period. Cause is any material breach of the terms of this Agreement, including but not limited to Joint User knowingly using its Facilities in violation of any law or in aid of any unlawful act or making an unauthorized modification to USWC's Poles/Innerduct.

- 3.2. If USWC terminates this Agreement for Cause, or if Joint User terminates this Agreement WITHOUT Cause, Joint User shall pay termination charges equal to the amount of fees and charges remaining on the terminated License(s) and shall remove its Facilities from the Poles/Innerduct within sixty (60) days, or cause USWC to remove its Facilities from the Poles/Innerduct at Joint User's expense; provided, however, that Joint User shall be liable for and pay all fees and charges provided for in this Agreement to USWC until Joint User's Facilities are physically removed.
- 3.3. If this Agreement or any License is terminated for reasons other than Cause, then Joint User shall remove its Facilities from Poles/Innerduct within one hundred and eighty (180) days from the date of termination; provided, however, that Joint User shall be liable for and pay all fees and charges provided for in this Agreement to USWC until Joint User's Facilities are physically removed.
- 3.4. USWC may abandon any Poles/Innerduct at any time by giving written notice to the Joint User. Upon abandonment of Poles/Innerduct, and with the concurrence of the other joint user(s), if necessary, Joint User shall, within sixty (60) days of such notice, either apply for usage with Joint User or purchase the Poles/Innerduct from USWC, or remove its Facilities therefrom. Failure to remove its Facilities within sixty (60) days shall be deemed an election to purchase the Poles/Innerduct at the current market value.

#### **4. CHARGES AND BILLING.**

- 4.1. Joint User agrees to pay USWC Poles/Innerduct usage fees ("Fees") as specified in the License. Fees will be computed in compliance with applicable local, state and Federal guidelines. Such Fees will be assessed on an annual basis. Annual Fees will be assessed as of January 1 of each year. Fees are not refundable except as expressly provided herein. Joint User shall pay all applicable Fees and charges specified herein within thirty (30) days from receipt of invoice. Any outstanding invoice will be subject to applicable finance charges.
- 4.2. USWC has the right to revise Fees, at its sole discretion, upon written notice to Joint User within at least sixty (60) days prior to the end of any annual billing period.

#### **5. INSURANCE.**

- 5.1. Joint User shall obtain and maintain insurance, including endorsements insuring the indemnification provisions of this Agreement, to protect USWC from and against all claims, demands, causes of actions, judgments, costs (including attorney's fees), expenses, and liabilities of insurable kind and nature which may arise or result, directly or indirectly from or by reason of such loss, injury, or damage as covered in this Agreement. Such insurance shall be in the following amounts: For liability due to property damage, not less than \$500,000 per occurrence and \$1,000,000 aggregate and for liability due to injury or death of persons, not less than \$500,000 as to any one person and \$1,000,000 as to any one occurrence.

- 5.2. Joint User shall submit to USWC certificates of insurance for at least the amounts specified above and shall not cancel or change any such policy without at least thirty (30) days advanced written notice to USWC. Such proof of insurance shall be effective and received by USWC before any Facilities are placed on any Poles/Innerduct. In the event that Joint User fails to maintain the required insurance, USWC may acquire such insurance on Joint User's behalf and Joint User shall reimburse USWC for any such premium paid.

## 6. CONSTRUCTION, MAINTENANCE AND REMOVAL OF FACILITIES.

- 6.1. USWC retains the right, in its sole judgment, to determine the availability of space on Poles/Innerduct. In the event USWC determines that rearrangement of the existing facilities on Poles/Innerduct is required before Joint User's Facilities can be accommodated, the cost of such modification will be included in the Joint User's nonrecurring charges for the associated License ("Make-ready fee").
- 6.2. Where such authority does not already exist, Joint User shall be responsible for obtaining the necessary legal authority to occupy Poles/Innerduct on governmental, federal, Native American, and private rights of way in order. The Joint User shall obtain any permits, licenses, bonds, or other necessary legal authority and permission, at the Joint User's sole expense, in order to perform its obligations under this Agreement. The Joint User shall contact all owners of public and private rights-of-way to obtain the permission required to perform the work prior to entering the property or starting any work thereon. The Joint User shall comply with all conditions of rights-of-way and permits.
- 6.3. Joint User's Facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated by reference, and any governing authority having jurisdiction of the subject matter of this Agreement. Where a difference in specifications exists, the more stringent shall apply. Failure to maintain Facilities in accordance with the above requirements shall be Cause under this Agreement. USWC's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate USWC premises. Joint User's procedures governing its standards maintenance practices for Facilities shall be made available to USWC upon request. Joint User shall in a timely manner comply with all requests from USWC to bring their facilities into compliance with these terms and conditions.
- 6.4. In the event of any service outage affecting both USWC and Joint User, repairs shall be effectuated on a priority basis as established by local, state or federal requirements, or where such requirement do not exist, repairs shall be made in the following order: electrical, telephone (local), telephone (long distance), and cable television, or as mutually agreed to by the users of the effected Poles/Innerduct.

**7. MODIFICATION TO EXISTING POLES/INNERDUCT.**

- 7.1. If Joint User requests USWC to replace or modify existing Poles/Innerduct to increase its strength or capacity for the sole benefit of the Joint User, the Joint User shall pay USWC the total replacement cost, USWC's cost to transfer its attachments to new Poles/Innerduct, as necessary, and the cost for removal (including destruction fees) of the replaced Poles/Innerduct, if necessary. Ownership of new Poles/Innerduct shall vest in USWC. To the extent that a modification is incurred for the benefit of multiple parties, Joint User shall pay a proportionate share of the total cost based on the ratio of the amount of new space occupied by the Facilities to the total amount of space occupied by all parties joining the modification. Modifications that occur in order to bring Poles/Innerduct into compliance with applicable safety or other requirements shall be deemed to be for the benefit of multiple parties and Joint User shall be responsible for its share of the modification cost.
- 7.2. Notification of modification initiated by or on behalf of USWC shall be provided to Joint User at least sixty (60) days prior to beginning modifications. Such notification shall include a brief description of the nature and scope of the modification. No such notice shall be required in emergency situations or for routine maintenance of Poles/Innerduct.

**8. INSPECTION OF FACILITIES.**

USWC reserves the right to inspect the Facilities. The cost of such inspections shall be borne by USWC unless the results of the inspection reveals any violation, hazards, or that Joint User has in any other way failed to comply with the provisions of this Agreement, in which case Joint User shall reimburse USWC the costs of inspection, and reinspections as required. USWC will give Joint User advance written notice of such inspection, except in those instances, where, in the sole judgment of USWC, safety considerations justify the need for such an inspection without such notice. A Joint User representative may accompany USWC on such field inspections. The making of period inspections, or failure to make such inspections, shall not impose any liability of any kind upon USWC nor relieve Joint User of any responsibilities, obligations, or liability assumed under this Agreement.

**9. REMOVAL OF FACILITIES.**

Should USWC under the provisions of this Agreement remove Joint User's Facilities from the Poles/Innerduct covered by any License, USWC will deliver the Facilities removed upon payment by Joint User of the cost of removal, storage and delivery, and all other amounts due USWC. If Joint User removes Facilities from Poles/Innerduct for other than repair or maintenance purposes, no replacement on the Poles/Innerduct shall be made until all outstanding charges due USWC for previous occupancy have been paid in full. Joint User shall advise USWC in writing as to the date on which the removal of Facilities from each Poles/Innerduct has been completed.

**10. LIABILITY AND DAMAGES.**

- 10.1. Each party shall be responsible for any actual physical damages it directly causes to the other in the course of its performance under this Agreement, limited to damages resulting from personal injuries, death, or property damage, including but not limited to damage to either party's facilities or the facilities of other users of the Poles/Innerduct, arising from negligent acts or omissions; PROVIDED HOWEVER, THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT.
- 10.2. Each party shall indemnify, protect, and save harmless the other party, or Other joint user(s), from and against all claims, demands, or causes of action and costs, including attorney's fees for damages to property and injury or death to persons, including but not limited to payments under any Workmen's Compensation Law or under any plan for employee's disability and death benefits, which may arise out of or be caused by the placement, maintenance, presence, use, or removal of USWC or Joint User facilities, or by any act or omission of a party's employee, agent, or contractor.
- 10.3. Each party shall promptly notify the other of all claims relating to the damage of USWC or Joint User facilities, property, or injury or death of persons, arising or alleged to have arisen in any manner, directly or indirectly, by the placement, maintenance, repair, placement, presence, use, or removal of USWC or Joint User facilities.

**11. UNAUTHORIZED FACILITIES.**

If any Facilities are found attached to Poles/Innerduct for which no License is in effect, USWC, without prejudice to its other rights or remedies under this Agreement, may assess and Joint User agrees to pay a charge of one hundred dollars (\$100.00) per Pole/Innerduct run, plus payment of the Fees for that year.

**12. NO WARRANTIES.**

THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**13. UNCONTROLLABLE CIRCUMSTANCES.**

Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations under this Agreement by reason of severe weather and storms; earthquakes or other natural occurrences; strikes or other labor unrest; power failures; nuclear or other civil or military emergencies; acts of legislative, judicial, executive or administrative authorities; or any other circumstances which are not within its reasonable control.

**14. DISPUTE RESOLUTION.**

Any claim, controversy or dispute between the parties, their agents, employees, officers, directors or affiliated agents shall be resolved by arbitration. A single arbitrator engaged in the practice of law shall conduct the arbitration under the then current rules of the American Arbitration Association. The Federal Arbitration Act, 9 U.S.C., §§ 1-15, not state law, shall govern the arbitrability of all claims. The arbitrator shall have authority to award compensatory damages only. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each party shall bear its own costs and attorneys' fees. The Arbitration shall be conducted in the jurisdiction in which the dispute arose.

**15. LAWFULNESS.**

This Agreement and the parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. This Agreement shall be governed by the laws of the state where Poles/Innerduct is provided.

**16. SEVERABILITY.**

In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

**17. GENERAL PROVISIONS.**

- 17.1. Failure or delay by either party to exercise any right, power, or privilege hereunder, shall not operate as a waiver hereto.
- 17.2. This Agreement shall not be assignable by Joint User without the express written consent of USWC. Such consent will not be unreasonably withheld.
- 17.3. This Agreement benefits Joint User and USWC. There are no third party beneficiaries.

This Agreement constitutes the entire understanding between Joint User and USWC with respect to Service provided herein and supersedes any prior agreements or understandings. The parties hereby execute and authorize this Agreement as of the latest date shown below:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address for Notices

\_\_\_\_\_  
Address for Notices

**U S WEST POLE AND ANCHOR ATTACHMENT AND/OR INNERDUCT OCCUPANCY**

Attachment \_\_\_\_\_

**GENERAL LICENSE**

In accordance with the terms and conditions of Agreement Number \_\_\_\_\_, attached hereto and incorporated by reference, this License is hereby granted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_. This General License ("License") allows Joint User to occupy USWC's Poles/Innerduct with the Facilities specified herein.

1. **Term.** The License shall continue for an initial term of one (1) year commencing on the date first mentioned above. Unless either party provides written notice of its election to terminate such License at least sixty (60) days prior to the expiration of such term, this License shall be extended for successive terms of one (1) year.
  
2. **Fees and Charges.**
  - 2.1. **Recurring Charge(s):** \$\_\_\_\_\_ per year.  
Recurring charges commence on the first day of the calendar month following the completion of any Make-ready work or if such work is not required, then following the date the license is issued.
  
  - 2.2. **Nonrecurring Charges:** \$\_\_\_\_\_.  
Nonrecurring Charges include all necessary Make-ready fees, supervisions fees, etc.)
  
3. **Conduit/Poles/Innerduct Diagram.**
  - 3.1. Joint User shall provide a diagram of the requested Poles/Innerduct route. Such diagram is hereby incorporated by reference.
  
4. **Description of Equipment.**

CABLE DESCRIPTION

Cable Designation	OD (inches)	Wt. p.p.f.	Met. Sheath of Shield	Type of Cable	Max Voltage to Gnd AC/DC	Max Current in any Conduit	Type of Jacket

- a) Cable Designation: Assign letter, alphabetically, to each different type of cable to be installed.
- b) OD (inches): Outside diameter of the cable.
- c) Wt. p.p.f.: Weight pounds per foot.
- d) Met. Sheath or Shield.: Yes or No. Self explanatory.
- e) Type of Cable: Show size and gauge (e.g., 16-22)
- f) Max. Voltage to Gnd: Self explanatory.
- g) Max. Current in any Conduit: Indicate voltage.
- h) Type of Jacket: Enter type of material of the outer jacket or sheath (polyethylene, PVC, or lead, etc.)

**EQUIPMENT HOUSING TO BE PLACED IN UTILITY HOLES**

	Location	Type	Height	Width	Depth	Weight
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

**U S WEST Communications, Inc.**

\_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Attach Additional Sheets as Necessary