

Carrier “A” -- Off Net Terms & Conditions

1. **General.** The customer (“Customer”) purchasing the Services under the Service Order to which these terms are either attached or as they are posted on Supplier’s website agrees that the following terms and conditions (collectively, the “Off Net Terms”) apply to the portion of the Services that are provided by El Paso Networks, L.L.C. (“Supplier”) over the telecommunications network facilities owned and/or operated by a third party carrier (collectively, the “Off Net Services”). In the event of a conflict between these Off Net Terms and the terms of the Master Service Agreement (the “Agreement”) controlling the Service Order to which these Off Net Terms are attached and made a part of, these Off Net Terms shall control with respect to the Off Net Services. In the event of any conflict between the provisions of these Off Net Terms and the applicable Supplement and Exhibits attached hereto, the conflict shall be resolved by reference to the following order of priority of interpretation: a) Exhibits; b) Supplement; and c) Off Net Terms. Notwithstanding the foregoing, no Exhibit requiring execution shall be binding unless and until such Exhibit has been fully executed by an authorized officer, agent or representative of each party. Customer acknowledges and agrees that these Off Net Terms may be modified from time to time and that such changes shall be posted on Supplier’s website at www.epglobalnetworks.com. Customer acknowledges that it is Customer’s responsibility to refer to such website from time to time and that Customer’s receipt of Off Net Services after the effective date of any such change constitutes Customer’s acceptance of each such change.

2. **Payment Terms.** Invoices for Services are due and payable in U.S. dollars within twenty (20) days of Customer’s receipt of invoice. Payments not received within twenty (20) days of Customer’s receipt of invoice are considered past due. In addition to Supplier undertaking any of the actions set forth in the Agreement, if any invoice is not paid when due, Supplier may: (i) apply a late charge equal to 1-1/2% (or the maximum legal rate, if less) of the unpaid balance per month; (ii) require an additional security deposit or other form of security; and/or (iii) take any action in connection with any other right or remedy Supplier may have under the Agreement at law or in equity.

3. **Billing Disputes.** If Customer in good faith disputes any portion of any Supplier invoice concerning the Off Net Services, Customer shall submit to Supplier, within twenty (20) days following Customer’s receipt of the invoice, full payment of the undisputed portion of the invoice and written documentation identifying and substantiating the disputed amount. If Customer does not report a dispute within twenty (20) days following Customer’s receipt of an invoice, Customer shall have waived its right to dispute that invoice. Customer agrees to use its best efforts to resolve any dispute within forty-five (45) days after Supplier receives written notice of the dispute from Customer. Any disputed amounts determined to be payable to Supplier shall be due within five (5) days of the resolution of the dispute.

Any dispute arising out of or relating to the Off Net Services or these Off Net Terms which has not been resolved by the good faith efforts of the parties within the forty-five (45) days after Supplier receives notice, will be settled by binding arbitration conducted expeditiously in accordance with these Off Net Terms.

4. **Additional Assurances.** If at any time during the term of these Off Net Terms there is a material and adverse change in Customer’s financial condition, business prospects, or payment history, which shall be determined by Supplier in its sole and absolute discretion, then Supplier may demand that Customer deposit with Supplier a security deposit or increase the amount of deposit (the “Security Deposit”), as the case may be, pursuant to Supplier’s standard terms and conditions, as security for the full and faithful performance of Customer of the terms, conditions, and covenants of these Off Net Terms; provided, however, that in no event shall the amount of the Security Deposit ever exceed two (2) months’ estimated or actual recurring charges and other amounts payable by Customer to Supplier hereunder

5. **Certification.** Customer hereby represents and warrants that it is authorized to do business in all jurisdictions in which it conducts business and is in good standing in all such jurisdictions. Customer further represents and warrants that, to the extent applicable, it is certified, where necessary, by the proper regulatory agencies to provide interstate, intrastate and international long distance services to end users in those jurisdictions where such services are to be provided by Customer. Customer shall keep current during the applicability of these Off Net Terms, copies of its Certificates of Public Convenience and Necessity or similar documents, where necessary, certifying Customer’s interstate, intrastate, or international operating authority in any local, state, or federal jurisdiction (collectively, “Service Compliance Certificates”), and furnish copies thereof to Supplier within five (5) days of written request by Supplier. Supplier reserves the right to refuse or withhold the Off Net Service in any jurisdiction in which Customer’s Service Compliance Certificate has not been furnished to Supplier in a timely manner in which such certification is required. Customer shall defend and indemnify Supplier from any losses, expenses, demands and claims in connection with Customer’s failure to provide Supplier with such Service Compliance Certificates. Such indemnification includes costs and expenses (including reasonable attorney’s fees) incurred by Supplier in settling, defending, or appealing any claims or actions brought against it relating to Customer’s failure to provide such Service Compliance Certificates.

6. **Governing Law.** This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof, shall be governed by the laws of the State of Texas without regard to its principles of choice of law.

7. **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given as of the date of delivery or confirmed facsimile transmission. If mailed, notice shall be sent first class postage prepaid, certified or registered mail,

return receipt requested and becomes effective upon confirmed delivery. Notices will be delivered or sent to the parties' respective addresses set forth in the Agreement.

8. **Waiver of Breach or Violation not Deemed Continuing**. The waiver by either party of a breach or violation of any provision of these Off Net Terms shall not operate as or be construed to be a waiver of any subsequent breach hereof.

9. **Bankruptcy**. In the event of the bankruptcy or insolvency of either party or if either party shall make any assignment for the benefit of creditors or take advantage of any act or law for relief of debtors, the other party to these Off Net Terms shall have the right to terminate these Off Net Terms without further obligation or liability on its part.

10. **Business Relationship**. These Off Net Terms shall not create any agency, employment, joint venture, partnership, representation, or fiduciary relationship between the parties. Neither party shall have the authority to, nor shall any party attempt to, create any obligation on behalf of the other party.

11. **Indemnity**.

A. Each party shall indemnify, defend, release, and hold harmless the other party, their affiliates, directors, officers, employees, workers, and agents from and against any action, claim, cost, damage, demand, loss, penalty, or expense including but not limited to attorneys' fees, expert witness fees, and costs (collectively "Claims") imposed upon either party by reason of damages to property or personal injuries, including death, as a result of an intentional or grossly negligent act or omission on the part of the indemnifying party in connection with the performance of these Off Net Terms or other activities relating to the Service, the property, or the facilities which are the subject of these Off Net Terms. In the event a Claim relates to the negligence of both parties, the relative burden of the Claim shall be attributed equitably between the parties in accordance with the principles of comparative negligence.

B. The term "property" as used in this section shall include real, personal, tangible, and intangible property, including but not limited to, data, proprietary information, intellectual property, trademarks, copyrights, patents, and knowledge.

C. In the event any action shall be brought against the indemnified party, such party shall immediately notify the indemnifying party in writing, and the indemnifying party, upon the request of the indemnified party, shall assume the cost of the defense thereof on behalf of the indemnified party and its Affiliates and shall pay all expenses and satisfy all judgments which may be incurred by or rendered against the indemnified party or its Affiliates in connection therewith, provided that the indemnified party shall not be liable for any settlement of any such action effected without its written consent.

D. This Indemnification section shall survive termination of these Off Net Terms, regardless of the reason for termination.

12. **Insurance**. Throughout the term of these Off Net Terms, Customer shall maintain and, upon written request, shall provide proof of adequate commercial general liability insurance covering all operations and work hereunder. Such insurance shall be written on an occurrence coverage basis and shall provide coverage equivalent to or greater than one million dollars (\$1,000,000.00) per occurrence for bodily injury liability and property damage liability, including coverage extensions for blanket contractual liability, personal injury liability, products and completed operations liability, and advertising injury. Such insurance shall specifically cover the liability assumed under the indemnification provisions above.

13. **Authorized Use of Name**. Without the other party's prior written consent, neither party shall: (i) refer to itself as an authorized representative of the other in promotional, advertising, or other materials; or (ii) use the other party's logos, trade marks, service marks, carrier identification codes (CICs), or any variations thereof in any of its promotional, advertising, or other materials, or in any activity using or displaying the other party's name or the Service(s) to be provided hereunder. Both parties agree to change or correct at their own expense any material or activity the affected party determines to be inaccurate, misleading, or otherwise objectionable under this section. Customer is authorized to use the following statements in its sales literature: (i) "Customer utilizes the El Paso Networks' network;" (ii) "Customer utilizes El Paso Networks' facilities;" (iii) "El Paso Networks provides only the network facilities;" and/or (iv) "El Paso Networks is our network services provider." All press releases will require joint and mutual approval.

14. **Assignment**. Customer may not assign this Agreement without the express written consent of Supplier, which consent shall not be unreasonably withheld. Notwithstanding the foregoing: (i) a security interest in this Agreement may be granted by Supplier to any lender to secure borrowings by Supplier or any of its Affiliates; (ii) either party may assign all its rights and obligations hereunder to any Affiliate with notice; and (iii) any subsidiary of Supplier may assign any amounts due from Customer to Supplier for billing purposes with notice. Affiliate, as used herein, is defined as any entity controlled by, in control of, or under common control with the assigning party hereunder.

15. **Binding Arbitration**. The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to these Off Net Terms or the Off Net Services promptly through discussions between themselves at the operational level. In the event a resolution cannot be reached at the operational level, the disputing party shall give the other party written notice of the dispute and such controversy or claim shall be negotiated between appointed counsel or senior executives of the parties who have authority to settle the controversy. If the parties fail to resolve such controversy or claim within twenty-five (25) days of the disputing party's notice, either party may seek arbitration as set forth in this paragraph. Any controversy or claim arising out of or relating to these Off Net Terms of the Off Net Services shall be finally settled by arbitration in Austin, Texas and shall be resolved under the laws of the State of Texas. The arbitration shall be conducted before a single qualified and neutral arbitrator in accordance with the commercial rules and practices of the American Arbitration Association then in effect. The arbitrator shall have the power to order specific performance if requested. Any award, order, or judgment pursuant to such arbitration shall be deemed final and binding and may be enforced in any court of competent jurisdiction. The parties agree that the

arbitrator shall have no power or authority to make awards or issue orders of any kind except as expressly permitted by these Off Net Terms, and in no event shall the arbitrator have the authority to make any award that provides for consequential, indirect, punitive or exemplary damages. All such arbitration proceedings shall be conducted on a confidential basis. The arbitrator may, as part of the arbitration award, permit the substantially prevailing party to recover all or part of its attorney's fees and other out-of-pocket costs incurred in connection with such arbitration. Customer may, at its option, continue to accept what it considers to be below-standard Off Net Service(s) and pay the charges relating thereto during the pendency of such arbitration, without prejudice thereto.

16. **Legal Construction.** In the event one or more of the provisions contained in these Off Net Terms shall, for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and these Off Net Terms shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

17. **No Personal Liability.** Each action or claim of any party arising under or relating to these Off Net Terms shall be made only against the other party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such party.

18. **Notice of Breach.** To be effective, written notice of any material breach (except Payment Default) of these Off Net Terms must prominently contain the following sentences in capital letters: "THIS IS FORMAL NOTICE OF A BREACH OF CONTRACT. FAILURE TO CURE SUCH BREACH WILL HAVE SIGNIFICANT LEGAL CONSEQUENCES."

19. **Limitation of Liability.** The liability of Supplier (and any third party provider of the Off Net Services) arising out the provision of Off Net Services, delays in the restoration of Off Net Services to be provided pursuant to these Off Net Terms or any other telecommunications services, or arising out of mistakes, accidents, omissions, interruptions, errors or defects in transmission, or delays caused by judicial or regulatory authorities, shall be subject to the limitations set forth below and in any applicable tariff. IN NO EVENT SHALL EITHER PARTY OR ANY THIRD PARTY PROVIDER OF OFF NET SERVICES BE LIABLE TO ANY OTHER PARTY HEREUNDER, OR TO CUSTOMER'S OWN CUSTOMERS, OR TO ANY OTHER THIRD PARTY WITH RESPECT TO THE SUBJECT MATTER OF THESE OFF NET TERMS, UNDER ANY CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY FOR ANY TYPE OF INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE, SPECIAL, OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS, LOST REVENUES, OR LOST SAVINGS OF ANY KIND, ARISING OUT OF OR RELATING TO THESE OFF NET TERMS OR THE OBLIGATIONS OF THE PARTIES PURSUANT TO THESE OFF NET TERMS, WHETHER OR NOT SUPPLIER, ANY THIRD PARTY PROVIDER OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL SUPPLIER OR ANY THIRD PARTY PROVIDER BE LIABLE TO CUSTOMER FOR ANY AMOUNT IN EXCESS OF THE AGGREGATE AMOUNT SUPPLIER HAS PRIOR TO SUCH TIME COLLECTED FROM CUSTOMER WITH RESPECT TO THE OFF NET SERVICES DELIVERED HEREUNDER. NEITHER SUPPLIER NOR ANY THIRD PARTY PROVIDER OF THE OFF NET SERVICES MAKES ANY WARRANTY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, OR FITNESS FOR ANY PURPOSE OF ANY OFF NET SERVICES PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXCLUDED AND DISCLAIMED. For purposes of this Section, the term "Supplier" shall be deemed to include Supplier, its affiliates, shareholders, directors, officers and employees, and any other third party (whether a person or entity) assisting Supplier in its performance pursuant to these Off Net Terms.

20. **System Maintenance.** In the event Supplier determines that it is necessary to interrupt any Off Net Services or that there is a potential for the Off Net Services to be interrupted for the performance of system maintenance, Supplier will notify Customer twenty-four (24) hours prior to the performance of such maintenance and will schedule such maintenance during non-peak hours (midnight to 6:00 a.m. local time). In no event shall interruption for system maintenance constitute a failure of performance by Supplier or any third party provider.

21. **Subject to Laws.** These Off Net Terms are subject to, and Customer agrees to comply with, all applicable federal, state and local laws, and regulations, rulings, and orders of governmental agencies, including, but not limited to, the Communications Act of 1934, the Telecommunications Act of 1996, the Rules and Regulations of the Federal Communications Commission ("FCC"), state public utility or service commissions ("PSC"), and any applicable tariffs. Customer further agrees to obtain and maintain any and all required certifications, permits, licenses, approvals, or authorizations of the FCC and/or PSC and/or any governmental body, including, but not limited to regulations applying to feature group termination and Letter of Agencies ("LOAs").

22. **FCC Permits, Authorization and Filings.** Supplier shall take all necessary and appropriate steps, as soon as possible, to procure (or require the applicable third party carrier to procure) the necessary authorizations and approvals, if any, from the FCC or any other federal or state agency required to deliver the Off Net Services hereunder to Customer. In the event that Supplier (or such third party carrier) cannot obtain all necessary federal, state, or local authority to provide the Off Net Services hereunder, Supplier shall promptly give written notice thereof to Customer and such notice shall constitute termination of this Agreement without further liability or obligation of either party.

23. **Confidential Information.** "Confidential Information" shall mean all information disclosed in writing by one party to the other party (including disclosures by or to a third party provider of the Off Net Services) which is clearly marked "CONFIDENTIAL" or "PROPRIETARY" by the disclosing party at the time of disclosure. Notwithstanding the foregoing, all information concerning a party's traffic volume or distribution, pricing, network development, customer lists, and financial information is hereby deemed to be Confidential and Proprietary regardless of whether it is so identified. The term "Confidential Information" does not include any information which: (i) was already known by the receiving party free of any obligation to keep it confidential at the time of its disclosure; (ii) becomes publicly known through no wrongful act of the receiving party; (iii) is rightfully received from a third person without knowledge of any confidential

obligation; (iv) is independently acquired or developed without violating any of the obligations under these Off Net Terms; or (v) is approved for release by written authorization of the disclosing party.

A recipient of Confidential or Proprietary Information shall not disclose the Information to any person or entity except for (i) the recipient's employees, contractors, and consultants and/or (ii) the recipient's Affiliates and their employees, contractors, and consultants, and only to those parties who have a need to know such Confidential Information and who are bound to protect the Information from unauthorized use or disclosure. Confidential Information shall not be disclosed to any other third party without the prior written consent of the owner of the Information. The recipient shall use the Confidential Information only for the purposes hereof and shall protect the Information from disclosure using the same degree of care used to protect its own Confidential or Proprietary Information, but in no event less than a reasonable degree of care.

Further, the recipient may disclose Confidential Information pursuant to a judicial or governmental request, requirement, or order. The recipient, however, shall take all reasonable steps to give the disclosing party sufficient prior notice to contest such request, requirement, or order and shall use commercially reasonable efforts to obtain a protective order before disclosing any such Confidential Information. Confidential Information shall remain the property of the disclosing party and shall be returned to the disclosing party or destroyed upon request of the disclosing party. A party may make Confidential Information available to its lenders and/or financial advisors provided the lenders or financial advisors are bound by a written Confidentiality Agreement.

Because money damages may be insufficient in the event of a breach or threatened breach of the foregoing provisions, the affected party shall be entitled to seek an injunction or restraining order in addition to such other rights or remedies as may be available under these Off Net Terms, at law or in equity, including but not limited to money damages.

24. **Force Majeure.** Except for the obligation to make payments for amounts due, neither party nor any third party provider of the Off Net Services shall be liable to any other party nor deemed in default under these Off Net Terms if and to the extent that such party's performance of these Off Net Terms is delayed or prevented by reason of Force Majeure. The term Force Majeure means an occurrence that is beyond the reasonable control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, Force Majeure includes acts of God, fire, explosion, vandalism, cable cut, flood, storm, or other similar catastrophe; failure of the Internet not related to Supplier's actions or inactions, any law, order, regulation, direction, action or request of any governmental entity or court or civil or military authority having jurisdiction over any of the parties, national emergencies, insurrections, riots, wars, strikes, lock outs, or work stoppages.

25. **Survival.** The covenants and agreements of Customer contained in these Off Net Terms with respect to payment of amounts due, confidentiality, liability, and indemnification shall survive any termination of these Off Net Terms and the Agreement.

26. **Regulatory.** Customer is responsible for payment to Supplier for any fees, taxes, or surcharges that are imposed or authorized by regulatory and governmental entities. Fees for Common Carrier Service Charges ("CCSC") and Payphone Compensation are billed to Customer at the tariff rates if applicable. Fees for Universal Service Fees (state and federal), Lifeline Assistance, Telecommunications Relay Service, taxes or surcharges – including but not limited to gross receipts taxes, surcharges, franchise fees, occupational, excise and other taxes (and penalties and interest thereon), and relating to the Off Net Services provided to Customer by Supplier, shall be passed through to Customer. Supplier will furnish, upon Customer's request, documentation to support the fees or charges payable by Customer pursuant to this Section.

Customer shall furnish to Supplier valid and appropriate tax exemption certificates, in the form required by Supplier, for all applicable jurisdictions (federal, state, and local) in which it performs customer billing. If Customer fails to provide and maintain the required certificates, Supplier may charge Customer and Customer shall pay such applicable taxes. To the extent applicable, Customer is responsible for properly charging applicable tax to its subscribers and for the proper and timely reporting and payment of such applicable taxes to the taxing authorities and shall defend and indemnify Supplier and all third party providers of the Off Net Services from payment and reporting of all applicable federal, state, and local taxes including, but not limited to, gross receipts taxes, surcharges, franchise fees, occupational, excise and other taxes (and penalties and interest thereon), relating to the Off Net Services. Such indemnification includes costs and expenses (including reasonable attorney's fees) incurred by Supplier and such third parties in settling, defending or appealing any claims or actions brought against it relating to such taxes.

The amounts payable by Customer under these Off Net Terms do not include any state, local sales, use taxes, governmental surcharges or fees, or utility taxes, however designated, which may be levied on the goods and services provided by Supplier hereunder. With respect to such taxes, if applicable, Customer shall furnish Supplier with an appropriate exemption certificate or pay to Supplier such amounts as Supplier may be by law required or permitted to collect or pay. Any and all other taxes, including but not limited to franchise, net or gross income, license, occupation, and real or personal property taxes, or governmental surcharges or fees imposed on Customer or Supplier, shall be timely paid by Customer.

27. **Events of Default.** A "Default" under these Off Net Terms shall occur (and shall be considered a Default under the Agreement) if (a) Customer fails to make payment as required under these Off Net Terms and such failure remains uncorrected for five (5) calendar days after written notice from Supplier; or (b) either party fails to perform or observe any material term or obligation (other than making payment) contained in these Off Net Terms, and any such failure remains uncorrected for twenty-five (25) calendar days after written notice from the non-defaulting party informing the defaulting party of such failure; provided, however, that in the case of a Supplier Default, if such Default is not capable of being cured within such 25-day period with the exercise of reasonable diligence, then such cure period shall be extended for an additional reasonable period of time (not to exceed 90 days) so long as the Supplier is exercising reasonable diligence to cure such failure. If Customer uses the Off Net Services for any unlawful purpose or in any unlawful manner, Supplier and any applicable third party provider shall have the right to immediately suspend and/or terminate any or all Off Net Services hereunder without notice to Customer.

In the event of a Customer Default for any reason, Supplier may: (i) suspend the Off Net Services or any other Services to Customer; (ii) cease accepting or processing orders for Services; (iii) withhold delivery of Call Detail Records (if applicable); and/or (iv) terminate these Off Net Terms and the Agreement. If the Agreement is terminated due to a Customer Default, such termination shall not affect or reduce Customer's minimum monthly commitments required under the Agreement, if applicable, and all Termination Charges shall apply. Customer agrees to pay Supplier's reasonable expenses (including attorney and collection agency fees) incurred in enforcing Supplier's rights in the event of a Customer Default.

In the event of a Supplier Default, Customer may terminate the Agreement without penalty. Customer will, however, remain liable for all charges incurred for Services (including Off Net Services) provided prior to Customer's termination of the Agreement.

28. **Obligations Several and Not Joint.** Each party shall be responsible only for its own performance under these Off Net Terms (including any attachments, exhibits, schedules or addenda) and not for that of any other party.

29. **Amendments.** These Off Net Terms may only be modified or supplemented by an instrument in writing executed by each party.

30. **Change-in-Law.** If any federal or state statute or regulation or order by a court of law or regulatory authority directly (a) prohibits performance under these Off Net Terms, (b) makes such performance illegal, impossible or impractical, or (c) effects a change which has a material adverse impact upon either party's performance of its obligations under these Off Net Terms, then the parties will use all reasonable efforts, to either (1) revise or amend such conflicting state statute or regulation or order by a court of law or regulatory authority or (2) revise these Off Net Terms so that (a) performance under these Off Net Terms is no longer prohibited, illegal, impossible or is no longer impacted in a material adverse fashion, and (b) these Off Net Terms are revised in a manner that preserves, to the maximum extent possible, the respective positions of the parties. Each party will provide reasonable and prompt notice to the other party as to any proposed law, regulations or any regulatory proceedings or actions that could affect the rights and obligations of the parties. If the parties are unable to revise these Off Net Terms in accordance with the above, then the party whose performance is rendered prohibited, illegal, impossible, impractical or is impacted in a material adverse manner shall have the right to, at its sole discretion, to cease performance of any such obligations that are so prohibited, impossible, impractical or material and adversely affected upon thirty (30) days' prior written notice (or less if required by law). The parties will continue to perform all such obligations under these Off Net Term that are not so prohibited, impossible, impractical or material and adversely affected; provided if a material part of the rights and obligations under these Off Net Terms are suspended in accordance with the above and the performance of the remaining obligations would not reasonably maintain the respective positions of the parties or would not serve the essential purpose of these Off Net Terms, then either party shall have the right to, at its sole discretion, to terminate these Off Net Terms upon thirty (30) days' prior written notice.

Off Net Private Line Service Supplement

Digital & Optical Services

1. **Scope and Rates.** This Supplement applies to the provision of Off Net Private Line Service (digital and optical service). As used herein, “circuits” refer to Off Net circuits and “Service” refers to Off Net Services. Supplier shall use commercially reasonable efforts to provide Services for which a Service Order has been accepted. All requests for Service shall be submitted on Supplier’s then current form of Service Order. Service Orders may be submitted electronically, if previously approved by Supplier, or by facsimile. The rates for Service are set forth in the applicable Service Order, which must be signed by Customer and confirmed by a Firm Order Confirmation (“FOC”) by Supplier. Such rates apply to the Off Net Services.
2. **Term.** Each Service Order Form shall set forth a Term. The initial term of these Off Net Terms shall be the greater of (i) three (3) years commencing on the Effective Date hereof or (ii) the period commencing on the Effective Date hereof and continuing through the end of the Service Order Term which is last to expire, unless: (i) earlier terminated; or (ii) written notice is given by either party at least thirty (30) days before such expiration that such party does not consent to such extension. If Service continues after expiration of the initial term, Supplier may upon thirty (30) days’ written notice adjust the rates for Service to its then current month-to-month rates.
3. **Monthly Charges.** Customer will be invoiced monthly for: (i) the monthly-lease rate (prorated for any partial month) for each circuit; and (ii) the charges for other services received. The first invoice shall be for the first two months (prorated for any partial month) of the Term; each invoice thereafter shall be for the following month.
4. **Billing Commencement Date.** If a circuit is made available prior to the FOC date, billing shall commence on the Circuit Activation Date (if earlier than the FOC date) or on the scheduled FOC date; provided, however, that in no event shall billing commence prior to the FOC date without acceptance by Customer. Supplier shall provide Customer written notification of circuit readiness after performance test results are evaluated and circuit is deemed activated and operational. Upon expiration of two (2) days from the receipt by Customer of Supplier’s notice of circuit readiness, and provided that Customer has not provided Supplier with written notice of any performance failure of a circuit, the subject circuit(s) will be deemed accepted by Customer and billing shall commence.

Upon written notification of circuit readiness (the “Circuit Installation Notification”), Customer may, but shall not be obligated to, coordinate and schedule its own performance testing. If as a result of Customer’s performance testing, Customer determines that the circuit does not conform to performance specifications, Customer must, within two (2) days of Supplier’s Circuit Installation Notification, notify Supplier in writing of performance failure in order to delay billing commencement. Upon Supplier’s receipt of such notice from Customer, Supplier shall promptly commence corrective action to correct the non-compliance, and upon such compliance, billing shall commence. In the event that Customer elects to utilize any part of the circuit capacity (except during the two (2) day testing period) despite a performance failure, said circuit shall be deemed accepted and billing shall commence.
5. **Termination.** Customer may terminate any circuit upon ninety (90) days’ written notice; provided that: (i) if termination occurs prior to the Scheduled Service Date or the Commencement Date, Customer shall reimburse Supplier for all actual costs of the implementation of such circuit incurred on Customer’s behalf; or (ii) if termination occurs on or after such date Customer shall pay: (A) all charges for Service previously rendered but not yet paid for; and (B) the amount due through the end of the applicable circuit term (Supplier shall try to re-lease such circuit for such term, refunding to Customer the amount so collected, if any). If Supplier fails to provide Service within three (3) months of the Scheduled Service Date, Customer may, as its only remedy, terminate the affected circuit.
6. **Outage Credits and Damages.** SUPPLIER SHALL PASS THROUGH TO CUSTOMER A CREDIT IN ACCORDANCE WITH THE THIRD PARTY PROVIDER’S THEN-CURRENT OUTAGE POLICY FOR PERIODS IN WHICH ANY OFF NET CIRCUIT LOSES CONTINUITY OR FAILS TO COMPLY WITH APPLICABLE SPECIFICATIONS. SUCH CREDIT SHALL BE CUSTOMER’S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO SUCH AN EVENT; PROVIDED, HOWEVER, THAT NO SUCH CREDITS SHALL BE ALLOWED AND NEITHER SUPPLIER NOR ANY THIRD PARTY PROVIDER SHALL BE LIABLE FOR ANY SERVICE DEFECT FROM CAUSES OUTSIDE THEIR CONTROL, INCLUDING ACCIDENTS, CABLE CUTS, FIRES, FLOODS, EMERGENCIES, GOVERNMENT REGULATION, WARS, OR ACTS OF GOD. SUPPLIER AND ALL SUCH THIRD PARTY PROVIDERS DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES RELATING TO THE SERVICE, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. CUSTOMER HAS NOT RELIED ON ANY REPRESENTATION NOT SET FORTH HEREIN. CUSTOMER SHALL INDEMNIFY SUPPLIER AND SUCH THIRD PARTIES FROM ANY CLAIMS MADE BY ANY CUSTOMER OF CUSTOMER. FURTHERMORE, NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE LIABILITY OF SUPPLIER TO CUSTOMER (A) FOR ANY BREACH BY SUPPLIER UNDER THE TERMS OF THIS AGREEMENT, (B) FOR ANY TORT LIABILITY OF SUPPLIER OR ANY OF ITS AFFILIATES TO CUSTOMER, OR (C) IN ANY OTHER CIRCUMSTANCE IN WHICH SUPPLIER OR ANY OF ITS AFFILIATES IS JUDICIALLY DETERMINED TO HAVE SOME LIABILITY TO CUSTOMER, FOR

WHATEVER REASON ARISING UNDER OR RELATED TO THIS AGREEMENT, SHALL, IN EACH SUCH INSTANCE, BE LIMITED TO AN AMOUNT EQUAL TO SIX TIMES THE RECURRING FEES UNDER THIS AGREEMENT FOR THE MONTH PRECEDING THE TIME OF THE INCIDENT GIVING RISE TO THE LIABILITY. FOR PURPOSES OF THIS SECTION, THE TERM "SUPPLIER" SHALL BE DEEMED TO INCLUDE SUPPLIER, ITS AFFILIATES, SHAREHOLDERS, DIRECTORS, OFFICERS AND EMPLOYEES, AND ANY PERSON OR ENTITY ASSISTING SUPPLIER IN ITS PERFORMANCE PURSUANT TO THIS AGREEMENT.

7. **Updates.** The Standard Installation Provisioning Intervals, Facility Order Policy, Disconnect Intervals, On-Net City Listing, and Outage Policy are subject to change at Supplier's discretion.
8. **Definitions.** For purposes hereof: "Activation Date" means the date a Circuit is first made Available to Customer. "Available" means all necessary Supplier equipment for a Circuit has been installed. "Circuit" means a DS-0, DS-1, DS-3, OC-3c, OC-12c or an OC-48c. "Circuit Lease Term" means the term of a Circuit specified in the applicable Purchase Order. "Circuit Mileage" means the length of a Circuit specified in the applicable Purchase Order. "DS-0" means a circuit complying with TR-TSY-000333 "Switched and Special Access Services - Transmission Parameter Limits and Interface Combinations" Issue 1, July 1990. A "DS-1" is a signal conforming to the requirements set forth in Sections 9.3 and 10.2 of Bellcore TR-NWT-000499, Issue 5, December 1993. A "DS-3" is a signal conforming to the requirements set forth in Section 9.6 and 10.5 of Bellcore TR-NWT-000499, Issue 5, December 1993. "FOC" means Firm Order Confirmation, the form Supplier submits to Customer indicating the date that an ordered Circuit will be activated. An "OC-3c" is a signal based on the SONET frame structure as specified in Bellcore GR-253-CORE, Synchronous Optical Network (SONET) Transport Systems: Common Criteria Physical Layer, and ANSI T1.105, Digital Hierarchy-Optical Interface Rates and Formats Specifications. An "OC-12c" is a signal based on the SONET frame structure as specified in Bellcore GR-253-CORE, Synchronous Optical Network (SONET) Transport Systems: Common Criteria Physical

Layer, and ANSI T1.105, Digital Hierarchy-Optical Interface Rates and Formats Specifications. An "OC-12c Unprotected (1+0)" – 622.08 megabits Lambda – is the ANSI SONET transmission standard for high capacity optical telecommunications with line rate of 622.08 megabits per second in unprotected configuration, as specified in Bellcore GR-253-CORE. An "OC-48c" is a signal based on the SONET frame structure as specified in Bellcore GR-253-CORE, Synchronous Optical Network (SONET) Transport Systems: Common Criteria Physical Layer, and ANSI T1.105, Digital Hierarchy-Optical Interface Rates and Formats Specifications. An "OC-48c Unprotected (1+0)" – 2.5 gigabits Lambda – is the ANSI SONET transmission standard for high capacity optical telecommunications with line rate of 2.5 gigabits per second in unprotected configuration, as specified in Bellcore GR-253-CORE. An "OC-192c" is a signal based on the SONET frame structure as specified in Bellcore GR-253-CORE, Synchronous Optical Network (SONET) Transport Systems: Common Criteria Physical Layer, and ANSI T1.105, Digital Hierarchy-Optical Interface Rates and Formats Specifications. An "OC-192c Unprotected (1+0)" – 9.6 gigabits Lambda – is the ANSI SONET transmission standard for high capacity optical telecommunications with line rate of 9.6 gigabits per second in unprotected configuration, as specified in Bellcore GR-253-CORE. "On-Net" means a Circuit(s) provided on Supplier's network between two cities. "Purchase Order" means any Customer purchase order accepted by Supplier. "Requested Service Date" means the date Service on a Circuit is requested to commence specified in the applicable Purchase Order. "Service" means transmission service provided between North American DSX standard cross-connect panels located in Supplier's terminal locations or when provided via El Paso Networks' LDX Optical cross-connect panels located in Supplier's terminal locations. "Unprotected (1+0)" refers to an unprotected Circuit, which operates without redundant electronics and will have an annual system availability of ninety-nine percent (99%) or better. The Customer interface consists of a transmit and receive two (2) fiber interface for a working (WK) system.

Exhibit A – Private Line Services Rates

Service Type	Circuit Lease Term / Rate per V&H DS-0 Mile					
	6 Months	1 Year	2 Year	3 Year	4 Year	5 Year
<i>DS-0</i>	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>DS-1</i>	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>DS-3</i>	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>OC-3c</i>	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>OC-12c</i>	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>OC-12c, 1+0</i>	N/A	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>OC-48c</i>	N/A	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>OC-48c, 1+0</i>	N/A	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>OC-192c</i>	N/A	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>OC-192c, 1+0</i>	N/A	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.

Minimum Circuit Charges:

DS-0	\$	I.C.B.
DS-1		I.C.B.
DS-3		I.C.B.
OC-3c		I.C.B.
OC-12c		I.C.B.
OC-12c, 1+0		I.C.B.
OC-48c		I.C.B.
OC-48c, 1+0		I.C.B.
OC-192c		I.C.B.
OC-192c, 1+0		I.C.B.

Minimum Circuit Lease Term: I.C.B.

Exhibit B – Private Line Services Ancillary Pricing

	<u>DS-0</u>	<u>DS-1</u>	<u>DS-3</u>	<u>OC-3c</u>	<u>OC-12c</u>	<u>OC-48c</u>	<u>OC-192c</u>
Monthly Recurring							
Minimum Circuit Charge ***	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
<i>Non Recurring</i>							
New Order Installation	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Change of requested service date -1 st *	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Change of requested service date - 2 nd + *	I.C.B.	I.C.B.	I.C.B.	(See below)	(See below)	(See below)	(See below)
Order Change (pre-engineering)	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Order Change (post-engineering)	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Order Cancellation (pre-engineering)	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Order Cancellation (post-engineering) ****	(See below)	(See below)	(See below)	(See below)	(See below)	(See below)	(See below)
ASR (new or disconnect) Special Access **	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
ASR Supplement	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Order Expedite (Charge applies to each end)	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Reconfiguration	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.

* Customer must notify El Paso Networks of service date changes five (5) days prior to due date for DSx and twenty-five (25) days prior to the due date for OCx. Service date changes can be extended a maximum of twenty (20) days after due date. Service date changes for OCx are restricted to one change, after which order will be subject to billing. Any and all charges incurred with a local loop will be passed through to Customer.

** If Customer is ordering Integrated Access Service with multiple applications (i.e., any combination of Xclusive/Xnet Voice frame, Private Line and/or Internet) the ASR fee will be I.C.B. for any and all applications instead of I.C.B. per application.

*** Minimum Circuit Charges for Unprotected 1+0 Circuits.

**** Order Cancellation charges for post-engineered circuit(s) are equal to the first month's Monthly Recurring Charge.

	<u>DS-1</u>	<u>DS-3</u>	<u>OC-3c</u>	<u>OC-12c</u>	<u>OC-48c</u>	<u>OC-192c</u>
Cross-Connect Charge						
Monthly Recurring	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Non Recurring	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Interconnect Charge						
Monthly Recurring	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.
Non Recurring	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.	I.C.B.

Cross-connect: Local access or customer collocation facility to Supplier local access or bypass facility within the same Supplier POP. Cross-connect charges do not apply to Long Haul Circuits purchased from Supplier if bandwidth being cross-connected is 1-to-1 bandwidth relationship or less. Interconnect charges apply to connections between Supplier POPs in the same city or between Supplier suite to another suite in the same building. Since costs vary widely by location, the interconnect charges indicated above are the minimum amount that will be charged. All I.C.B. charges incurred by Supplier will be passed through to the Customer.

	<u>Recurring</u>	<u>Non Recurring</u>
Multiplex charges for DS-1 to DS-3		
1 Year Term	I.C.B.	
2 Year Term	I.C.B.	
3 Year Term	I.C.B.	
DACS Charge (Switching Only) per DSO	I.C.B.	
DACS Port Charge (Bell Access to DACS) per DSO	I.C.B.	
DS-1 DACS Port	I.C.B.	
Echo Cancellor (Per Circuit End; see Note 5 below.)	I.C.B.	I.C.B.
Second End Loop (Ex; for ADPCM)	I.C.B.	I.C.B.

Maintenance Charges	
Trouble Assistance Ticket per dispatch:	
Monday through Friday, 8 am to 5 pm	I.C.B.
After Hours (Work limited to recovery of downed circuits or equipment, not new installations.)	I.C.B.

- Notes**
- All charges incurred by Supplier on Customer's behalf from any Local Exchange Carrier, Competitive Access Provider, Competitive Local Exchange Carrier or other local-access provider will be directly passed on to Customer.
 - Services not described above will be considered special handling, and charges will be assessed on an individual case basis (I.C.B.).
 - All of the above charges are subject to changes with a twenty-five (25)-day notice.
 - All Private Line ancillary service charges to cities not on Supplier's On-Net City List will be priced on an individual case basis and will be subject to the terms and charges of the underlying carrier.
 - Echo canceller charges apply to each end of Circuit. There is no expressed Circuit length minimum for Private Line; when echo cans are required, Supplier installs them and charges for them.
 - All charges originally waived or discounted shall be passed through to Customer if Service is cancelled prior to end of Circuit Lease Term.