

Business Data Service Guide

General Provisions

Ethernet Service (ES) is a high-speed data transport service that provides end-to-end transmission using Ethernet packet technology at transport speeds ranging from 2 Mbps to 10 Gbps, where available.

Ethernet Service (ES) is a high-speed packet-based service for the transmission of data between a customer designated premises (CDP) and MTA's Serving Wire Center, and either to another CDP served by MTA, or a CDP served by another Service Provider through an ES Network to Network Interface (ES-NNI). Ethernet services that require connection outside MTA's service area may be provided either on a joint basis by MTA and another Service Provider or by a telecommunications carrier connecting to MTA through a CDP within the Company's serving areas. If joint provisioning by the MTA and another Service Provider is required, it is the responsibility of the Customer to order and pay for services provided by the other Service Provider. Ethernet Service provides dedicated bandwidth at the capacities indicated in the Table below.

Mbps	Mbps	Mbps
2	100	1,000
5	250	2,500
10	500	5,000
20	750	10,000
50		

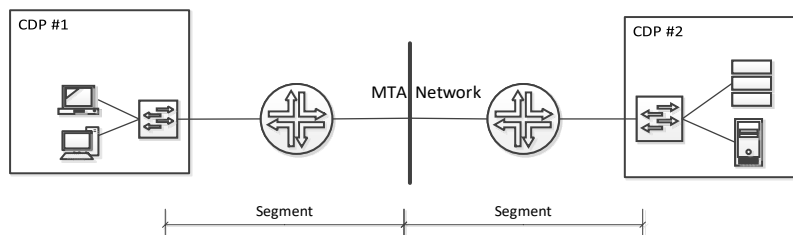
Ethernet Services are provided in three different service offerings. These are Ethernet Private Line (EPL), Ethernet Private Access Local Area Network (ELAN), and Ethernet Virtual Private Line (EVPL). These are offered in MTA's Core Service Area and Extended Service Area.

Service Descriptions

Ethernet Private Line (EPL)

Ethernet Private Line Service allows customers to connect their networks through a standard Ethernet interface in a point to point configuration. This service provides bidirectional, full duplex transmission of Ethernet frames using a standard IEEE 802.3 Ethernet Interface. EPL is made up of two segments connecting two CDPs.

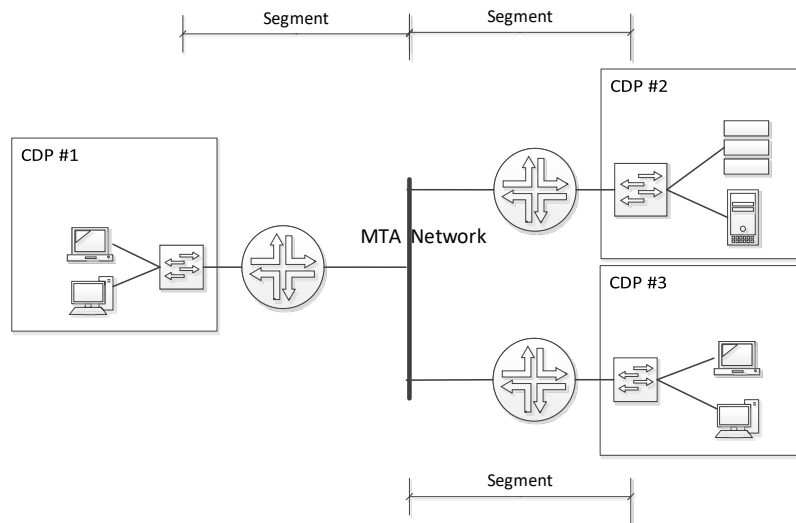
Ethernet Private Line Topology



Ethernet Private Local Access Network (ELAN)

Ethernet Private LAN Service allows customers to connect CDPs within MTA's service areas as if they are on the same Local Area Network (LAN). This service provides bidirectional, full duplex transmission of Ethernet frames using a standard IEEE 802.3 Ethernet Interface. An ELAN can support up to 100 segments.

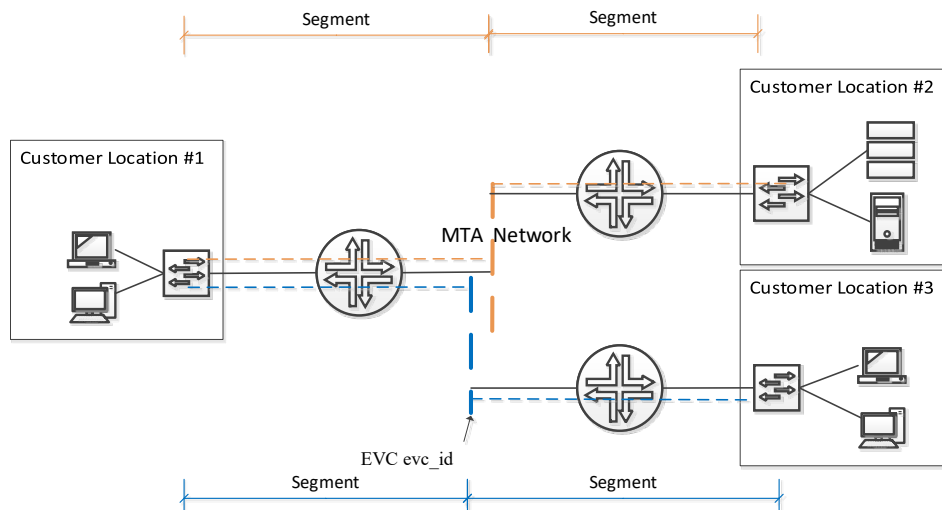
Ethernet Private Line Topology



Private Line (EVPL)

Ethernet Virtual Private Line Service allows customers to connect their networks through a standard Ethernet interface. Ethernet Virtual Private Line Service is a similar service to Ethernet Private Line service but allows the flexibility to assign multiple services (EVCs) on a single segment at the customers' aggregation site. This service provides bidirectional, full duplex transmission of Ethernet frames using a standard IEEE 802.3 Ethernet Interface. Service multiplexing allows multiple services (EVC's) on a single UNI. Service Multiplexing allows for one interface at a hub or central location eliminating the need for multiple ports. The sum of all CIR bandwidth cannot exceed the UNI port speed.

Ethernet Virtual Private Line Topology



The transmission quality of ES is not guaranteed and is offered to ES customers at a best effort level. MTA will attempt to deliver all Ethernet packets received; however, network congestion may result in a loss of Ethernet packets. Transmission speeds using copper facilities may be affected by distance from the CDP and MTA's Serving Wire Center, and other technical limitations.

Service is provided, where available, between CDPs and designated MTA Serving Wire Centers (SWCs). ES will be furnished where suitable facilities exist as determined by the MTA.

Customer Responsibilities

1. Provide a secure space within Customer's facility that will provide a suitable environment. Environmental temperature must be maintained between fifty-five (55) and eighty-five (85) degrees Fahrenheit on a 24/7/365 basis.
2. Provide cable entry conduits, entry cable ground point, and access to route cables within Customer's facility to the demarcation point.
3. Obtain "right of way" entry easement for Provider facilities and equipment from the building owner.
4. Provide access to the building and point of demarcation at each location to Provider's personnel and contractors to complete the service installation.
5. Provide, install and maintain a device capable of routing network traffic between the service and Customer's LAN.
6. Customer must provide a point of contact for installation, service activation and any maintenance activities.

MTA Responsibilities

1. MTA will provision and maintain Ethernet Service for the customer.
2. MTA is not responsible for the installation, operation, or maintenance of any equipment provided by the customer.
3. MTA provided network equipment for used for Ethernet Service is not accessible by the customer.

Optional Services

ES Bandwidth Add-On (ES BAO)

Where suitable facilities exist, an ES customer that requires additional bandwidth capacity may order the ES Bandwidth Add-On (ES BAO) feature. This optional feature enables the ES customer to order additional bandwidth capacity in 10 Mbps increments to be added to the ES Segment at the following speed options: 50 Mbps, 100 Mbps, 250 Mbps, 500 Mbps and 750 Mbps. The ES BAO feature is only available on the above listed ES speed options when provided within the MTA's service area.

When an ES BAO feature is added at the same time as the underlying ES rate element is initially installed, an Access Order Charge and nonrecurring charge associated with the underlying ES rate element would apply. When an ES BAO feature is subsequently added to an existing ES rate element, an ES Design Change Charge would apply per ES BAO feature established by MTA.

When ordering an ES BAO feature, the ES customer must specify on its Service Order: 1) each eligible ES segment and speed option combination to be supplemented using the ETS BAO feature and 2) the total number of 10 Mbps increments to be included in each ETS BAO feature. For example, an ETS customer requires an additional 20 Mbps of bandwidth capacity on its existing 50 Mbps ES Segment. On its Service Order to MTA, the ES customer would identify the 50 Mbps ES Segments and order one ETS BAO feature made up of two 10 Mbps increments for that ETS Segment.

In addition to the applicable monthly charge for the underlying ES rate element, a monthly charge applies for each ES BAO feature established by MTA. The monthly charge is based upon the total number of 10 Mbps increments included in each ES BAO feature ordered by the ES customer. For example, an ES customer orders two ES BAO features to provide an additional 50 Mbps of bandwidth capacity on its existing 100 Mbps Ethernet Service, consisting of two segments. In addition to the monthly charges for the underlying 100 Mbps Ethernet Services, MTA would bill the ES customer one ES BAO feature monthly charge equal to five times the 10 Mbps increment ES BAO feature per Segment. The ES customer would also be billed two ETS Design Change Charges for the two ES BAO features established by MTA since the two ES BAO features were being added to existing ES rate elements.

ES Segment committed under the ES Term Discount Plan using the ES BAO feature does not change the ES customer's term plan commitment on the originally committed ES Segment.

When an ES customer elects to change the bandwidth capacity of an existing ES BAO feature or remove an existing ES BAO feature from its underlying ES rate element, an ES Design Change Charge will apply. When an ES customer disconnects an underlying ES Segment equipped with an ES BAO feature, the ES BAO feature is automatically disconnected and neither an Access Order Charge nor an ES Design Change Charge will apply for the disconnected ES rate elements.

Types of Rates and Charges

There are two types of rates and charges. They are monthly rates and nonrecurring charges. The rates and charges are described below. Please see Schedule 1, below, for detailed information about Business Data Service; Terms, and Conditions.

Monthly Rates

Monthly rates are recurring rates that apply each month or fraction thereof when an ETS service segment or element is provided. For billing purposes, each month is considered to have 30 days.

Nonrecurring Charges

Nonrecurring charges (NRC) are one-time charges that apply for specific work activity (i.e., installation or change to an existing service). The types of nonrecurring charges that may apply for ES are installation of service, MTA equipment, service rearrangements, moves, discontinuous charge, design changes. access order, service date change, design change, miscellaneous, additional engineering, additional labor, and standby labor. For additional billing information, please refer to Schedule 1, below.

Service Rearrangements

When the ES customer elects to replace an existing ES Segment with a lower bandwidth capacity element than the existing ES element being replaced, the request will be considered a discontinuance of service for the former capacity and start of service for the new capacity. Associated nonrecurring (i.e., installation) charges will apply, including any nonrecurring charges for optional features, and functions, if applicable. New minimum period requirements will be established for the new ES segments. The ES customer will also remain responsible for satisfying all outstanding minimum period charges for the discontinued ES elements. When the ES customer elects to replace an existing ES Segment with a new ES Segment with a higher bandwidth capacity element than the existing ES Segment being replaced, an ES Design Change charge will apply per new ES Element. New minimum period requirements will be established for the higher capacity ES elements. Any outstanding minimum period charges associated with the lower capacity ES elements that would otherwise be applicable as described in this paragraph will be waived. Nonrecurring charges will also be waived.

When the ES customer elects to install an ES BAO feature on an existing qualifying ES Segment an ES Design Change Charge will apply per ES BAO feature established.

When the ES customer elects to increase, decrease, or remove the bandwidth capacity on an existing ES BAO feature associated with an underlying Segment, the ES a Design Change Charge will apply per ES BAO feature changed.

Administrative changes will be made without charge(s) to the ES customer. Administrative changes are as follows:

- Change of customer name.
- Change of customer or customer's end user premises address when the change of address is not a result of physical relocation of equipment,
- Change in billing data (name, address, or contact name or telephone number),
- Change of agency authorization,
- Change of customer circuit identification,
- Change of billing account number,
- Change of customer or customer's end user contact name or telephone number, and
- Change of jurisdiction

Minimum Periods

The minimum period (term) for ES service segments and elements provided to an ES customer and for which charges are applicable is Twelve Months.

Term Discount Plan

An optional term discount plan is available for Ethernet Service (ES). Under the ES Term Discount Plan (ES TDP), the monthly rates for eligible ES service elements are reduced by a fixed percentage. The amount of the discount percentage differs based on the length of the term commitment period selected by the ES customer.

ES may be ordered at the customer's option on a 12-month basis or, under a single term commitment period of either 36 months or 60 months as described herein, or under one or more individual ES Segment Term Discount Plans (ES TDPs). The customer must notify MTA in writing of the length of its selected term commitment period. For purposes of this plan, all ES Segments included in a customer's ES Term Discount Plan are referred to as committed ES Segments. To be included in an ES Term Discount Plan, all committed ES Segment within the MTA's Operating Territory must be ordered for the same term commitment period (i.e., all 36 months or all 60 months) and remain in-service at the same bandwidth capacity throughout the entire term commitment period. ES Segments installed after the establishment of the customer's ES Term Discount Plan may be ordered on a 12-month basis, added as additional committed ES Segments to a customer's existing term commitment period.

The term discount percentage for the customer's selected term commitment period applies to all committed 1) ES Segments provided within the MTA's operating territory and 2) the ES Bandwidth Add-On (ETS BAO) features.

The ES TDP term discount percentage does not apply to 1) ES Segments or ES BAO features ordered on a 12-month basis or 2) ES nonrecurring charges. At the end of the term commitment period, the customer may subscribe to a new ES Term Discount Plan commitment period.

If the customer does not notify MTA in writing of its choice by the end of its existing term commitment period, MTA will automatically convert the customer's ETS billing to the undiscounted monthly rates. An Access Order Charge will not apply when a customer at the end of its existing term commitment period subscribes to a replacement ES Term Discount Plan or reverts to 12-month rates.

When the term commitment period of a replacement ES Term Discount Plan does not meet or exceed the number of months remaining in the customer's existing ES Term Discount Plan commitment period, a discontinuance charge as described below will apply.

When the term commitment period of the new ES Term Discount Plan meets or exceeds the number of months remaining in the customer's existing ES term commitment period, but the bandwidth capacity of the customer's committed ES Segments under the new term commitment period is less than the bandwidth capacity of the committed ES Segments under the customer's existing term commitment period, the following provisions will apply. Examples:

1. When the total monthly undiscounted charges for the number and type of committed ES Segments to be included in the customer's replacement ES Term Discount Plan is equal to or greater than the total monthly undiscounted charges for the number and type of committed ES Segments included in the customer's existing ES Term Discount Plan, the customer will be permitted to replace its existing ES Term Discount Plan without the application of a discontinuance charge.
2. When the total monthly undiscounted charges for the number and type of committed ES Segments to be included in the customer's replacement ES Term Discount Plan is less than the total monthly undiscounted charges for the number and type of committed ES Segments included in the customer's existing ES Term Discount Plan, the customer will be permitted to replace its existing ES Term Discount Plan, a commitment discontinuance charge will apply.

The customer may discontinue its existing ES TDP in its entirety at any time during the term commitment period and replace it with one or more individual ES TDPs under new 36 and/or 60-month term commitment periods as described in the following. The replacement committed ES TDP Segments may be at any available bandwidth capacity and any location within the MTA's Operating Territory. Any committed ES TDP Segments not transferred to individual ES TDPs will be disconnected. MTA will waive any ES TDP discontinuance charges as described in Discontinuance Charges and any unsatisfied minimum service period charges as described, that may otherwise be applicable provided the customer's orders for the discontinuance of the ES TDP (including the disposition of each committed ES TDP Segment and the replacement ES TDPs are submitted to MTA at the same time

Discontinuance Charges

Except as provided for above, discontinuance charges will apply when: 1) the customer disconnects a committed ETS Segment prior to the end of the term commitment period and the replacement committed ETS Segment(s) does not satisfy the requirements above; or 2) the customer replaces an existing ETS Term Discount Plan with a new ETS Term Discount Plan or one or more individual ETS Segment Term Discount Plans that does not satisfy the requirements specified above. The discontinuance charge will be equal to 35% of the total undiscounted monthly rate for each committed ETS Segment or element included in the customer's ETS Term Discount Plan for each month remaining in the unsatisfied term commitment period.

Cancellation Charges

In the event the customer cancels an existing ETS Term Discount Plan and Segments in its entirety prior to the end of the term commitment period and a new service plan is not ordered, the charge for Cancellation of Service(s) during the committed term will be equal to unpaid monthly recurring charges (remaining balance) for each committed ETS Segment or element included in the customer's ETS Term Discount Plan and all costs, fees and expenses reasonably incurred in connection with 1) all Non-Recurring Charges reasonably expended by the Company to establish service to Customer, plus 2) any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer.

General

As provide for above, MTA offers Ethernet Services in its service area marketplace. Services offered are delivered through a modern high capacity network employing leading equipment vendor switching, routing, and transmission equipment to support non-blocking services, and supported by 24/7/365 monitoring and support. MTA's network employs extensive fiber optic cable infrastructure as well as copper-based services. Services are based upon availability, and customer requirements where available.

Pricing for Ethernet Services is available as provided for above in 12-month, 36 month, and 60-month terms for each service type of EPL, ELAN, and EVPL. MTA offers Core Service Area Ethernet Services and Extend Service Area Ethernet Services to connect more remote regions of the MTA Network. Rates apply only to the MTA service area. Federal Universal Service Charge and other taxes or surcharges not included. For more information about other services, contact MTA enterprise@mtasolutions.com. Pricing and service offered are subject to change.

SCHEDULE 1

Business Data Service; Rates, Terms, and Conditions

Rates, Terms and Conditions applying to the provision of Ethernet Service provided by Matanuska Telephone Association (hereinafter, "Company"). Ethernet Services are provided by means of wire, fiber optics, radio or any other suitable technology or a combination thereof. Customer understands that, as of the Effective Date of these Terms and Conditions, such Services are no longer under Tariff and are provided pursuant to these Terms and Conditions and any accompanying Customer Agreement, Service Orders, Service Guides provided on the MTA Solutions' website ("service documentation"), as modified from time-to-time. The service documentation are incorporated by reference herein to the extent each is applicable to the service(s) provided under these terms and conditions

I. DEFINITIONS

Certain terms used generally throughout this Guidebook for the Ethernet services of the Company are defined below.

- A. Advance Payment: Payment for all or part of a charge required before the start of service.
- B. Authorized User: A person firm, corporation or other entity that either is authorized by the Customer to use Ethernet Service or is placed in a position by the Customer, either through acts or omissions, to use Ethernet Services.
- C. Business Data Service: Ethernet Service between a Customer's premises and another Point of Presence for the purpose of originating or terminating communications.
- D. Carrier or Common Carrier: see Interexchange Carrier or Exchange Carrier.
- E. Channel(s): An electrical, or in the case of fiber optic-based transmission systems, a photonic communications path between two or more points of termination.
- F. Company: As used in this Guidebook, Company shall refer to the facilities-based offerings of the Local Exchange Carrier (LEC) operations of the Company which is the issuer of this Guidebook.
- G. Customer: The term "Customer(s)" denotes any individual, partnership, association, joint-stock company, trust, corporation, or governmental entity or other entity which subscribes to the services offered under this Guidebook, including but not limited to End Users, Interexchange Carriers (ICs) and other telecommunications carriers or providers originating or terminating Ethernet Traffic.

I. DEFINITIONS (cont'd)

Exchange Carrier: Any individual, partnership, association, joint-stock company, trust, governmental entity or corporation engaged in the provision of local exchange telephone service.

- H. Firm Order Confirmation (FOC): Acknowledgment by the Company of receipt of an Ethernet service Request from the Customer and commitment by the Company of a Service Date.
- I. Interexchange Carrier (IC) or Interexchange Common Carrier: Any individual, partnership, association, joint-stock company, trust governmental entity or corporation engaged in state or foreign communication for hire by wire or radio, between two or more exchanges.
- J. Joint User: A person, firm or corporation designated by the Customer as a user of Ethernet facilities furnished to the Customer by the Company, and to whom a portion of the charges for such facilities are billed under a joint use arrangement.
- K. Network Services: The Company's telecommunications Ethernet Services offered on the Company's network.
- L. Non-Recurring Charges: The one-time initial charges for services or facilities, including, but not limited to charges for construction, installation, or specific fees, for which the Customer becomes liable at the time the Service Order is executed.
- M. Point of Presence: Location where the Customer maintains a facility for purposes of interconnecting to the Company's network.
- N. Point to Point Service: An unswitched full time transmission service utilizing the Company's facilities to connect two or more Customer designated locations.
- O. Premises: The space occupied by a Customer or Authorized User in a building or buildings or on contiguous property (except railroad rights-of-way, etc.).
- P. Service Commencement Date: The first day following the date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this Guidebook, in which case the Service Commencement Date is the date of the Customer's acceptance of service. The parties may mutually agree on a substitute Service Commencement Date. If the Company does not have an executed service Order from a Customer, the Service Commencement Date will be the first date on which the service or facility was used by the Customer.

I. DEFINITIONS (cont'd)

- Q. Service Order: The written request for network services executed by the Customer and the Company in a format devised by the Company and specified in this Guidebook; or, in the alternative, the submission of an Ethernet Service Request by the Customer in a manner also specified in this Guidebook. The signing of a Service Order or submission of a SO by the Customer and acceptance thereof by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this Guidebook, but the duration of the service is calculated from the Service Commencement Date.
- R. Service(s): The Company's Ethernet Services offered by the Company.

II. REGULATIONS

1. General

- 1.1. Availability of Equipment. the Company's provision of service is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers from time to time, to furnish service as required at the sole discretion of the Company.
- 1.2. Service Orders. Customer may be required to enter into a written Service Order which shall contain the name of the Customer, a specific description of the Service ordered, the rates to be charged, and the duration of the services. The Service Order shall be governed by the Master Service Agreement executed by the Customer. Each Service Order shall be identified by date.
- 1.3. Expiration of the Service Term. Upon expiration of the Service Term specified in each Service Order, or in any extension thereof, service shall continue on a month to month basis at the then-current undiscounted rate unless terminated by either Party upon 30 days written notice. Any termination shall not relieve Customer of its obligation to pay charges incurred under the Service Order and the Master Service Agreement.
- 1.4. Liability and Indemnification. The liability of the Company shall be as provided for under the effective Customer Master Service Agreement. In the absence of an effective Customer Master Service Agreement, liability of the Company is as follows:
 - i. **Direct Damages.** Each party's maximum liability for damages caused by its failure(s) to perform its obligations under the Agreement is limited to: (A) proven direct damages for claims arising out of personal injury or death, or damage to real or personal property, caused by the party's negligent or willful misconduct; and (B) proven direct damages for all other claims arising out of the Agreement, not to exceed in the aggregate, in any 12-month period, an amount equal to Customer's total net payments for the affected Services purchased in the month preceding the month in which the injury occurred. Customer's payment obligations, Customer's liability for early termination charges, and the parties' indemnification obligations under the Agreement are excluded from this provision.

II. REGULATIONS (cont'd)

1. General (cont'd)

1.4. Liability and Indemnification (cont'd)

- ii. **Consequential Damages.** NEITHER PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT. CONSEQUENTIAL, INCIDENTAL, AND INDIRECT DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND LOSS OF BUSINESS OPPORTUNITY, WHETHER OR NOT THE OTHER PARTY WAS AWARE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES.
- iii. **Unauthorized Access and Hacking.** Except for physical damage to Customer's transmission facilities or Customer premise equipment directly caused by the Company's negligence or willful misconduct, the Company is not responsible for unauthorized Access to, or alteration, theft, or destruction of, Customer's data, programs or other information through accident, wrongful means or any other cause while such information is stored on or transmitted across the Company-provided network facilities or Customer premise equipment.
- iv. **Mutual Indemnification for Personal Injury, Death or Damage to Personal Property.** Each party will indemnify and defend the other party, its directors, officers, employees, agents and their successors from and against all third-party claims for damages, losses, liabilities, or expenses, including reasonable attorneys' fees, arising directly from performance of the Agreement and relating to personal injury, death, or damage to tangible personal property that is alleged to have resulted, in whole or in part, from the negligence or willful misconduct of the indemnifying party or its subcontractors, directors, officers, employees or authorized agents.
- v. **Customer Indemnification.** Customer will indemnify and defend the Company, the Company's officers, directors, agents, and employees and their successors, against all third-party claims for damages, losses, liabilities or expenses, including reasonable attorneys' fees, arising out of:
 - (1) Customer's failure to obtain required permits, licenses, or consents necessary to enable the Company to provide the Services (e.g., landlord permissions or local construction licenses). This provision does not include permits, licenses, or consents related to the Company's general qualification to conduct business;
 - (2) Customer's transmissions, or transmissions by parties authorized by

II. REGULATIONS (cont'd)

1. General (cont'd)

1.4. Liability and Indemnification (cont'd)

Customer, of, information, data, or messages over the Company-provided network leading directly or indirectly to third- party claims: (1) for libel, slander, invasion of privacy, and invasion or alteration of private records or data; (2) for infringement of patents arising from the use of equipment, hardware or software not provided by the Company; and (3) based on transmission and uploading of information that contains viruses, worms, other destructive media or other unlawful content;

- (3) The Company's failure to pay any tax to the extent that the Company relied on Customer's claimed legitimate exemption under applicable law;
- (4) Any loss, destruction or damage to property of the Company or any third party, or the death of or injury to persons, including, but not limited to employees or invitees of either the Company or the Customer, to the extent caused by or resulting from the negligent or intentional act or omission of the Customer, its employees, agents, representatives or invitees; and
- (5) Any claim, loss, damage, expense or liability for infringement of any copyright, patent, trade secret, or any proprietary or intellectual property right of any third party, arising from any act or omission by the Customer, including without limitation, use of the Company's services and facilities in a manner not contemplated by the agreement between the Customer and the Company.

vi. **Company Indemnification.** the Company will indemnify and defend Customer, Customer's officers, directors, agents, and employees and their successors against third- party claims enforceable in the United States alleging that Services as provided infringe any third-party United States patent or copyright or contain misappropriated third-party trade secrets. But the Company's obligations under this Section will not apply if the infringement or violation is caused by Customer's modification to the Company-provided software, equipment or Services; combination of the Company-provided services or products with other services or products; functional or other specifications that were provided by or requested by Customer; or Customer's continued use of infringing Services after the Company provides reasonable notice to Customer of the infringement. For any third-party claim that the Company receives, or to minimize the potential for a claim, the Company may, at its sole option, either:

- (l) Procure the right for Customer to continue using the Services;

II. REGULATIONS (cont'd)

1. General (cont'd)

1.4. Liability and Indemnification (cont'd)

vi. **Company Indemnification.** (cont'd)

- (2) Replace or modify the Services with comparable Services; or
- (3) Terminate the Services.

vii. **Rights of Indemnified Party.** To be indemnified, the party seeking indemnification must promptly notify the other party in writing of the claim (unless the other party already has notice of the claim); give the indemnifying party full and complete authority, information and assistance for the claim's defense and settlement; and not, by any act, admission, or acknowledgement, materially prejudice the indemnifying party's ability to satisfactorily defend or settle the claim. The indemnifying party will retain the right, at its option, to settle or defend the claim, at its own expense and with its own counsel. The indemnified party will have the right, at its option, to participate in the settlement or defense of the claim, with its own counsel and at its own expense, but the indemnifying party will retain sole control of the claim's settlement or defense.

viii. **Remedies.** The foregoing provisions of this Section state the entire liability and obligations of the indemnifying party and any of its Affiliates or licensors, and the exclusive remedy of the indemnified party, with respect to the claims described in this Section.

1.5. Notification of Service-Affecting Activities. The Company will provide the Customer reasonable notification of service-affecting activities that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer but affect many Customer's services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine the reasonable notification requirements. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.

1.6. Provision of Equipment and Facilities.

- i. The Company shall use reasonable efforts to make available services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customers with, the regulations contained in this Guidebook.

II. REGULATIONS (cont'd)

1. General (cont'd)

1.6. Provision of Equipment and Facilities. (cont'd)

The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing service to any Customer.

- ii. The Company shall use reasonable efforts to maintain facilities and equipment that it furnishes to the Customer. The Customer may not, nor may the Customer permit others to, rearrange, disconnect, remove, attempt to repair or otherwise interfere with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- iii. The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby alter the technical parameters of the service provided to the Customer.
- iv. Equipment the Company provides or installs at the Customer's premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the Company provided it.
- v. The Customer shall be responsible for the payment of service charges imposed on the Company by another entity, for visits to the Customer's premises when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including, but not limited to the Customer.
- vi. The Company shall not be responsible for the installation, operation, or maintenance of any Customer-provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this Guidebook, the responsibility of the Company shall be limited to the furnishing of facilities offered under this Guidebook and to the maintenance and operation of such facilities. Notwithstanding the above, the Company shall not be responsible for:
 - (1) the transmission of signals by Customer-provided equipment or for the quality of, or defects in, such transmission;
 - (2) the reception of signals by Customer-provided equipment; or
 - (3) network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

II. REGULATIONS (cont'd)

1. General (cont'd)

1.6. Provision of Equipment and Facilities. (cont'd)

1.7. Non-Routine Installation. At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in unusual locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours, but at the Customer's request, extends beyond regular business hours into time periods including, but not limited, to, weekends, holidays, and/or night hours, additional charges may apply.

1.8. Special Construction. Subject to the arrangement of the Company and to all of the regulations contained in this Guidebook, special construction of facilities may be undertaken on a reasonable effort's basis at the request of the Customer. Special construction is that construction undertaken and characterized by one or more of the following:

- i. where facilities are not presently available;
- ii. of a type other than that which the Company would normally utilize in the furnishing of its services;
- iii. where facilities are to be installed over a route other than that which the Company would normally utilize in the furnishing of its services;
- iv. where facilities are requested in a quantity greater than that which the Company would normally construct;
- v. where installation is on an expedited basis;
- vi. on a temporary basis until permanent facilities are available;
- vii. installation involving abnormal costs; or
- viii. in advance of its normal construction schedules.

II. REGULATIONS (cont'd)

1. General (cont'd)

1.9. Ownership of Facilities. Title to all facilities provided in accordance with this Guidebook remains in the Company, its agents, contractors or suppliers.

1.10. Confirmation of Compliance. The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a request with the Company confirming that their use of the Company's offerings complies with relevant laws and Federal Communications Commission regulations, policies, orders, and decisions; and if the reseller intends to provide intrastate services, is certified with the State Regulatory Authority.

1.11. Alternate Dispute Resolution. Any dispute arising out of or relating to this Agreement, including the alleged breach, termination, validity, interpretation and performance thereof ("Dispute") shall be resolved with the following procedures:

i. Negotiation

Upon written notice of any Dispute, the parties shall attempt to resolve it promptly by negotiation between executives who have authority to settle the Dispute and this process must be completed within 30 days (the "Negotiation").

ii. Mediation

If the dispute has not been resolved by negotiation in accordance with section 1(1.11)(i), then the parties shall proceed to mediation unless the parties at the time of the dispute agree to a different timeframe. A "Notice of Mediation" shall be served, signifying that the Negotiation was not successful and to commence the mediation process. The parties shall agree on a mediator; however, if they cannot agree within 14 days then a local mediation service provider shall appoint a mediator. The mediation session shall be held within 45 days of the retention of the mediator, and last for at least one full mediation day, before any party has the option to withdraw from the process. The parties may agree to continue the mediation process beyond one day, until there is a settlement agreement, or one party [or the mediator] states that there is no reason to continue because of an impasse that cannot be overcome and sends a "notice of termination of mediation." All reasonable efforts will be made to complete the mediation within 30 days of the first mediation session. During the course of the mediation, no party can assert the failure to fully comply with 1(1.11)(i), as a reason not to proceed or to delay the mediation. The service of the Notice of Mediation shall stay the running of any applicable statute of limitations

ii. Mediation (cont'd)

regarding the Dispute until 30 days after the parties agree that the mediation is concluded, or the mediator issues a Notice of Impasse. Each side shall bear an equal share of the mediation costs unless the parties agree otherwise. All communications, both written and oral, during Negotiations and Mediation are confidential and shall be treated as settlement negotiations for purposes of applicable rules of evidence; however, documents generated in the ordinary course of business prior to the Dispute, that would otherwise be discoverable, do not become confidential simply because they are used in the Negotiation and/or Mediation process. The process shall be confidential based on terms acceptable to the mediator and/or mediation service provider.

iii. Arbitration

(1) Any Dispute not resolved through negotiation or mediation in accordance with sections 1.11 (i) and 1.11 (ii) shall be resolved by arbitration in accordance with the United States Arbitration Act (and other applicable federal law) and/or Arbitration rules of the State of Alaska. The arbitration will be held at a regional location in the State of Alaska using one arbitrator, unless the Dispute exceeds one million dollars (USA) in which case there shall be three neutral arbitrators, as a panel. The arbitrators may award costs and/or attorneys' fees to the prevailing party.

(2) The Parties further agree that the arbitrator shall have no authority to award non-monetary or equitable relief, and any monetary award shall not include punitive damages. Nothing contained in this section will limit either Party's ability to seek injunctive relief in any court. The Parties will mediate and arbitrate disputes in confidence. Each Party shall bear its own costs incurred in connection with the arbitration. Other costs will be allocated as the arbitrator directs. THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY COURT IN ANY ACTION FOR THE ADJUDICATION OF SUCH CLAIM OR DISPUTE.

2. Customer Responsibilities

2.1. No Illegal or Unauthorized Use. The services the Company offers shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.

2.2. Confirmation of Compliance. The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a request

II. REGULATIONS (cont'd)

2. Customer Responsibilities (cont'd)

2.2. Confirmation of Compliance (cont'd)

with the Company confirming that their use of the Company's offerings complies with relevant laws and Federal Communications Commission regulations, policies, orders, and decisions; and if the reseller intends to provide intrastate services is certified with the State Regulatory Authority.

2.3. Interference. The Company may require a Customer to immediately shut down its transmission of signals if said transmission is causing interference to others.

2.4. Responsibility for Payment. The Customer shall be responsible for the payment of all applicable charges pursuant to this Guidebook;

2.5. Reimbursement. Customer is responsible for reimbursing the Company for damage to, or loss of, the Company's facilities or equipment caused by the acts or omissions of the Customer; or the noncompliance by the Customer with these Regulations; or by fire or theft or other casualty on the Customer premises, unless caused by the negligence or willful misconduct of the employees or agents of the Company. The Company will, upon reimbursement for damages to its facilities or equipment, cooperate with the Customer in prosecuting a claim against the person causing such damage and the Customer shall be subrogated in the Company's right of recovery of damages to the extent of such payment.

2.6. Customer Provisions. Customer is responsible for providing at no charge, as specified from time to time by the Company, as needed, personnel, equipment, space, and power to operate Company facilities and equipment installed on the Customer premises, and the level of heating and air conditioning necessary to maintain the proper operating environment on such premises.

2.7. Rights-of-Way. Customer is responsible for obtaining, maintaining, and otherwise having full responsibility for all rights-of-way and conduit necessary for installation of fiber optic cable and associated equipment used to provide Ethernet Services to the Customer from the cable building entrance or property line to the location of the equipment space described in 2.6 above. Any costs associated with obtaining and maintaining the rights-of-way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be borne entirely by, or may be charged by the Company, to the Customer. The Company may require the Customer to demonstrate its compliance with this subsection prior to accepting an order for service.

2.8. Working Conditions. Customer is responsible for providing a safe place to work and complying with all laws and regulations regarding the working conditions on the

II. REGULATIONS (cont'd)

2. Customer Responsibilities (cont'd)

2.8. Working Conditions. (cont'd)

premises at which Company employees and agents shall be installing or maintaining Company facilities and equipment.

- 2.9. Hazardous Conditions. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company employees or property might result from installation or maintenance by the Company. The Customer shall be responsible for identifying, monitoring, removing, and disposing of any hazardous material (e.g., asbestos) prior to any construction or installation work.
- 2.10. Customer Premises. Customer shall be responsible for complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses, and permits as may be required with respect to the location of Company facilities and equipment in any Customer premises or the rights-of-way for which the Customer is responsible for obtaining under Section 2.7 above; and granting or obtaining permission for Company agents or employees to enter the Customer premises at any time for the purpose of installing, inspecting, maintaining, repairing, or upon termination of service as stated herein, removing the facilities or equipment of the Company.
- 2.11. Encumbrances. Customer is responsible for not creating or allowing to be placed or maintained any liens or other encumbrances on the Company's equipment or facilities.
- 2.12. Customer Equipment and Channels. A Customer may transmit or receive information or signals via the facilities of the Company.
- 2.13. Interconnection of Facilities.
- i. Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Ethernet Services

II. REGULATIONS (cont'd)

2. Customer Responsibilities (cont'd)

2.14. Interconnection of Facilities.(cont'd)

facilities, or equipment of others shall be provided at the Customer's expense.

- ii. Ethernet Services may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the Guidebooks of the other communications carriers which are applicable to such connections.

3. Payment Arrangements

3.1. Payment for Service. The Customer is responsible for payment of all charges for services and facilities furnished by the Company to the Customer or its Joint or Authorized Users.

3.2. Taxes. The Customer is responsible for the payment of any sales, use, gross receipts, excise, interstate, or other local, state and federal taxes, charges or surcharges (however designated) excluding taxes on the Company's net income imposed on or based upon the provision, sale or use of Ethernet Services. All such taxes shall be separately designated on the Company's invoices. Any taxes imposed by a local jurisdiction (e.g. county and municipal taxes) will only be recovered from those Customers located in the affected jurisdictions. If an entity other than the Company (e.g. another carrier or a supplier) imposes charges on the Company, in addition to its own internal costs, in connection with a service for which the Company's Non-Recurring Charge is specified, those charges will be passed on to the Customer. It shall be the responsibility of the Customer to pay any such taxes that subsequently become applicable retroactively.

3.3. Surcharges and Taxes. Surcharges and taxes will apply based on federal and state law, rules and regulations.

II. REGULATIONS (cont'd)

3. Payment Arrangements (cont'd)

3.4. Billing and Collection of Charges. Unless otherwise specified herein, bills are due and payable upon receipt.

- i. The Company shall bill on a current basis all charges incurred by, and credits due to, the Customer under this Guidebook attributable to services established, provided, or discontinued during the preceding billing period.
- ii. Non-Recurring Charges are due and payable within 30 days after the invoice date. The Company shall present invoice for Non-Recurring Charges monthly to the Customer.
- iii. The Company shall present invoice for non-usage sensitive Recurring Charges monthly to the Customer, in advance of the month in which service is to be provided, and invoices for usage sensitive charges monthly to the Customer subsequent to the usage. Recurring and usage sensitive charges shall be due and payable within 30 days after the invoice date.
- iv. When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro-rata basis, based on the actual calendar month.
- v. Billing of the Customer by the Company will begin on the Service Commencement Date. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.
- vi. Amounts not paid within 30 days after the date of invoice will be considered past due. If the Company becomes concerned at any time about the ability of a Customer to pay its bills, the Company may require that the Customer pay its bills within a specified number of days and make such payments in cash or the equivalent of cash.
- vii. If a service is disconnected by the Company in accordance with Section 3.6 following and later restored, restoration of service will be subject to all applicable installation charges.
- viii. The Customer shall notify the Company of any disputed items on an invoice within 90 days of receipt of the invoice. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Parties shall resolve the dispute in accordance with the Dispute Resolution provisions in section 1.11 herein this Guidebook.

II. REGULATIONS (cont'd)

3. Payment Arrangements (cont'd)

3.4 Billing and Collection of Charges. (cont'd)

- ix. Ordering, Rating and Billing of Ethernet Services Where More Than One Exchange Carrier is involved. Both Multiple bill and Single bill billing options are supported under this Guidebook.
 - (1) The Company will handle the ordering, rating and billing of Ethernet Service under this Guidebook where more than one Exchange Carrier is involved in the provision of Ethernet Services, as follows:
 - a. Rating and Billing of Service: Each company will provide its portion of Ethernet service based on the terms, conditions, rates and charges contained in its respective Ethernet Service Contracts, subject to the following rules, as appropriate:
 - 1) the application of non-distance sensitive rate elements varies according to the rate structure and the location of the facilities involved.

3.5. Deposits

- i. Before the service or facility is furnished to a Customer whose credit has not been duly established, the Company may require a Customer to make a deposit to be held as a guarantee for the payment of charges. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. The deposit will not exceed an amount equal to:
 - (1) an amount in excess of two twelfths of the estimated charge for the service for the ensuing twelve months; or

II. REGULATIONS (cont'd)

3. Payment Arrangements (cont'd)

3.5. Deposits (cont'd)

- (2) one half of the estimated charge for the minimum payment for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable. In addition, the Company shall be entitled to require such an applicant or Customer to pay all its bills within a specified period of time, and to make such payments in cash or the equivalent of cash. At the Company's option, such deposit may be refunded to the Customer's account at any time. Also, the Company reserves the right to cease accepting and processing Service Orders after it has requested a security deposit and prior to the Customer's compliance with this request.
- ii. A deposit may be required in addition to an Advance Payment.
- iii. The charges set forth in this Guidebook for channel terminations contemplate installations made in normal locations and under normal working conditions. Any installations to be made under other circumstances are subject to additional charges.
- iv. When a service or facility is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance remaining will be refunded. Before the service or facility is discontinued, the Company may, at its option return the deposit or credit the Customer's account.

3.6 Refusal and Discontinuance of Service

- i. Upon nonpayment of any amounts owing to the Company, the Company may, by giving requisite prior written notice to the Customer discontinue or suspend service without incurring any liability.
- ii. Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 30 days prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.

II. REGULATIONS (cont'd)

3. Payment Arrangements (cont'd)

3.6 Refusal and Discontinuance of Service

- iii. Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.
- iv. Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law, the Company may immediately discontinue or suspend service without incurring any liability.
- v. Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.
- vi. Upon the Company's discontinuance of service to the Customer under Section 3.6(i) or 3.6(ii) above, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this Guidebook, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable.
- vii. When Ethernet Service is provided by more than one Company, the companies involved in providing the joint service may individually or collectively deny service to a Customer for nonpayment. Where the Company(s) affected by the nonpayment is incapable of effecting discontinuance of service without cooperation from the other joint providers of Ethernet Service, such other Company(s) will, if technically feasible, assist in denying the joint service to the Customer. Service denial for such joint service will only include calls originating or terminating within, or transiting, the operating territory of the Company initiating the service denial for nonpayment. When more than one of the joint providers must deny service to effectuate termination for nonpayment, in cases where a conflict exists in the applicable Guidebook provisions, the Guidebook regulations of the Company whose Local Switching Center serves the Customer shall apply for joint service discontinuance.
- viii. The Company may discontinue the furnishings of any and/or all service(s) to a Customer, without incurring any liability:

II. REGULATIONS (cont'd)

3. Payment Arrangements (cont'd)

3.6 Refusal and Discontinuance of Service (cont'd)

- (1) Immediately and without notice if the Company deems that such action is necessary to prevent or protect against fraud or to otherwise protect its personnel, agents, facilities or services. The Company may discontinue service pursuant to this subsection 3.6(viii)(1) (a-f) if:
 - a) The Customer refuses to furnish information to the Company regarding the Customer's creditworthiness, its past or current use of Common Carrier communications service or its planned use of service(s); or
 - b) The Customer provides false information to the Company regarding the Customer's identity, address, creditworthiness, past or current use of Common Carrier communications services, or its planned use of the Company's service(s); or
 - c) The Customer states that it will not comply with a request of the Company for security for the payment for service(s) in accordance with Section 3.6(i) above; or
 - d) The Customer has been given written notice by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's other Common Carrier communications services to which the Customer either subscribes or had subscribed or used; or
 - e) The Customer uses service to transmit a message, locate a person or otherwise give or obtain information without payment for the service; or
 - f) The Customer uses, or attempts to use, service with the intent to void the payment, either in whole or in part, of the Contract charges for the service by:
 - (i) Using or attempting to use service by rearranging, tampering with, or making connections to the Company's service not authorized by this Guidebook; or
 - (ii) Using tricks, schemes, fake or invalid numbers, false credit devices, electronic devices; or

(iii) Any other fraudulent means or devices; or

II. REGULATIONS (cont'd)

3. Payment Arrangements (cont'd)

3.6 Refusal and Discontinuance of Service (cont'd)

- (2) Immediately upon written notice to the Customer of any sum thirty (30) days past due;
 - (3) Immediately upon written notice to the Customer, after failure of the Customer to comply with a request made by the Company for security for the payment of service in accordance with Section 3.6 (i) above; or
 - (4) Seven (7) days after sending the Customer written notice of noncompliance with any provision of this Guidebook, if not corrected within that seven-(7) day period. The discontinuance of service(s) by the Company pursuant to this Section does not relieve the Customer of any obligation to pay the Company for charges incurred for services(s) furnished up to the time of discontinuance.
- ix. In the event the Company provides notice to Customer under Section 3.6 above of refusal and discontinuance of service, the Company shall also have the right to notify the Company's end user customers who are presubscribed to Customer's service that Customer's service will be discontinued if payment or other obligations are not met.
- x. In the event the Company incurs fees or expenses, including attorney's fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred

3.7 Cancellation of Application for Service

- i. Applications for Ethernet Services, including individual Segments, are non-cancellable unless the Company otherwise agrees. Where the Company permits the Customer to cancel an application for service prior to the start of service or prior to any special construction, no charges will be imposed except as may be specified in this Section.
- ii. Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a cancellation charge will apply.

II. REGULATIONS (cont'd)

3. Payment Arrangements (cont'd)

3.8 Late Payment Charge

- i. Payment will be due as specified on the Customer bill. Commencing after that due date, a late charge of up to the highest interest rate allowable by law will be applied to all amounts past due.
- ii. Collection procedures and the requirement for a deposit are unaffected by the application of a late payment charge. The late payment charge does not apply to unpaid balances associated with disputed amounts. Undisputed amounts on the same bill are subject to the late payment charge if unpaid and carried forward to the next bill.
- iii. Service may be denied or discontinued at the Company's discretion for nonpayment of amounts due the Company past the due date. Restoration of Service will be subject to all applicable installation charges.

3.9 Returned Check Charge.

- i. In cases where the Company issues direct bills to Customers, and payment by check is returned for insufficient funds, or is otherwise not processed for payment, there will be a charge at the highest rate allowable by law. Such charge will be applicable on each occasion when a check is returned or not processed.

4. Allowances for Interruptions in Service

Interruptions in service which are not due to the negligence of or noncompliance with the provisions of this Guidebook by the Customer or the operation or malfunction of the facilities, power, or equipment provided by the Customer, will be credited to the Customer as set forth in Section 4.1 below for the part of the service that the interruption affects.

4.1. Credit for Interruptions

- i. A credit allowance will be made when an interruption occurs because of a failure of any component furnished by the Company under this Guidebook. An interruption period begins when the Customer reports a service, facility or circuit, to be interrupted and releases it for testing and repair. An interruption period ends when the service, facility, or circuit is operative. If the Customer reports a service, facility, or circuit to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted. No credit allowance will be made for:

4. Allowances for Interruptions in Service (cont'd)

4.1. Credit for Interruptions (cont'd)

- (1) interruptions due to the negligence of, or noncompliance with the provision of this Guidebook by, the Customer, Authorized User, Joint-User, or other Common Carrier providing service connected to the service of Company;
- (2) interruptions due to the negligence of any person other than the Company, including but not limited to, the Customer or other Common Carriers connected to the Company's facilities;
- (3) interruptions due to the failure or malfunction of non-Company equipment;
- (4) interruptions of service during any period in which the Company is not given full and free access to its facilities and equipment for the purpose of investigating and correcting interruptions;
- (5) interruptions of service during a period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- (6) interruptions of service during any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- (7) interruption of service due to circumstances or causes beyond the control of the Company.
- (8) Use of Alternative Service Provided by the Company: Should the Customer elect to use an alternative service provided by the Company during the period that a service is interrupted, the Customer must pay the applicable rates and charges for the alternative service used.

4.2 Cancellation for Service Interruption. Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of eight (8) hours or more or cumulative service credits equaling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

II. REGULATIONS (cont'd)

5. Cancellation of Service

If a Customer cancels services before the completion of the term for any reason whatsoever other than a service interruption (as defined in Section 4.1 above), the Customer agrees to pay to the Company the following sums which shall become due and owing as of the effective date of the cancellation or termination and shall be payable within the period set forth in Section 3.4 above: all costs, fees and expenses reasonably incurred in connection with 1) all Non-Recurring Charges reasonably expended by the Company to establish service to Customer, plus 2) any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus 3) all Recurring Charges specified for the balance of the then current term.

6. Transfers and Assignments

Neither the Company nor the Customer may assign or transfer its rights or duties in connection with the services and facilities provided by the Company without the written consent of the other party, except that the Company may assign its rights and duties (a) to any subsidiary, parent Company or affiliate of the Company (b) pursuant to any sale or transfer of substantially all the assets of the Company; or pursuant to any financing, merger or reorganization of the Company.

7. Notices and Communications

- 7.1. The Customer shall designate on the Service Order an address to which the Company shall mail or deliver all notices and other communications, except that the Customer may also designate a separate address to which the Company's bills for service shall be mailed.
- 7.2. The Company shall designate on the Service Order an address to which the Customer shall mail or deliver all notices and other communications, except that the Company may designate a separate address, on each bill for service, to which the Customer shall mail payment on that bill.
- 7.3. All notices or other communications required to be given pursuant to this Guidebook shall be in writing. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following deposit of the notice, communication, or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.
- 7.4. The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

III. ORDERING OPTIONS FOR ETHERNET SERVICE

8. General.

This section sets forth the regulations for Service Orders (SO) for Ethernet Services as defined in this Guidebook. These provisions are in addition to other applicable provisions set forth in other sections of this Guidebook.

8.1. Ordering Conditions.

- i. All services offered under this Guidebook will be ordered using a SO. The SO shall include the monthly rate and non-recurring charges the customer will pay for the circuit(s) on the order. A Customer may order any number of services of the same type and between the same premises on a single SO. All details for services for a particular order must be identical.
- ii. The Customer shall provide all information necessary for the Company to provide and bill for the requested service. When placing an order for Ethernet Service, the Customer shall provide the following minimum information:
 - (1) Customer name and Premise(s) address;
 - (2) Billing name and address (when different from Customer name and address); and
 - (3) Customer contact name(s) and telephone number(s) for the following provisioning activities: order negotiation, order confirmation, interactive design, installation and billing.

The order date (Application Date) is the date on which the Company receives a firm commitment and sufficient information from the Customer to allow processing of the SO. The Customer is advised of the critical events in the provisioning process, the Application Date, the Plant Test Date and the Service Commencement Date, at the time the Company gives the Customer a Firm Order Confirmation (FOC).

III. ORDERING OPTIONS FOR ETHERNET SERVICE

8. General (cont'd).

8.2 Provision of Other Services

- i. Unless otherwise specified herein, all services offered under this Guidebook shall be ordered with a SO.
- ii. With the agreement of the Company, other services may subsequently be added to the SO at any time, up to and including the service date for the Ethernet Service. When added subsequently, the applicable rate for a Design Change specified in Company's Price List will apply when an engineering review is required.
- iii. Additional Engineering is not an ordering option but will be applied to a SO when the Company determines that Additional Engineering is necessary to accommodate a Customer request. Additional Engineering will be provided by the Company at the request of the Customer only when a Customer requests additional technical information after the Company has already provided the technical information included on the Design Layout Report as set forth herein. The Customer will be notified when Additional Engineering is required and will be furnished with a written statement setting forth the justification for the Additional Engineering as well as an estimate of the charges. If the Customer agrees to the Additional Engineer, a firm order will be established. If the Customer does not want the service or facilities after being notified by the Company that Additional Engineering is required, the Customer may cancel the order and no charges will apply. Once a firm order has been established, the total charge to the Customer for the Additional Engineer may not exceed the original estimated amount by more than ten (10) percent.

9. Ethernet Order

9.1 Ethernet Service Requests

- i. An Ethernet Order in the form of a Service Order (SO) is required by the Company to provide a Customer the Business Data Services, as described herein. SO will be required for each new similar service arrangement or group of common circuits.
- iii. When a Customer requests new or additional Business Data Service, one or more SO's may be required. The number of orders required is dependent on the type of services and/or facilities being requested.

III. ORDERING OPTIONS FOR ETHERNET SERVICE

9. Ethernet Order (cont'd).

9.2 BDS Date Intervals. The Company will provide a FOC and the Service Commencement Date contingent on the SO being complete as received. To the extent the Ethernet Service can be made available with reasonable effort, the Company will provide the Ethernet Service in accordance with the Customer's requested interval subject to the following conditions.

- i. Customer Requested Interval. If none of the conditions described in Section 9.2(ii) below apply, the Service Date interval shall be based on provision of Ethernet service by the Customer's requested Service Date.
- ii. Negotiated Interval. The Company will negotiate a Service Date interval with the Customer when one of the following conditions exists. In such cases, the Company will offer a Service Date based on the type and quantity of Ethernet Service the Customer has requested.
 - (1) There is no existing facility connecting the Customer premises with the Company; or
 - (2) The Customer requests a service that is not considered by the Company to be a standard service offering (for example, if Additional Engineering is required to complete the order); or
 - (3) The Customer requests a service that requires provision of facilities by a connecting interexchange carrier in addition to facilities provided by the Company and the connecting interexchange carrier is unable to place connecting facilities in service by Customer's requested Service Date.
 - (4) The Company determines that Ethernet cannot be installed within the time frame requested by the Customer.
 - (5) All services for which rates are applied on an Individual Case Basis are provided with a Negotiated Interval.

III. ORDERING OPTIONS FOR ETHERNET SERVICE (cont'd)

9. Ethernet Order (cont'd)

9.3 Order Charge.

The Ethernet Order Charge will apply to all Customer requests for new Business Data Service. In addition, the BDS Order Charge is applicable to Customer requests for additions, changes or rearrangements to existing Business Data Service with the following exceptions:

- i. The Ethernet Order Charge does not apply:
 - (1) When a change to a pending order does not result in the cancellation of the pending order and the issuance of a new order;
 - (2) When a Company initiated network reconfiguration requires a Customer's existing Ethernet service to be reconfigured; or
- ii. The Ethernet Order Charge will be applied on a per order basis to each order received by the Company or copy of an order received by the Company pursuant to Sections 7 and 8 above and is in addition to other applicable charges as set forth in this and other sections of this Guidebook.

9.4 Service Order Modifications. The Customer may request a modification of its SO prior to the Service Commencement Date. All modifications must be in writing using the SO process. The Company will make every effort to accommodate a request modification when it is able to do so with the normal work force assigned to complete such an order within normal business hours. Charges for Ethernet Service Order modification will apply as set forth below, on a per occurrence basis.

- i. Service Date Change. The Customer may request a change of service date on a pending Ethernet Order prior to the service date. A change of service date is a

III. ORDERING OPTIONS FOR ETHERNET SERVICE (cont'd)

9. Ethernet Order (cont'd)

9.4 Service Order Modifications. (cont'd)

i. Service Date Change (Cont'd)

change of the scheduled service date by the Customer to either an earlier date or a later date which does not exceed 30 calendar days from the original service date.

- (1) If the Company determines that the Customer's request can be accommodated without delaying the service dates for orders of other Customers, the service date will be changed, and the Service Date Change Charge will be applied to the order.
- (2) If the service date is changed to an earlier date, and the Company determines additional labor or extraordinary costs are necessary to meet the earlier service date requested by the Customer, the Customer will be notified by the Company that Expedited Order Charges will apply. Such charges will apply in addition to the Service Date Change Charge.
- (3) If the requested service date exceeds 30 calendar days following the original service date, and the Company determines that the Customer's request can be accommodated, the Company will cancel the original order and apply the Cancellation Charges. A new Ethernet Order with a new service date will be issued. The Service Date Change Charge will not apply; however, the Ethernet Order Charge will apply to the new order.
- (4) If the service date is changed due to a design change as set forth in section 9.4(ii) following, the Service Date Change Charge will apply.

- ###### ii. Design Change Charge. The Customer may request a design change to the service ordered prior to the requested service date. A design change is any change to an Ethernet Order which requires engineering review. An engineering review is a review by Company personnel, of the service ordered and the requested changes to determine what changes in the design, if any, are necessary to meet the changes requested by the Customer. Design changes include such things as the addition or deletion of optional features or functions. Design changes do not include a change of Customer-designated premises.

III. ORDERING OPTIONS FOR ETHERNET SERVICE (cont'd)

9. Ethernet Order (cont'd)

9.4 Service Order Modifications. (cont'd)

ii. Design Change Charge (cont'd)

Changes of this nature will require the issuance of a new order and the cancellation of the original order with appropriate cancellation charges applied.

iii. The Company will review the requested change, notify the Customer whether the change is a design change, if the change can be accommodated and if a new service date is required. If the Customer authorizes the Company to proceed with the design change, a Design Change Charge will apply in addition to the charge for Additional Engineering. If a change of service date is required, the Service Date Change Charge will also apply. The Ethernet Order Charge as does not apply.

iv. Expedited Order Charge. When placing an Ethernet Order for service(s) for which a Standard Interval exists, a Customer may request a Service Commencement Date that is earlier than the Standard Interval Service Date, in which case an Expedited Order Charge will apply. The Expedited Order Charge will not apply if the new Service Commencement Date is more than five (5) days from the date of the request to the Company of the expedited order request. The request for an earlier service date may be received from the Customer prior to its issuance of a SO, or after the SO has been issued but prior to the service date. The Company has the exclusive right to accept or deny the Expedited Order Charge request. However, if, upon reviewing availability of equipment and scheduled workload, the Company agrees to provide service on an expedited basis and the Customer accepts the Company's proposal, an Expedited Order Charge will apply.

(1) If the Company is subsequently unable to meet an agreed upon expedited service date, then the Expedited Order Charge will not apply.

III. ORDERING OPTIONS FOR ETHERNET SERVICE (cont'd)

9. Ethernet Order (cont'd)

9.4 Service Order Modifications. (cont'd)

iv. Expedited Order Charge (cont'd)

- (2) In the event the Company provides service on an expedited basis at the Customer's request, and the Customer delays service or is not ready for delivery of service at the time of installation, a Service Date Change Charge will apply in addition to the Expedited Order Charge.
- (3) In the event that the Customer cancels an expedite request, the Expedited Order Charge will be added to any applicable Cancellation Charge specified herein.
- (4) In the event that the Customer requests a Service Date Change after the Company has received the original expedite request, the Expedited Order Charge will still apply.
- (5) An Expedited Order Charge will not be applied to orders expedited for Company reasons.
- (6) If costs other than additional administrative expenses are to be incurred when the Ethernet Order is expedited, the regulations and charges for Special Construction as set forth in this Guidebook will apply.
- (7) The Expedited Order Charge will apply on a per order, per occurrence basis.

9.5 Cancellation of an Ethernet Service Request

- i. A Customer may cancel a SO for the installation of Ethernet Service at any time prior to notification by the Company that service is available for the Customer's use. The cancellation date is the date the Company receives written from the Customer that the order is to be canceled. A Customer may negotiate an extension of a service date of a SO for installation of new service or rearrangement of existing service, in which case a Service Date Change Charge will apply. However, the new service date cannot exceed the originally established service date by more than 30 calendar days. On the 31st day beyond the original service date, the SO will be canceled, and the appropriate Cancellation Charge will be applied.
- ii. Except as provided herein, Cancellation Charges will apply.

III. ORDERING OPTIONS FOR ETHERNET SERVICE (cont'd)

9. Ethernet Order (cont'd)

9.5 Cancellation of an Ethernet Service Request (cont'd)

- iii. If the cancellation occurs prior to the Company's receiving the SO, no charges shall apply.
- iv. If the Company misses a service date for a Standard or Negotiated Interval Ethernet Order by more than 30 days due to circumstances such as acts of God, governmental requirements, work stoppages and civil commotion, the Company shall not be liable for such delay and the Customer may cancel the SO without incurring cancellation charges.

9.6 Minimum Period of Service

- i. The minimum period for which Ethernet Service is provided and for which charges are applicable is twelve months.
- ii. The following changes will be treated as a discontinuance of the existing service and a request for installation of a new service. All associated Non-Recurring Charges will apply for the new service, and a new minimum period will be established:
 - (1) A change in the identity of the Customer of record;
 - (2) A move by the Customer to a different building;
 - (3) A change in type of service;
- iii. When Ethernet Service is disconnected prior to the expiration of the minimum period, charges are applicable for the balance of the minimum period. The Minimum Period Charge for monthly billed services will be determined as follows:
 - (1) All applicable Non-Recurring Charges for the service will be billed in addition to the Minimum Period Charge.
 - (2) When Ethernet Service is disconnected prior to the expiration of the minimum period, charges are applicable for the balance of the minimum period.

III. ORDERING OPTIONS FOR ETHERNET SERVICE (cont'd)

9. Ethernet Order (cont'd)

9.6 Minimum Period of Service (cont'd)

- (3) All applicable Non-Recurring Charges for the service will be billed in addition to the Minimum Period Charge.

10. Miscellaneous Service Order Charge

10.1. Application of the Miscellaneous Service Order Charge

- i. As set forth in the appropriate section of Company's Price List, the Miscellaneous Service Order Charge applies to any service, or combination of services, ordered simultaneously from Section V of the Guidebook for which a service order is not already pending. The Miscellaneous Service Order Charge is an administrative charge designed to compensate for the expenses associated with service order issuance.
- ii. The Miscellaneous Service Order Charge always applies to the following services since a pending service order would not exist:
 - (1) Overtime Repair (Section 14.2(ii))
 - (2) Testing and Maintenance with Other Telephone Companies (Section 14.2(iv)) other than when in conjunction with Acceptance Testing;
 - (3) Other Labor (Section 14.2(v)); and
 - (4) Maintenance of Service (Section 14.4)
- iii. The Miscellaneous Service Order Charge will also apply to the Telecommunications Service Priority (TSP) (Section 14.5) if it is ordered subsequent to the initial installation of the associated Ethernet service, thereby necessitating the issuance of another service order.

III. ORDERING OPTIONS FOR ETHERNET SERVICE (cont'd)

10. Miscellaneous Service Order Charge (cont'd)

10.1 Application of the Miscellaneous Service Order Charge (cont'd)

- iv. The Miscellaneous Service Order Charge does not apply to the following services since a pending service order would exist:
 - (1) Additional Engineering (Section 14.1);
 - (2) Overtime Installation (Section 14.2(i));
 - (3) Standby (Section 14.2(iii));
 - (4) Testing and Maintenance with Other Telephone Companies when in conjunction with Acceptance Testing (Section 14.2(iv));

IV. SPECIAL CONSTRUCTION

11. Special Construction

11.1 Basis for Rates and Charges. Rates and charges for special construction will be determined by the Company on an Individual Case Basis and based, in part, on the costs incurred by the Company and may include (1) non-recurring type charges, (2) recurring type charges, (3) termination liabilities, or (4) combinations thereof.

11.2 Termination Liability

- i. To the extent that there is no other requirement for use by the Company, a termination liability may apply for facilities specially constructed at the request of the Customer.
 - (1) The termination liability period is the initial service term with respect to said specially constructed facilities.
 - (2) The amount of maximum termination liability is equal to the rates and charges established pursuant to Section 11.1 above.
 - (3) The applicable termination liability charge is based on the normal method for calculating the unpaid balance of a term obligation. The amount of such charge is obtained by multiplying the sum of the amounts determined as set forth in Section 11.2(i)(2) above by a factor related to the unexpired period of liability and the discount rate for return and contingencies. This product is adjusted to reflect applicable taxes.

IV. SPECIAL CONSTRUCTION

12. Individual Case Basis Arrangement. When the Company furnishes a facility or service in an individual case basis, charges will be determined on an individual case basis. Specialized rates or charges will be made available to similarly situated Customers on a nondiscriminatory basis.

V. MISCELLANEOUS SERVICES

13. Guidelines

13.1 Contents List. The following sections will address the Services in section 14:

- i. Section 14.1: Additional Engineering.
- ii. Section 14.2: Additional Labor (which is comprised of Overtime Installation, Overtime Repair, Standby, Testing and Maintenance with Other Telephone Companies, and Other Labor).
- iii. Section 14.3: Testing Services (which are comprised of Testing Services and Maintenance of Service).
- iv. Section 14.4: Maintenance of Service.

13.2 Working Hours. In this chapter, normally scheduled working hours are an employee's scheduled work period in any given calendar day (e.g., 8:00 a.m. to 5:00 p.m.) for the application of rates based on working hours.

13.3 Application of a Miscellaneous Service Order Charge. As set forth in the appropriate section of Section 10, a Miscellaneous Service Order Charge may be applicable to services ordered from this section.

14 Services

14.1 Additional Engineering

- i. Additional Engineering, including engineering reviews as set forth in Sections 8.2 and 9.2 above, will be undertaken only after the Company has notified the customer that

V. MISCELLANEOUS SERVICES

14 Services

14.1 Additional Engineering (cont'd)

additional engineering charges and the customer agrees to such charges.

- ii. Additional Engineering will be provided by the Company at the request of the customer only when:
 - (1) A customer requests additional technical information after the Company has already provided the technical information normally included on the Design Layout Report (DLR) as set forth in Section 8.2.
 - (2) Additional Engineering time is incurred by the Company to engineer a customer's request for a customized service.
 - (3) A customer requested Design Change requires the expenditure of Additional Engineering time. Such additional engineering time is incurred by the Company for the engineering review as set forth in Sections 8.2 and 9.2 above. The charge for additional engineering time relating to the engineering review, which is undertaken to determine if a design change is indeed required, will apply whether or not the customer authorizes the Company to proceed with the Design Change. In this case the Design Change charge does not apply unless the customer authorizes the Company to proceed with the Design Change.

14.2 Additional Labor. Additional Labor is that labor requested by the customer on a given service and agreed to by the Company as set forth in Sections 14.2(i) through 14.2(v) following. The Company will notify the customer that additional labor charges will apply before any Additional Labor is undertaken. A call-out of a Company employee at a time not consecutive with the employee's scheduled work period is subject to a minimum charge of four hours.

- i. Overtime Installation. Overtime installation is that Company installation effort outside of normally scheduled working hours.
- ii. Overtime Repair. Overtime repair is that Company effort performed outside of normally scheduled working hours.
- iii. Standby. Standby includes all time in excess of one-half (1/2) hour during which

V. MISCELLANEOUS SERVICES

14 Services

14.2 Additional Labor (cont'd)

Company personnel standby to make installation acceptance tests or cooperative tests with a customer to verify facility repair on a given service.

- iv. Testing and Maintenance with Other Telephone Companies. Additional testing, maintenance or repair of facilities which connect other telephone companies is that which is in addition to the normal effort required to test, maintain or repair facilities provided solely by the Company.
- v. Other Labor. Other labor is that additional labor not included in Sections 14.2(i) through 14.2(iv) above and labor incurred to accommodate a specific customer request that involves only labor which is not covered by any other section of this Guidebook.

14.3 Testing Services

- i. Testing Services offered under this section of the Guidebook are optional and subject to rates and charges. A call-out of a Company employee at a time not consecutive with the employee's scheduled work period is subject to a minimum charge of four hours.
- ii. The offering of Testing Services under this section of the Guidebook is made subject to the availability of the necessary qualified personnel and test equipment at various test locations.
- iii. The Company will provide assistance in performing specific tests requested by the customer.

(1) Additional Cooperative Acceptance Testing. When a customer provides a technician at its premises or at an end user's premises, with suitable test equipment to perform the requested tests, the Company will provide a technician at its office for the purpose of conducting Additional Cooperative Acceptance Testing. At the customer's request, the Company will provide a technician at the customer's premises or at the end user premises. These tests may, for example, consist of the following:

- Latency
- Packet loss
- Jitter

14 Services (cont'd)

14.3 Testing Services (cont'd)

- (2) Obligation of the Customer. When the customer subscribes to Testing Service as set forth in this section, the customer shall make the facilities to be tested available to the Company at times mutually agreed upon.

14.4 Maintenance of Service

- i. When a customer reports a trouble to the Service Provider for clearance and no trouble is found in the Service Provider's facilities, the customer shall be responsible for payment of a Maintenance of Service charge for the period of time from when Service Provider personnel are dispatched, at the request of the customer, to the customer designated premises to when the work is completed. Failure of Service Provider personnel to find trouble in Service Provider facilities will result in no charge if the trouble is actually in those facilities, but not discovered at the time.
- ii. The customer shall be responsible for payment of a Maintenance of Service charge when the Service Provider dispatches personnel to the customer designated premises, and the trouble is in equipment or communications systems provided by other than the Service Provider.
- iii. In either Section 14.4(i) or 14.5(ii) above, no credit allowance will be applicable for the interruption involving maintenance.