

CHECK SHEET

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Issued: June 18, 2008

Effective: July 18, 2008

Issued By: William P. Hunt, III, Vice President of Public Policy  
Level 3 Communications, LLC  
1025 Eldorado Boulevard  
Broomfield, Colorado 80021

SWITCHED ACCESS SERVICES

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**SECTION 2 - UNDERTAKING OF THE COMPANY (CONT'D)**

2.5 **Terms and Conditions**

2.5.1 Except for Tandem Connect service, as defined in Section 14.2.3.3, Service shall be provided on the basis of a minimum period of at least one (1) month.

2.5.2 Customers may be required to enter into written Service Orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in the tariffs of the Company. Customer will also be required to execute any other documents as may be reasonably requested by the Company.

2.5.3 At the expiration of the initial term specified in each Service Order, or in any extension thereof, service shall continue on a month to month basis at the then current rates unless terminated by either party. Any termination shall not relieve Customer of its obligation to pay any charges incurred under the Service Order and the tariffs of the Company prior to termination. The rights and obligations which by their nature extend beyond the termination of the term of the Service Order shall survive such termination.

2.5.4 In any action between the parties to enforce any provision of the tariffs of the Company, the prevailing party shall be entitled to recover its legal fees and court costs from the non-prevailing party in addition to other relief a court may award.

2.5.5 The tariffs of the Company shall be interpreted and governed by the laws of the State of New Hampshire without regard for its choice of laws provision.

2.6 **Service Liability**

2.6.1 The Company's liability, if any, for its willful misconduct is not limited by this tariff.

2.6.2 In no event shall the Company be liable for special, reliance, incidental, consequential or other such damages. The Company is not liable for damages associated with service, channels, or equipment which it does not furnish.

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**SECTION 2 - UNDERTAKING OF THE COMPANY (CONT'D)**

- 2.6.3 The Company is not liable for damages to premises resulting from the furnishing of service including the installation and removal of equipment or facilities and associated wiring, unless the damage is caused by the Company's negligence.
- 2.6.4 The Company shall be indemnified, defended and held harmless by the Customer and User against all claims, losses, or damages arising from the use of service furnished pursuant to this tariff, involving:
- a) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from any communication;
  - b) Claims for patent infringement arising from combining or using services furnished by the Company in connection with facilities or equipment furnished by other; or
  - c) All other claims arising out of any act or omission of others relating to services provided pursuant to this tariff.
- 2.6.5 The Company does not guarantee nor make any warranty with respect to services when used in an explosive atmosphere. The Company shall be indemnified, and held harmless by the Customer and End Users against all claims, losses or damages by any person relating to services provided pursuant to this tariff when used in an explosive atmosphere.
- 2.6.6 No license under patents (other than the limited license to use) is granted by the Company or shall be implied or arise by estoppel, with respect to any service offered under this tariff. The Company will defend the Customer and User against claims of patent infringement arising solely from the use by the Customer and User of services offered under this tariff and will indemnify such Customer or User for any damages awarded based solely on such claims.
- 2.6.7 The Company's failure to provide or maintain service under this tariff shall be excused by labor difficulties, governmental orders, civil commotions, natural catastrophe, and other circumstances beyond the Company's reasonable control.
- 2.6.8 With respect to any other claim or suit, by a Customer or by any others, for damages associated with the installation, provision, termination, maintenance, repair, interruption or restoration of a Service, and subject to the provisions following, the Company's liability, if any, shall not exceed an amount equal to the relevant Period Charge provided for under this tariff.
- 2.6.9 Any liability for damages shall be in addition to any amounts that may otherwise be due the Customer.

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SECTION 2 - UNDERTAKING OF THE COMPANY (CONT'D)

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2.7 Notification of Service-Affecting Activities

To the extent possible, 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 Customers' 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.

2.8 Provision of Equipment and Facilities

- 2.8.1 All services along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.
- 2.8.2 The Company may undertake to 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 Customer with, the regulations contained in this tariff.
- 2.8.3 The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer. The Customer, Joint User, or Authorized

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