

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO ALLEGED)	
UNAUTHORIZED ACTIVITIES OF ALLNET)	
COMMUNICATIONS SERVICES, INC.)	
_____)	CASE NO.
)	90-429
ALLEGED VIOLATIONS OF KRS CHAPTER)	
278)	

ORDER TO SHOW CAUSE

The Commission has information indicating that Allnet Communications Services, Inc. ("Allnet") has been providing or seeking to provide unauthorized rates and services in violation of KRS Chapter 278, specifically KRS 278.160, in that it may be offering telecommunications services not approved by the Commission.

Exhibit 1, attached hereto and incorporated herein, is a Service Agreement under which Allnet proposed to offer telecommunications services to NCN for resale. The agreement further states that Allnet will provide operator services to NCN customers accepted by Allnet. NCN currently has an application pending before the Commission¹ requesting approval to operate as a reseller of telecommunications services, but is not yet authorized to operate in Kentucky.

¹ Case NO. 90-099, The Application of NCN Communications, Inc. As a Reseller of Telecommunications Services Within the Commonwealth of Kentucky.

The Commission finds from this information that a prima facie showing has been made that Allnet may have charged rates and provided services not contained in filed schedules of its currently effective tariff in violation of the provisions of KRS Chapter 278 and that an investigation should be opened regarding any and all unauthorized rates and service being provided by Allnet.

IT IS THEREFORE ORDERED that:

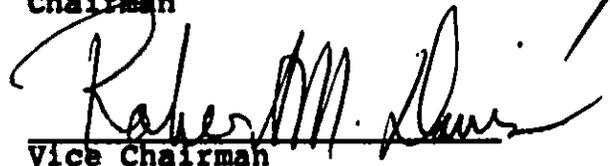
1. Allnet shall immediately cease and desist from charging any and all rates and charges and providing any service not contained in its schedules of rates and conditions of service filed with and approved by the Commission.

2. Within 20 days of the date of this Order, Allnet shall file a written response showing cause, if any, why it should not be fined pursuant to KRS 278.990 for violations of KRS Chapter 278 and be required to refund all unauthorized rates and charges collected.

Done at Frankfort, Kentucky, this 4th day of January, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner

SERVICES AGREEMENT

This Services Agreement dated July 20, 1990, is between Allnet Communication Services, Inc. ("Allnet"), a Michigan corporation with its principal offices at 30300 Telegraph Road, Suite 350, Birmingham, MI 48010, and NCN Communications, Inc. ("Customer"), an Arizona corporation with its principal offices at 1440 North Fiesta Blvd, Suite 100, P.O. Box 2000, Gilbert, AZ 85234.

RECITALS

Allnet is in the business of providing long distance telecommunication services to commercial and residential customers; and

Customer is in the business of purchasing long distance telecommunication services and reselling the same to commercial and residential customers; and

The parties desire to enter into a business arrangement whereby Allnet provides its services to designated customers of Customer in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants and obligations contained herein the parties agree as follows:

1. Terms, Conditions and Rates for Services.

1.1 During the term of this Agreement, Allnet shall provide and Customer shall purchase presubscribed long distance, voice call completion services (the "Services"). Upon Allnet's acceptance of a Subscriber (defined at Subsection 2.1) onto the Allnet network, Allnet shall provide the Services to Subscribers, through the Customer, in those areas where the Services are available in accordance with the terms and conditions of any applicable Allnet federal and state tariffs (the "Terms"), as the Terms may be modified by this Agreement. An excerpted copy of the Terms is attached as Exhibit 1.1 and made a part hereof. The Services shall exclude special features such as, but not limited to, accounting codes, value added services and selective destination blocking.

1.2 Operator Services shall be available to Subscribers accepted by Allnet, but charges for such services shall be billed directly by Allnet's billing agents and may appear on the bill a Subscriber receives from its local exchange carrier (the "LEC") or such billing agent. Allnet shall not bill Customer for the Operator Services provided to Subscribers and any revenues for Operator Services received by Allnet shall be Allnet's sole revenue and not be subject to the terms of this Agreement. Operator Services are defined to be calls that require the

assistance of an operator to complete, such as but not limited to, collect calls and bill to a third number calls.

1.3 Customer shall purchase the Services and pay or cause to be paid to Allnet the following rates for Subscriber usage carried over Allnet's network. All rates are per minute, billed in one minute increments with a one minute minimum. Daytime Usage is defined as Monday through Friday 8:00 am to 5:00 pm in the time zone where a call originates, excluding Allnet recognized holidays (New Year's Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day).

A. Domestic Daytime Usage: \$0.14 per minute.

B. Non-Daytime Domestic Usage: \$0.085 per minute.

C. In the event any Subscriber accepted by Allnet was an Allnet customer within a three (3) month period prior to application for the Services under this Agreement, as established by Allnet account records, then the rates chargeable to Customer for the usage of such Subscribers shall be \$0.168 for Domestic Daytime Usage and \$0.102 for Non-Daytime Domestic Usage.

D. The rates set forth in Subsection 1.3 A., B. and C. are only applicable for domestic usage terminating in the contiguous 48 states and are in lieu of any standard volume discount or any promotional rate or discount that may be offered for domestic usage from time to time by Allnet. Said rates are not applicable to directory assistance, 700/900 network calls and calls to Alaska and Hawaii, which calls shall be billed to Customer at the standard Allnet Dial-1 rates in effect at the time the call is carried by Allnet.

E. International Usage: International usage shall be billed to Customer at Allnet's standard Dial-1, MTS rates in effect at the time the call is carried by Allnet. At such time that total international usage in a month reaches the following monetary levels, Customer shall receive the applicable credits applied in the following month: Credits shall be incremental and equivalent to an effective 2% percent reduction in the international usage rate for usage between \$50,000 and \$100,000; 5% for usage between \$101,000 and \$150,000; and 10% for usage in excess of \$150,000.

F. Allnet Access (travel card) Usage: The parties have agreed that at a future date Allnet shall provide travel card services to accepted Subscribers at rates and in accordance with procedures and requirements to be mutually developed and agreed upon by the parties (the "Travel Card Procedures"). Upon execution of this Agreement, the parties shall commence good faith negotiations to develop the Travel Card Procedures in an expeditious manner. At such time as the Travel Card Procedures are established, the parties shall amend this Agreement to incorporate the terms and conditions of said Procedures.

G. Once each month, Allnet shall measure the nationwide average total access costs, including originating and terminating elements, per billed minute of Subscriber usage of the Services in the preceding month. If said average total access cost per billed minute exceeds \$0.08 per minute, the rates which Customer is obligated to pay hereunder as set forth in Subsection 1.3 A., B. and C. shall be increased per minute by the amount of the difference between the actual average access cost per billed minute and \$0.08. The increased rates shall be applicable for Subscriber usage in the month in which the access costs exceeded \$0.08. However, the additional charges for such month shall be added to a Customer Invoice in the month of the measurement. Allnet shall supply Customer with a monthly written report summarizing the results of the measurement. Allnet represents that for the month of April, 1990, its total average access cost nationwide was \$0.0727 per billed minute for residential equal access service and \$0.0715 per billed minute for commercial equal access service; Allnet makes no further representation or warranty with respect to said costs.

H. Allnet reserves the right to revise the rates set forth in Subsection 1.3 A., B., and C. at any time upon ninety (90) days written notice. If Customer does not agree with the revisions it shall have the right to terminate this Agreement by furnishing written notice to Allnet of such termination on not less than thirty (30) days notice during said ninety (90) day period. Allnet reserves the right to revise its other rates chargeable to Customer under this Agreement at any time in accordance with its customary rate change practices and policies. Allnet shall give Customer advance notice of such changes in accordance with said practices and policies.

1.4 Upon receipt from Customer of accurate and complete information as required in Subsection 2.1, which shall constitute application for the Services, Allnet shall, within ten (10) business days of Allnet's receipt of said information either accept the Subscriber and enter the Subscriber information into its order entry system and send said information to the relevant LEC, or inform Customer that the Subscriber is not acceptable to Allnet. Allnet shall have the right to determine, without liability, whether or not to accept a Subscriber. The criteria for Allnet's determination of Subscriber acceptance shall include, without limitation, credit worthiness of a Subscriber, the geographic location of a Subscriber, and preliminary information received from the LEC regarding a Subscriber. Subscribers not acceptable to Allnet as a result of a LEC's determination that insufficient Subscriber information is available to connect a Subscriber to the Allnet network may be resubmitted by Customer for Allnet's approval along with the LEC-required information. Customer acknowledges that having a Subscriber's long distance service connected to the Allnet network will require the involvement of a LEC, that Allnet makes no commitment as to when a Subscriber will actually be connected to its network, and that Allnet shall not be liable for any LEC-caused delay experienced by a Subscriber in being connected to the Allnet network.

1.5 The parties acknowledge that all Subscribers whether accepted or rejected by Allnet are Customer's customers and are not Allnet customers. In addition to Allnet's right to contact Subscribers to enforce its security interest in Subscriber receivables (Subsection 2.7) and to contact and continue providing the Services to Subscribers (Subsection 3.4 B.), Allnet shall have the right at any time during the term of this Agreement or upon its termination or expiration, to continue providing the Services or commence providing services directly to Subscribers that approach Allnet for such continuation or commencement of service. Other than as provided in Subsections 2.7 and 3.4 B., Allnet shall not intentionally solicit, target for solicitation or otherwise contact Customer's customers of which it has knowledge with the intent to induce them into becoming Allnet customers.

1.6 Allnet shall provide a toll-free telephone number for use by prospective Subscribers that request additional information on the working relationship between the parties. Allnet and Customer shall jointly develop a script that explains the relationship for use on said number. In addition to other information that may be in the script, statements regarding the following items shall be included:

A. The fact that the Subscribers may be responsible for PIC Charges (defined at Subsection 2.4) for moving onto or off of the Allnet network.

B. The fact that the Subscribers' long distance services are being provided pursuant to an agreement between the Customer and Allnet and that should the agreement be terminated and result in a cessation of the Services to the Subscribers that the Subscribers would have the opportunity to select a long distance carrier of its choice.

C. The fact that certain Subscriber charges such as for Operator Services may appear on the Subscriber's bill sent from the LEC or billing agent as charges for Allnet services.

1.7 Upon execution of this Agreement, Allnet shall provide to Customer a complete list of the area codes and prefixes of the areas where the Services are available. Said list is attached hereto as Exhibit 1.7 and made a part hereof, subject to updating by Allnet on at least a quarterly basis.

1.8 Allnet reserves the right to cancel the Services to any Subscriber, without liability, in the event a Subscriber's usage of the Services or an authorization code violates any provision of the Terms. Upon Customer's request, Allnet shall block or cancel the Services to a Subscriber within two (2) business days of its receipt of the request. Allnet shall block or cancel Allnet Access authorization codes provided to Subscribers in accordance with the Travel Card Procedures. Customer's blocking and cancellation requests shall be written and telefaxed or delivered by another expeditious system agreed upon by the parties. Customer shall hold Allnet harmless from any claims for damages related to Customer's blocking or cancellation requests.

1.9 In the event the volume of Subscribers or Subscriber telephone numbers (ANIs) requested to be added to Allnet's network by Customer is such that Allnet reasonably determines that a delay in processing such requests is required to maintain the integrity of Allnet's network or systems so as not to adversely impact the provision of services to its other customers (including Subscribers already on the network), Allnet shall have the right to delay such processing for a reasonable period taking into account the volume of the requests and the estimated impact on the network. Such delays shall not however, adversely affect Customer for purposes of determining whether Customer has met its obligations under Subsections 2.5 and 3.5 and the dates and/or amounts set forth in said Subsections shall be adjusted to reflect the delay attributable to Allnet.

1.10 Absent manifest error and subject to the provisions regarding service credits in Subsection 6.2, Allnet's billing algorithms, answer supervision systems, time point computations, billing system outputs and summary reports under Subsection 1.3 G. shall be deemed accurate and shall be binding on Customer.

1.11 Customer hereby directs Allnet to apply the standard procedures Allnet uses in monitoring and attempting to detect and block fraudulent ANI usage for Allnet's own customers to Subscriber ANIs. Allnet does not represent or warrant that it can successfully detect and block fraudulent usage, but that it shall use its best efforts to detect and block such usage in accordance with said procedures. Except for the cost of fraudulent usage, and then only to the extent of its limits of liability under the Terms, that arises from Allnet's gross negligence in applying said standard procedures to Subscriber ANIs or Allnet's failure to block or cancel the Services in accordance with Subsection 1.8, Customer shall assume full responsibility for and shall hold Allnet harmless from all expenses, charges and costs related to fraudulent usage attributable to Subscriber ANIs.

1.12 Customer acknowledges and agrees that the billing of Subscribers for the Services is its obligation. However, in the event Customer is unable or fails to bill the Subscribers within ten (10) days after receipt of a Customer Invoice, Allnet shall use its best efforts to bill the Subscribers accepted by Allnet, either directly or through its billing agents, for the period during which the Customer does not bill the Subscribers, but not for a period exceeding four (4) consecutive billing cycles. If Allnet provides this billing service Customer shall promptly provide Allnet, in a format designated by Allnet, with its rates so that Allnet can bill the Subscribers at Customer's rates. Customer shall also inform the Subscribers that Allnet will be billing and collecting their payments as a temporary measure and instruct the Subscribers to comply with payment instructions appearing on the Allnet bill. Allnet shall collect remittances from the Subscribers, retain sums due it under the terms of this Agreement, and remit the balance to Customer in accordance with the percentages set forth in Subsections 3.3 and 3.4. Allnet shall charge Customer an additional fifteen (15%) of the amount of

total Subscriber usage billed by it (computed at the rates to Customer set forth herein and not at the rates billed to the Subscribers), plus postage for mailing the Subscriber billings, for its billing services. Absent gross negligence in its performance of the billing services, Allnet shall not be liable to Customer for claims relating to Allnet's billing services. If Customer is unable or fails to resume its obligation of billing the Subscribers after the period for which Allnet has agreed to provide temporary billing services, Allnet shall have the right to treat such inability or failure as a non-curable breach of this Agreement and proceed with its rights under Subsection 3.4 B. to terminate this Agreement and/or contact and service Subscribers directly.

2. Customer Obligations.

2.1 Customer shall designate to Allnet via magnetic tape in a format to be mutually agreed upon by the parties, by name, billing and service addresses (if different) and ANI, the names of its customers that have signed letters of agency as described in Subsection 2.4 and as to which an election has been made by Customer to receive the Services from Allnet (the "Subscribers"). Any required changes to Subscriber names, addresses, or ANIs will only be processed by Allnet via said tape. Customer shall also furnish to Allnet via magnetic tape such other information as is deemed reasonably necessary by Allnet for the performance of the respective obligations of the parties under this Agreement. Customer warrants that Subscribers shall be residential and/or commercial end-users of the Services and shall not be resellers or aggregators of long distance services. Once Subscribers have been accepted by Allnet, Customer shall not intentionally transfer those Subscribers to another long distance carrier, except where such transfer does not reduce the number of Subscribers on Allnet's network below 150,000. The foregoing restriction on transferring Subscribers shall not be construed so as to prevent transfers initiated by a Subscriber's written request for transfer, a copy of which shall be provided to Allnet. In the event Customer does transfer accepted Subscribers to another carrier during the term of this Agreement, then the rates set forth in Subsection 1.3, A., B. and C. shall be adjusted as follows: if the transfer reduces the number of Subscribers below 150,000 said rates shall increase by five (5%) percent; if the transfer reduces the number of Subscribers below 100,000 said rates shall increase by ten (10%) percent; if the transfer reduces the number of Subscribers below 50,000 said rates shall increase by twenty (20%) percent. Such increased rates shall continue in effect unless and until the number of Subscribers equals or exceeds 50,000, 100,000 or 150,000, at which time the rates shall again decrease to the levels applicable to the number of Subscribers.

2.2 Customer shall be responsible for and pay all its expenses in connection with its activities under this Agreement. Customer shall submit to Allnet copies of all marketing and advertising materials involving Allnet's name, carrier identification codes or servicemarks which Customer proposes to

use hereunder for Allnet's approval prior to use of said materials. Customer shall designate an individual to serve as contact for all communications between itself and Allnet.

2.3 Customer shall use its best efforts to solicit and market the Services to its customers and prospective customers in accordance with the terms of this Agreement and applicable law. Customer shall at all times conduct its efforts in a commercially reasonable manner. To the extent either party makes any statements or representations to third parties with regard to the other party, its services, or the terms of this Agreement, such statements or representations shall be true, accurate and not misleading and shall conform to and be consistent with the terms of this Agreement.

2.4 Customer shall be responsible for obtaining signed letters of agency from the Subscribers authorizing Customer to be a Subscriber's agent for the purpose of selecting a long distance carrier on behalf of the Subscriber, or selecting Customer to be Subscriber's long distance carrier. Customer shall maintain a file of said letters of agency and shall make copies available upon Allnet's request. Customer shall also provide Allnet with a letter of agency or other form of authorization as may be required by a LEC to evidence that Allnet is authorized by Customer to connect a Subscriber to its network. Customer shall be ultimately responsible for LEC and interexchange carrier carry over charges ("PIC Charges") that may be imposed on Allnet as a result of Subscribers moving onto or off of the Allnet network or as a result of Customer providing Allnet with incorrect or inaccurate Subscriber information or letters of agency or authorization. Any such PIC Charges shall be billed to Customer periodically on the paper portion of the Customer Invoice.

2.5 Subject to the provisions of Subsection 1.9, Customer shall provide 75,000 residential and/or commercial Subscribers acceptable to Allnet, billing in the aggregate at least \$1,000,000 per month by October 1, 1990, and 150,000 residential and/or commercial Subscribers acceptable to Allnet, billing in the aggregate at least \$2,000,000 per month by April 1, 1991. In the event Customer does not meet the foregoing requirements, Allnet shall have the right to terminate this Agreement or to charge its then current Dial-1 rates for the Services provided after said dates. If, after meeting the foregoing requirements, the number of Subscribers falls below 150,000 in any month or the billings fall below \$2,000,000 in any month, Allnet shall have the right to charge rates in accordance with the provisions of Subsection 2.1.

2.6 Customer shall be responsible for all customer service functions for the Subscribers and shall supply Allnet with a toll-free telephone number to which Allnet can refer Subscribers that call Allnet with customer service issues that are not related to Allnet's network.

2.7 A. Customer represents that no security agreement, lien or other encumbrance exists on the receivables payable by the Subscribers accepted by Allnet. Customer hereby grants to Allnet

a security interest in said receivables, together with all documents and magnetic tapes and all general intangibles relating to said receivables, including all causes of action for recovery or collection of said receivables (the "Collateral") to secure prompt payment and performance by Customer of its obligations under this Agreement. Customer shall execute and deliver concurrently with this Agreement, and at any time or times hereafter at the request of Allnet, all financing statements, continuation financing statements, security agreements, assignments, affidavits and all other documents that Allnet may reasonably require to perfect and maintain its security interest in the Collateral. Customer hereby irrevocably makes, constitutes and appoints Allnet as Customer's true and lawful attorney for the purpose of signing the name of Customer on any of the documents referenced immediately above.

B. After termination of this Agreement and when Allnet has received payment in full of Customer's payment obligations hereunder, Allnet shall reassign the Collateral to Customer and shall execute a termination of all security agreements and security interests granted to it by Customer, upon the execution and delivery of mutual general releases.

C. Customer shall not, without Allnet's prior written consent, grant a security interest or permit a lien, claim or encumbrance to attach to the Collateral or make any change in its billing system which would materially and adversely affect the ability of Allnet to collect Subscriber remittances.

D. Any breach of Customer's obligations under this Subsection or other provisions of this Agreement, including the occurrence of any of the events specified in Subsection 4.3, shall be deemed a default under this Agreement. Upon the occurrence of a default, Allnet may, in addition to all other rights and remedies provided in this Agreement or available to it in law or equity, contact the Subscribers to direct them to send payments to Allnet and to take whatever other actions Allnet deems necessary to collect such payments and enforce its security interest in the Collateral.

E. At any time after this Agreement has been in effect for a period one (1) year, Customer shall have the right to request termination of Allnet's security interest in the Collateral so as to facilitate Customer's financing program. Prior to Allnet complying with such request, Customer shall provide Allnet with other assurances of payment for the Services satisfactory to Allnet, such as but not limited to, a cash deposit, an irrevocable letter of credit or a surety bond, in amounts and upon such terms as are satisfactory to Allnet.

3. Payment Terms and Obligations.

3.1 Allnet shall bill Customer four (4) times per month for Subscriber usage of the Services and other sums due Allnet hereunder in four (4) separate billing cycles selected by Allnet. Each billing shall represent monthly usage of Subscribers assigned

to that billing cycle, except for new Subscribers assigned to a cycle during a month whose usage will be for a partial month. No later than five (5) business days following the end of each such billing cycle, Allnet shall furnish Customer with call detail records (CDR) via magnetic tape in the format mutually agreed upon by the parties, which is attached hereto as Exhibit 3.1 and made a part hereof, detailing Subscriber usage of the Services at the rates set forth in this Agreement, supported by a paper invoice (both the tape and the paper invoice hereinafter collectively referred to as the "Customer Invoice"). Software modifications required by Customer requests for tape format changes shall be invoiced to Customer on a time and materials basis. Upon receipt of each Customer Invoice, Customer shall forthwith bill the Subscribers for their usage of the Services in accordance with its pricing and billing policies at its lawful rates. Each Subscriber bill shall be designated a "Subscriber Invoice". Each periodic emission of Subscriber Invoices shall be designated a "Subscriber Billing". Subscriber Invoices shall notify the Subscribers that a check or money order should be made to Customer's name as payee and sent with the remittance portion of the Subscriber Invoice to a certain lock box address, the location of which shall be mutually agreed upon by the parties (the "Lock Box"). As between the parties, Allnet shall have the sole withdrawal authority over the funds sent to the Lock Box.

3.2 Upon execution of this Agreement, the parties shall forthwith commence the process of identifying and contracting with a financial institution (the "Custodian") that is capable of maintaining the Lock Box and supplying the parties with the following minimum accounting and reporting services:

A. A separate accounting for payments, funds, instruments and documents received with respect to each Subscriber Billing and the processing, clearing and depositing of Subscriber payments on a daily basis.

B. An accounting on a daily basis for each Subscriber Invoice payment made and not previously accounted for. A listing of such Subscriber payments, in a format agreed upon by Customer, being sent to the Customer each business day by telefacsimile or data transmission followed by a tape or diskette copy sent on the same day by first class U.S. Mail. Daily accounting by the Custodian shall include a report sent to both parties each business day via telefacsimile or data transmission, detailing the disposition of funds handled that day.

C. The parties' right to audit Custodian's activities on a monthly basis with respect to the Lock Box to insure that all transactions are being performed properly in accordance with the terms of the contract with the Custodian.

3.3 Until such time as the Lock Box is established and operative the parties have agreed upon an interim collection method for the Customer Invoices. Allnet shall designate a post office box to which Subscribers shall be directed by Customer to send their remittances payable to the Customer (the "Interim Lock

Box"). The Customer shall execute whatever authorizations are required by Allnet's financial institution to allow Allnet or said institution to negotiate and collect said remittances. The parties shall implement a mutually agreeable procedure for transmitting the accounting detail per Subscriber Invoice to the Customer. It is anticipated that Allnet will contract with its financial institution for performance of this function. The parties shall equally share the cost for said function. Allnet shall bill Customer for its share of said cost on the paper portion of the Customer Invoice. Customer shall also pay the cost of overnight mail for transmission of the accounting detail. Subject to the provisions of Subsection 3.4 B., Allnet shall, on a daily basis, retain 80% of the funds collected from the Interim Lock Box and remit 20% to the Customer. These percentages shall be subject to periodic review and adjustment at Allnet's discretion to insure that the percentage retained by Allnet is adequately covering payments for the Customer Invoices.

3.4 A. On each business day after the Lock Box has been established and available funds from the Lock Box have been deposited into an Allnet designated account, Allnet shall retain such percentage of the sums deposited as the parties may mutually determine based on the collection experience gained from utilization of the Interim Lock Box (but in no event to be less than 75%) and remit the remaining percentage of the sums to an account designated by Customer. Customer may request and receive, at its expense, wire transfer of such funds from Allnet on any periodic basis no more frequent than daily.

B. Allnet shall apply the percentage of funds retained by it to the oldest unpaid Customer Invoice, and when such Invoice, plus any other outstanding sums due Allnet hereunder, less credits due Customer, is paid in full, Allnet shall apply funds to the next Customer Invoice, and so on. Allnet shall notify Customer when each Customer Invoice is paid in full, and Customer shall have the right to audit payments to that Invoice and otherwise balance accounts using data received from the Custodian and Allnet. If the percentage of funds retained by Allnet is insufficient to pay any Customer Invoice, or other sums due Allnet hereunder, within twenty five (25) days following the date of a Customer Invoice, Allnet shall have the right to retain 100% of the funds deposited into its account until such time as said Invoices or sums are paid in full. If at any time a Customer Invoice, or other sums due Allnet hereunder, is not paid in full within thirty five (35) days of the date of an Invoice and 100% of the funds retained by Allnet from the Lock Box are insufficient to pay said Invoice or sums, then Customer shall pay any insufficiency directly to Allnet within ten (10) days of written notice from Allnet to do so. In the event Customer fails to pay a Customer Invoice within such ten (10) day period, Allnet shall have the right to terminate this Agreement without liability to the Customer and/or contact the Subscribers directly to inform them that the agreement between the parties has been terminated and that should they desire to continue receiving long distance services through Allnet as an Allnet customer that commencing as of a certain date charges for their long distance service shall be

sent directly to them by Allnet (or added to their local LEC bill), that their payments should be made directly to Allnet (or the LEC) and that failure to make those payments directly to Allnet (or the LEC) will result in cancellation of their service. Allnet shall have the right to charge whatever rates for the Services that it and a Subscriber may agree upon. Termination of this Agreement or the conversion of the Subscribers to direct Allnet customers as contemplated above shall not relieve Customer of any obligations for payment of funds due Allnet hereunder for the Services provided prior to said termination or conversion, the Customer expressly acknowledging that it is ultimately responsible for all such Subscriber usage of the Services.

3.5 Subject to the provisions of Subsection 1.9, the parties shall execute whatever documents or give whatever authorization is deemed necessary by the Custodian to enable the Custodian to negotiate and collect checks and funds sent to the Lock Box. Customer shall be responsible for maintenance of the Lock Box at its expense, provided however, that in the event Customer has provided 75,000 Subscriber ANIs acceptable to Allnet by October 1, 1990, Allnet shall thereafter pay one-half the cost of the Custodian's check processing and clearing fees related to the Lock Box.

3.6 Customer shall be responsible for payment of, or reimbursement to Allnet of, Universal Service Fund and Lifeline Assistance Charges (monthly presubscribed line charges) as set forth in the National Exchange Carrier Association (NECA) Tariff FCC #5, sections 8.5.1, 8.5.2 and 17.1.4 (A) & (B), or any successor sections. Said charges shall be included on the paper portion of the Customer Invoice and shall be calculated based on the number of Subscriber ANIs provided by Customer and accepted by Allnet.

3.7 Allnet shall have the right to audit the Customer's billing process on a monthly basis to insure that Customer is properly meeting its obligation to instruct the Subscribers to send their payments for the Services to the Lock Box and the Interim Lock Box. Allnet shall have the right to deem a breach of this obligation as a non-curable breach of this Agreement. Also, upon request, Customer shall furnish Allnet with a random sampling of copies of Subscriber Invoices containing remittance instructions.

3.8 Upon execution of this Agreement, Customer shall furnish to Allnet, and keep current during the term of this Agreement, appropriate tax exemption certificates for all applicable jurisdictions, federal, state and local. In the event Customer fails to provide and maintain said certificates, Allnet shall have the right, but not the obligation, to add applicable taxes to the Customer Invoices in accordance with the Terms and to retain monies from Customer's portion of the Interim Lock Box and the Lock Box funds for said taxes for remittance to the proper taxing authorities. Customer shall be responsible for properly taxing the Subscribers and for the proper and timely reporting and paying of applicable taxes to the taxing authorities and shall hold

Allnet harmless from payment and reporting of all applicable federal, state and local taxes, including but not limited to gross receipts taxes, surcharges, franchise fees, occupational, excise and other taxes (and penalties and interest thereon), relating to the Services. Such indemnification shall include costs and expenses (including reasonable attorney fees) incurred by Allnet in defending or appealing any actions brought against it relating to said taxes.

4. Term and Termination.

4.1 This Agreement shall be effective on the date first set forth above (the "Effective Date"). This Agreement shall be for the term of two (2) years from and after the Effective Date of this Agreement. Thereafter, this Agreement may be renewed upon terms and rates agreeable to both parties, provided that neither party shall have any obligation to renew or extend this Agreement.

4.2 Notwithstanding Subsection 4.1, Customer may terminate this Agreement in accordance with Subsection 1.3 H.

4.3 Notwithstanding Subsection 4.1 and upon written notice, this Agreement may be immediately terminated by Allnet in accordance with its rights to cancel service as set forth in the Terms or after the occurrence of any of the following events:

A. Upon the dissolution or winding-up of the Customer's business.

B. The making by the Customer of any general assignment or arrangement for the benefit of creditors; the filing by or against the Customer of a petition to have it adjudged a bankrupt or for a reorganization or arrangement under any federal or state bankruptcy or insolvency laws, unless any such petition shall be dismissed or discharged within thirty (30) days of its filing; the appointment of a trustee or receiver to take possession of all or substantially all the Customer's assets, where such fiduciary is not dismissed within thirty (30) days of its appointment; the attachment, execution, or other levy or seizure of all or substantially all of the Customer's assets, where such event is not discharged within thirty (30) days of its initiation.

C. In accordance with the provisions of Subsections 2.5 or 3.4 B.

4.4 Notwithstanding Subsection 4.1, in the event of a breach of any term or condition of this Agreement (except for payment of funds due Allnet which is covered by the Subsection 3.4 or other breaches the remedy for which is covered elsewhere in this Agreement), either party may terminate this Agreement upon thirty (30) days written notice to the other party, unless the other party cures the breach, or takes prompt steps to cure a breach that cannot be reasonably cured during said period, prior thereto. Also, either party may, upon written notice to the other party, terminate this Agreement for repeated or continued breaches of any term or condition of this Agreement by a party, even though

such party may cure each breach within the proper time limit. Customer's right to cancel service under the Terms is superseded by its termination rights under this Agreement.

4.5 Upon termination or expiration of this Agreement, each party shall (i) immediately discontinue the use, if any, of all trade names, service marks, trademarks, Proprietary Information, and other materials provided to it by the other party, and (ii) each party shall promptly deliver to the other all Proprietary Information and any other materials furnished to it, including all copies thereof.

5. Trade Secrets and Confidentiality.

5.1 Each party agrees that all information furnished to it and identified by the other party as being confidential or proprietary information or trade secrets (collectively referred to as "Proprietary Information"), is, and shall continuously remain, the sole and exclusive property of the party furnishing the same (the party furnishing the Proprietary Information hereinafter referred to as the "Disclosing Party" and the other party hereinafter referred to as the "Receiving Party"). The information to be furnished to Allnet by Customer pursuant to Subsections 2.1 and 2.4 is deemed to be Proprietary Information of Customer, but notwithstanding the provisions of this Section 5, Allnet shall have the right to use said information in order to provide the Services to Subscribers in accordance with the provisions of Subsections 1.5, 2.7 and 3.4. Each party shall treat the Proprietary Information and the contents of this Agreement in a confidential manner and, except to the extent necessary in connection with the performance of its obligations under this Agreement, neither party shall directly or indirectly disclose the same to any third party without the written consent of the Disclosing Party.

5.2 The Proprietary Information is to be used by the Receiving Party only for the purposes contemplated herein and the Receiving Party shall not disclose the same to any one other than its employees who have a need to know and who agree in writing to be bound by the terms of this Section 5. The Proprietary Information shall not be copied or retained by the Receiving Party in written form and all originals and any copies or summaries thereof shall be returned to the Disclosing Party upon request.

5.3 Each party acknowledges that its breach or threatened breach of this section may cause the Disclosing Party irreparable harm which would not be adequately compensated by monetary damages. Accordingly, in the event of any such breach or threatened breach, the Receiving Party agrees that the Disclosing Party shall be entitled to equitable relief, including temporary restraining orders or preliminary or permanent injunctions, in addition to any other legal remedies to which it may be entitled.

5.4 Neither party shall use the name, trade name, service marks, trade marks, or printed materials of the other party, in any promotional or advertising material, statement, document,

press release or broadcast without the written consent of the other party.

6. Limitation of Liability and Indemnification.

6.1 Provisions relating to Allnet's limitation of liabilities and its disclaimer of warranties are set forth in the Terms. Subject to said provisions, Customer hereby expressly waives any and all causes of action, claims, suits, damages (direct, consequential or of any nature whatsoever) or other rights or remedies it may have against Allnet, its directors, officers, employees and agents, related in any manner to this Agreement or Allnet's provision of the Services.

6.2 Customer agrees that it shall be responsible for any credits or adjustments to Subscribers' bills for the Services that may be issued or required to be issued to the Subscriber and that it shall not be entitled to any credits or adjustments from Allnet for such Subscriber credits or adjustments, except those occasioned by Allnet's failure to block or cancel the Services in accordance with the terms of this Agreement or Allnet's direct billing to Subscribers for the Services that result in duplicative charges being assessed to the Subscribers and collected by Allnet. Customer's rights under the credit regulation provisions of the Terms regarding credits for failure of the Services caused by Allnet facilities are supplemented by its rights to credits under this Agreement. Further and in addition to its indemnification obligations set forth in the Terms, Customer shall be responsible for and shall save, defend, indemnify, and hold Allnet and its directors, officers, employees and agents free and harmless from any and all claims (including any and all claims of Subscribers), taxes, expenses, damages, lawsuits, or other liabilities (including without limitation, reasonable attorneys' fees and court costs) relating to or arising out of the Customer's operation of its business, its activities hereunder or its breach of any of the terms or provisions of this Agreement.

7. Miscellaneous.

7.1 Relationship of Parties. Allnet and Customer acknowledge and agree that the relationship between them is solely that of independent contractors, and nothing herein shall be construed to constitute the parties as employer/employee, partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking. Neither party, nor their respective employees, agents or representatives, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other.

7.2 Limitation on Assignment. Neither party shall assign or transfer its rights or obligations under this Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld, except that Allnet may assign this Agreement to its corporate parent without Customer's consent. Any assignment or transfer without the required consent shall be void.

7.3 Entire Agreement. This Agreement and the Terms contain the entire agreement between the parties concerning the subject matter hereof, and any representations or agreements, oral or otherwise, not embodied herein, are superseded by the terms hereof and shall be of no force or effect. In the event of a conflict between the provisions of this Agreement and the Terms, the provisions of this Agreement shall control. The parties have negotiated the language in this Agreement and are mutually responsible for the final form of this Agreement.

7.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The individuals signing this Agreement by their signatures below represent and warrant that they are authorized to bind and do so bind the party on behalf of which they are executing this Agreement.

7.5 Compliance with Laws. During the term of this Agreement, the parties shall comply with all laws and regulations of any local, state or federal government applicable to this Agreement or to their respective businesses; further, the parties shall obtain and/or file any tariffs, permits, authorizations, licenses or similar documentation applicable to this Agreement or their respective businesses as may be required by any governmental bodies or agencies. Upon request, each party shall supply the other with copies of such documentation.

7.6 Third Parties. The provisions of this Agreement and the rights and obligations created hereunder are intended for the sole benefit of Allnet and Customer, and shall not create any right, claim or benefit on the part of any person not a party to this Agreement, including Subscribers.

7.7 Survival of Provisions. Any obligations of the parties relating to monies owed hereunder, as well as those provisions relating to confidentiality, liability, waiver of claims, the security interest and indemnification, shall survive termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year hereinabove first set forth. This Agreement is subject to final approval by Allnet management and shall not be binding unless and until executed by Allnet's Executive Vice President of Sales & Marketing.

ALLNET COMMUNICATION SERVICES,
INC.

By: 

Its: E. V. P.

NCN COMMUNICATIONS, INC.

By: 

Its: Vice - President

SCHEDULE OF EXHIBITS

1. Exhibit 1.1. Excerpted version of the Terms.
2. Exhibit 1.7. List of NPA/NXXs where services are available.
3. Exhibit 3.1. Call Detail Record format.

7/09/90



Terms and Conditions of Service

Allnet Communication Services, Inc. (the "Company") provides common carrier telecommunication services (the "Services") to its customers (the "Customer") in accordance with the terms and conditions set forth in the Company's federal and applicable state tariffs. This document is an excerpted version of those terms and conditions. The Company's federal tariff is available for inspection at the Federal Communications Commission (FCC) offices in Washington, DC (applicable state tariffs may be inspected at public utility commission offices). Customer usage of the Services constitutes the Customer's acceptance to be bound by the terms and conditions, any applicable laws and any additional terms set forth in this document. The Company reserves the right to change its rates and terms and conditions as permitted by applicable law. The Company provides its Services under numerous product names, each product offering different features and rates. **SPECIFIC TERMS AND CONDITIONS COVERING INDIVIDUAL PRODUCT DESCRIPTIONS AND RATES ARE ON FILE AT, AND ARE AVAILABLE UPON WRITTEN REQUEST FROM, THE COMPANY'S OFFICE OF REGULATORY AFFAIRS, 1990 M STREET N.W., SUITE 500, WASHINGTON, DC 20036.**

UNLESS OTHERWISE SPECIFICALLY WAIVED OR MODIFIED IN WRITING BY THE COMPANY, THE FOLLOWING PROVISIONS COVER ALL USES BY THE CUSTOMER OF ANY OF THE SERVICES PROVIDED BY THE COMPANY:

1. Service Rates: Subject to availability of the Services, the Company shall provide the Services ordered and accepted by the Customer and the Customer shall pay for such Services in accordance with the Company's applicable rate schedules and terms and conditions in effect at the time the Services are provided.

2. Special Services: Customer orders for special services, technical assistance, equipment or non-routine maintenance and/or installation (the "Special Services"), if available, shall be subject to additional charges determined on a case by case basis. Should the Company agree to provide a Special Service and the Customer cancels its order prior to the commencement of a Special Service or before completion of a minimum period of usage mutually agreed upon by the parties, a charge shall be payable by the Customer for the nonrecoverable portions of expenditures or liabilities incurred by the Company as a result of the Customer's order.

3. Taxes, Surcharges and Assessments: The Customer is liable for payment of all applicable federal, state and local taxes (including gross receipts taxes), surcharges, utility or equipment assessments, franchise fees, occupational, excise and other taxes, fees and assessments.

4. Billing: The Customer is responsible for payment of all charges for the Services furnished to Customer's authorization codes and equal access telephone numbers in accordance with the following:

A. Unless otherwise specified, actual usage and minimum usage charges for the Services are invoiced to the Customer monthly in arrears. The Company may invoice the Customer directly or through arrangements with third parties. For billing purposes, the Customer's first use of the Services constitutes acceptance of the Services by the Customer until the Customer or the Company terminates the Services.

B. Fixed monthly and recurring and non-recurring charges for the Services shall be invoiced to the Customer monthly in advance. Charges for installation, physical or administrative changes and cancellation orders for the Services shall be paid by the Customer upon completion.

C. The Customer shall pay all invoices upon receipt. If the Customer fails to pay any invoice within twenty (20) days after the date of the invoice, the Company may impose a late payment charge of one and one-half (1.5%) percent per month (unless a lower rate is prescribed by law, in which event interest shall accrue at the highest

rate allowed by law) on the outstanding balance of the invoice.

D. The Company may require the Customer to submit a formal credit application and to make reasonable deposits, advance payments or other assurances of payment. At the Company's option, deposits may be refunded or credited to any outstanding Customer invoices for the Services.

E. The Company may assess a reasonable handling charge for all Customer checks not honored by the Customer's bank for whatever reason.

F. The Customer shall give the Company prompt written notice of any disputed charges appearing on an invoice. After receiving notice of a dispute, the Company shall take reasonable steps to resolve such dispute. The Customer shall pay all non-disputed charges while resolution of the disputed charges is pending.

G. In the event the Company institutes legal action to recover sums due it from the Customer, the Company shall be entitled, to the extent it prevails in said action, to recover its costs of collection including but not limited to, late payment charges, interest, legal costs, court costs and reasonable attorney fees, in addition to whatever other relief a court may award to the Company.

5. Local Charges: In certain instances, the Customer may be subject to charges by local telephone companies for accessing or using the Services. The Customer shall be solely responsible for payment of any such local charges.

6. Interconnection: The Customer shall be responsible for taking all action and paying all charges necessary to interconnect the Services with its systems or equipment and the services and facilities of other carriers or vendors, including but not limited to the costs of all necessary licenses, permits and rights-of-way. Any special interface equipment or facilities necessary to achieve compatibility between the Services (or Company equipment) and equipment of other parties shall be provided at the Customer's sole expense. Interconnection with the facilities and services of other carriers or vendors shall be in accordance with their applicable terms and conditions.

7. Terminal Equipment: If Company equipment used in the transmission of the Services is connected or interfaced with Customer terminal equipment or communication systems, such as teleprinters, handsets or data sets, such Customer equipment and communication systems shall be furnished and maintained at the Customer's sole expense. The Customer shall be responsible for all costs at its premises, including personnel, wiring, electrical power and the like, incurred in the Customer's use of the Services. Customer equipment and systems used shall comply with the technical criteria established by the Company and conform in all respects to Part 68 (or its successor) of the FCC's Rules and Regulations. Title to all facilities and equipment provided by Company shall remain with the Company.

8. Service Interruptions: The Company may, upon reasonable notice, interrupt the Services in order to test, inspect and perform routine maintenance on Company equipment and facilities, or to conduct tests and inspections of Customer equipment and systems used in connection with the Services. The use and restoration of the Services in emergencies shall be in accordance with Part 64, subpart D (or its successor) of the FCC's Rules and Regulations, which specifies the priority system for such activities. No credit or allowance shall be granted to the Customer for the time during which the Services are interrupted in accordance with this paragraph.

9. Customer Credits: Subject to the limitations set forth in paragraphs 8 and 11 of this document, Customer credit for failure of the Services or equipment will be allowed only when such failure is caused by or occurs in facilities or equipment provided by the Company. No credit shall be allowed for failure of the Services or equipment caused by

Customer provided equipment, or that result from negligence, willful acts or unauthorized use of the Customer.

10. Cancellation of Service: Except as otherwise provided by the terms of any special orders or contracts for the Services, the Customer and the Company shall have the right to cancel the Services at any time upon thirty (30) days written notice. The Company reserves the right to immediately discontinue furnishing any or all of the Services without incurring any liability, upon written notice to the Customer, under any of the following circumstances:

A. Failure of the Customer to pay any sum due to the Company more than thirty (30) days after the date such sum was due.

B. A violation by the Customer of any provision of a Company tariff or any law, rule or regulation of any governmental authority having jurisdiction over the Company's business or common carrier telecommunication services.

C. An order or other direction of a governmental authority, including a court of law, prohibiting the Company from furnishing the Services or otherwise adversely affecting the Company's ability to provide the Services.

D. Use of the Services for unlawful purposes or in such a manner that the use (i) harms or otherwise impairs the Company equipment or facilities or operation thereof, (ii) adversely affects the Services the Company provides to its other Customers, or (iii) causes the Company to be unable to record or bill for the Customer's usage of the Services in accordance with the Company's customary call recording and billing procedures.

E. Conditions beyond the control of the Company that necessitate cancellation of the Services.

F. Failure of the Customer to use the Services for three (3) consecutive months.

11. Limitation of the Company's Liability:

A. The entire liability of the Company for all claims of whatever nature arising out of the Company's provision of the Services and not caused by Customer's negligence, shall not exceed an amount equal to the proportionate fixed monthly charges to the Customer for the period of service during which any mistake, omission, interruption, delay, error, or defect in the Services or the Company's equipment, or any other event or action giving rise to a claim, occurs. The Company's liability for its willful misconduct, if any, is not limited by its tariffs. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR SPECIAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL DAMAGES. THE COMPANY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE SERVICES OR COMPANY EQUIPMENT, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

B. The Company shall not be liable for damages resulting from acts or omissions of any third party, or for charges billed by another carrier, including when such charges result from acts or omissions of any local exchange carrier or other carrier relating to the establishment of the Company as the Customer's primary interexchange carrier.

C. The Company shall not be liable for its failure to provide the Services or maintain its facilities where such failure is caused by labor difficulties, governmental orders, civil commotions, acts of God, or other circumstances beyond the Company's reasonable control.

12. Indemnification: The Company shall not be liable for and shall be indemnified and held harmless by the Customer against:

A. Claims for libel, slander, infringement of copyright or unauthorized use of any trademark, trade name, or servicemark arising out of material, data, information, or other content transmitted over the Carrier's facilities in the use of the Services.

B. Claims for patent infringement arising from combining or connecting Company facilities, equipment or systems with facilities, equipment and systems used by Customer.

C. Any loss, claims, suits, or other actions, or any liability whatsoever, whether suffered or asserted by the Customer or by any third party, for any personal injury to or death of any person, and for any loss, damage or destruction of the premises of the Customer or any other property, whether owned by the Customer or others, or for any incidental, special or consequential damages such as interruption to business claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of any equipment or material (including wiring) provided by the Company where such cause is not the direct result of the Company's intentional acts.

D. All claims arising out of any act or omission of the Customer in connection with the Services.

FOLLOWING ARE ADDITIONAL TERMS NOT CONTAINED IN THE COMPANY'S TARIFFS BUT WHICH ARE APPLICABLE TO THE COMPANY AND THE CUSTOMER.

13. Waiver: The waiver of any provision or breach of any provision under any of the Company's tariffs or any special contract with the Customer shall not constitute the waiver of any other provision or breach, whether or not similar, nor any subsequent breach of the same provision. The consent or approval by the Company to or of any act by the Customer shall not be deemed a waiver of the Company's consent or approval to or of any subsequent or similar act.

14. Severability: The illegality or unenforceability of any provision or portion of a Company tariff or a special contract with the Customer shall not affect the legality or enforceability of any other provision or portion. In the event any provision or portion of said tariffs or special contract shall be deemed illegal or unenforceable for any reason, there shall be deemed to be made such minimum change in such provision or portion as is necessary to make it valid and enforceable as so modified.

15. Notices: All notices necessary or desired to be given by one party to the other shall be in writing and shall be deemed given when personally delivered, sent by facsimile transmission or by ordinary, registered or certified mail, or by overnight mail confirmed by receipt. All notices to the Customer shall be sent to the most current address listed for the Customer in the Company's records and all notices to the Company shall be sent to the following address: Allnet Communication Services, Inc., 30300 Telegraph Road, Suite 350, Birmingham, Michigan 48010, Attn: Customer Service Department.

16. Binding Effect: The terms and conditions set forth in this document and in the Company tariffs, as they presently exist and as they may hereafter be amended by the Company, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, representatives and assigns.

17. Survival of Provisions: Any obligations of the Customer relating to monies owed the Company for the Services as well as those provisions relating to liability and indemnification shall survive cancellation of the Services.

18. Governing Law: Except as otherwise required by a tariff or law, this Agreement shall be governed by and interpreted in accordance with the laws of Michigan.

Allnet Communication Services, Inc.