

Elizabeth O'Donnell, Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd., PO Box 615  
Frankfort, KY 40602

CC via email to: Bill Feldman

*Re: Agreement for Interconnection For Transport and Termination of Telecommunications Traffic Between North Central Telephone Cooperative, Incorporated and New Cingular Wireless PCS, LLC d/b/a Cingular Wireless*

September 13, 2005

By Overnight Delivery

Dear Ms. O'Donnell:

Enclosed for filing are one original, a soft copy on diskette, and four (4) copies of the *Agreement for Interconnection For Transport and Termination of Telecommunications Traffic Between North Central Telephone Cooperative, Incorporated ) and New Cingular Wireless PCS, LLC d/b/a Cingular Wireless* ("Agreement") filed on behalf of North Central Telephone Cooperative, Incorporated ("NCTC") and New Cingular Wireless PCS, LLC (formerly known as AT&T Wireless PCS, LLC and successor to BellSouth Mobility, LLC and BellSouth Personal Communications, LLC), d/b/a Cingular Wireless ("Cingular"). This Agreement reflects the voluntary negotiations between Cingular and NCTC, pursuant to §252(a) of the Telecommunications Act of 1996 ("Act"), and is being submitted to the Kentucky Public Service Commission ("PSC") pursuant to § 252(e) of the Act.

As required under § 252(e)(4) of the Act, the PSC is required to approve or reject the Agreement within ninety (90) days after submission by the parties of an agreement adopted by negotiation under § 252(a) of the Act. Should the PSC neither approve nor reject the Agreement within ninety (90) days of the submission of the Agreement, it shall be deemed to be approved.

Please do not hesitate to contact me with any questions. I may be reached at 615-666-2151.

Sincerely,

Johnny McClanahan  
Interim CEO / General Manager

Enc.

**AGREEMENT  
FOR  
INTERCONNECTION  
FOR TRANSPORT AND TERMINATION OF  
TELECOMMUNICATIONS TRAFFIC**

**CMRS-LEC AGREEMENT**

**Between**

**NEW CINGULAR WIRELESS PCS, LLC**

**and**

**NORTH CENTRAL TELEPHONE COOPERATIVE INC.**

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**AGREEMENT FOR INTERCONNECTION  
FOR TRANSPORT AND TERMINATION OF TELECOMMUNICATIONS TRAFFIC  
(CMRS-LEC AGREEMENT)**

**Introduction**

Pursuant to this CMRS-LEC Agreement for Facilities-Based Network interconnection for Transport and Termination of Telecommunications Traffic, North Central Telephone Cooperative, Incorporated ("NCTC") and New Cingular Wireless PCS, LLC (formerly known as AT&T Wireless PCS, LLC and successor to BellSouth Mobility, LLC and BellSouth Personal Communications, LLC), d/b/a Cingular Wireless ("Cingular") will extend certain network arrangements to one another as specified below.

**Recitals**

WHEREAS, Cingular is a Commercial Mobile Radio Services ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide CMRS; and

WHEREAS, NCTC is a Local Exchange Carrier ("LEC") providing telecommunications services in the Commonwealth of Kentucky; and

WHEREAS, the Parties desire to interconnect their respective CMRS and LEC network facilities for the purpose of delivery of specific traffic for transport and termination on the other Party's network; and

WHEREAS, the Parties are entering into this Agreement to set forth the respective obligations and the terms and conditions under which they will interconnect their networks and provide other services as set forth herein.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NCTC and Cingular hereby agrees as follows:

**1.0 Definitions**

As used in this Agreement, the following terms shall have the meanings specified below in this Section 1.0. Any term used in this Agreement that is not specifically defined shall have the meaning ascribed to such term in the Communications Act of 1934, as amended. If no specific meaning exists for a specific term used in this Agreement, then normal usage in the telecommunications industry shall apply.

- .1 "Act" means the Communications Act of 1934, as amended.
- .2 "Affiliate" is As Defined in the Act.
- .3 "Central Office Switch" means a switch used to provide Telecommunications Services, including, but not limited to:
  - "End Office Switches" which are used to terminate lines from individual stations for the purpose of interconnection to each other and to trunks; and
  - "Tandem Office Switches" which are used to connect and switch trunk circuits between and among other Central Office Switches. A Central Office Switch may be employed as a combination End Office/Tandem Office Switch.

- .4 "Commercial Mobile Radio Service" or "CMRS" means Commercial Mobile Radio Service as defined in Part 20 of the FCC's Rules.
- .5 "Commission" means the Kentucky Public Service Commission.
- .6 "Common Channel Interoffice Signaling" or "CCIS" means the signaling system, developed for use between switching systems with stored-program control, in which all of the signaling information for one or more groups of trunks is transmitted over a dedicated high-speed data link rather than on a per-trunk basis, and, unless otherwise agreed by the Parties, the CCIS used by the Parties shall be Signaling System Seven ("SS7").
- .7 "DS1" is a digital signal rate of 1.544 Mbps (mega bits per second).
- .8 "DS3" is a digital signal rate of 44.736 Mbps.
- .9 "FCC" means the Federal Communications Commission.
- .10 "Information Service" is as defined in the Communications Act of 1934, as amended.
- .11 "Information Service Provider" or "ISP" is any entity, including but not limited to an Internet service provider, that provides information services.
- .12 "ISP Traffic" is traffic originated by an end user of one Party and delivered to the other Party for switching to an ISP.
- .13 "Interconnection" for purposes of this Agreement is the linking of the Cingular and NCTC networks for the delivery of traffic.
- .14 "Interexchange Carrier" or "IXC" means a carrier that provides, directly or indirectly, interMTA, interLATA or intraLATA Telephone Toll Services.
- .15 "Inter-MTA Traffic" is traffic originated by an end user on the network of either Cingular or NTCT in one MTA and terminated to an end user on the network of the other Party another MTA, at the beginning of the call.
- .16 "Local Exchange Carrier" or "LEC" is as defined in the Act.
- .17 "Major Trading Area" or "MTA" means Major Trading Area as used by the FCC in licensing CMRS.
- .18 "Mobile Switching Center" or "MSC" is a switching facility that performs the switching for the routing of calls among the CMRS provider's mobile subscribers and subscribers in other mobile or landline networks. The MSC is used by a CMRS provider to connect and switch trunk circuits within the wireless network and between the wireless network and the public switched network for wireless traffic.
- .19 "Multifrequency" means a signaling system for use between switching systems which uses a method of sending pulses over a circuit by using one pair of tones from a total set of five tones to encode each digit.
- .20 "NXX" means a three-digit code valid within an area code which appears as the first three digits of a seven-digit telephone number with the exception of the special 500, 600, 700, 800 and 900 codes and other similar special codes which may come into common usage in the future.

- .21 "Party" means either NCTC or Cingular, and "Parties" means NCTC and Cingular.
- .22 "Point of Connection" or "POC" is a mutually agreed upon point of demarcation between networks where the delivery of traffic from one Party to the other Party takes place.
- .23 "Rate Center" means the specific geographic point ("Vertical and Horizontal" ["V & H"] coordinates) and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to a LEC for its provision of basic exchange telecommunications services. The "rate center point" is the finite geographic point identified by a specific V & H coordinate, which is used to measure distance-sensitive end user traffic to/from, the particular NPA-NXX designations associated with the specific Rate Center. The "rate center area" is the exclusive geographic area identified within which the LEC provides basic exchange telecommunications service bearing the particular NPA-NXX designations associated with the specific Rate Center. The Rate Center point must be located within the Rate Center area. The use by a CMRS provider of a Rate Center V & H for mobile CMRS services has no specific geographic meaning.
- .24 "Subject Traffic" is telecommunications traffic that is subject to Section 251(b)(5) of the Act. For purposes of this Agreement, Subject Traffic is defined as traffic which is originated by an end user of one Party and terminates to an end user of the other Party within the same Major Trading Area ("MTA") at the beginning of the call, provided that the end user of Cingular is a CMRS customer and the traffic is delivered by either Party over the connecting facilities covered by this Agreement. Subject Traffic is defined under this Agreement only for the purpose of defining the scope of traffic that is subject to compensation under this Agreement pursuant to 47 C.F.R. § 51.701(e) of the FCC's rules. The definition and use of the term Subject Traffic for purposes of this Agreement has no effect on the definition of local traffic or the geographic area associated with local calling under either Party's respective end user service offerings.
- .25 "Telecommunications" is as defined in the Act.
- .26 "Telecommunications Act" means the Telecommunications Act of 1996.
- .27 "Telecommunications Carrier" is as defined in the Act.

## **2.0 Interpretation and Construction**

- .1 All references to Sections, Exhibits, Appendices and Schedules shall be deemed to be references to Sections of, and Exhibits, Appendices and Schedules to, this Agreement unless the context shall otherwise require. The headings of the Sections and the terms are inserted for convenience of references only and are not intended to be a part of or to affect the meaning of this Agreement. Unless the context shall otherwise require, any reference to any agreement, other instrument (including Cingular's, NCTC's or other third party offerings, guides or practices), statute, regulation, rule or tariff is for convenience of reference only and is not intended to be a part of or to affect the meaning of rule or tariff as amended and supplemented from time to time (and, in the case of a statute, regulation, rule or tariff, to any successor provision).
- .2 The Parties acknowledge that some of the services, facilities or arrangements described herein reference the terms of federal or state

tariffs of the Parties. Each Party hereby incorporates by reference those provisions of any tariff that governs any terms specified in this Agreement. If any provision contained in this main body of the Agreement and any Appendix hereto cannot be reasonably construed or interpreted to avoid conflict, the provision contained in this main body of this Agreement shall prevail. If any provision of this Agreement and an applicable tariff cannot be reasonably construed or interpreted to avoid conflict, the Parties agree that the provision contained in this Agreement shall prevail. This Agreement supersedes any prior agreements between the parties regarding the subject matter of this Agreement. For the avoidance of doubt, this Agreement does not supersede the Settlement Agreement regarding Third Party Transit Traffic Issues per Order in Case No. 2003-00045 filed with State Commission and stamped effective on May 1, 2004.

### 3.0 Scope

- .1 This Agreement sets forth the terms, conditions and prices under which the Parties agree to interconnect directly the CMRS network of Cingular and the LEC network of NCTC for the purposes of transporting and terminating certain traffic which may include:
  - .1.1 CMRS to LEC Subject Traffic that is: (a) originated on the CMRS network of Cingular; (b) delivered to the NCTC network over the connecting facilities pursuant to this Agreement; and (c) terminated on the incumbent LEC network of NCTC;
  - .1.2 LEC to CMRS Subject Traffic that is: (a) originated on the incumbent LEC network of NCTC; (b) delivered to Cingular over the connecting facilities pursuant to this Agreement; and (c) terminated on the CMRS network of Cingular;
  - .1.3 Inter-MTA Traffic that is: (a) originated on the network of one of the Parties; (b) delivered to one of the Parties over the connecting facilities pursuant to this Agreement; and (c) terminated on the network of one of the Parties;
- .2 This Agreement also provides for specific compensation between the Parties for the transport and termination of Subject Traffic on each Party's network as set forth in this Agreement. The specific provisions applicable to compensation for the Transport and Termination of Subject Traffic do not apply to any other types of traffic or in any other geographic area.
- .3 Subject Traffic does not include: (a) Inter-MTA Traffic as described in *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325 (released August 8, 1996) (*First Report and Order*) at paras 1036 & 1043 and footnote 2485. There will be no access services provided jointly between the Parties pursuant to this Agreement. To the extent applicable, the Parties will comply with the requirements of Section 251 (b)(3) of the Act with respect to Dialing Parity.
- .4 This Agreement only applies with respect to the traffic delivered over the connecting network arrangement(s) between the Parties. This Agreement only applies to traffic originated or terminated by Cingular to end users of its network that is located within the FCC licensed wireless service area of Cingular.

- .5 This Agreement does not obligate either Party to provide arrangements not specifically provided for herein. This Agreement has no effect on the definition of end user services that either Party offers to its end user customers, the services either Party chooses to offer to its respective end user customers, and rate levels or rate structures that either Party charges its end users for services.
- .6 Compensation for the Transport and Termination of Subject Traffic applies only to traffic exchanged by NCTC end-users and end users of Cingular's network. Neither Party shall provide an intermediary or transit traffic function for the other Party's connection of its end users to the end users of a third party telecommunications carrier without the consent of all parties and without the establishment of mutually agreeable terms and conditions governing the provision of the intermediary functions. This Agreement does not obligate either Party to utilize any intermediary or transit traffic function of the other Party. Traffic associated with any service that Cingular may provide to ISPs is excluded from this Agreement. This Agreement does not apply to traffic originated, terminated or carried by or on third party networks or to any other traffic not specifically identified in this Section 3.0.
- .7 Connecting facilities established pursuant to this Agreement shall not be used by either Party to deliver any traffic not specifically allowed under this Agreement in this Section 3.0. It will constitute a default of this Agreement for a Party to deliver, over the connecting network facilities, any traffic other than the traffic that is within the scope of this Agreement as specifically identified in this Section 3.0.

#### **4.0 Service Agreement**

- .1 Methods of Interconnection - The Parties agree to interconnect their respective networks within the incumbent LEC service area of NCTC at one or more Points of Connection as established by mutual agreement of the Parties. Interconnection will be provided through an appropriate NCTC tandem switching office or end office. The POC(s) will be set forth in Appendix A. NCTC shall make available, to Cingular at the POC(s), trunks over which Cingular can terminate traffic described in Section 3.1 and Appendix A. Cingular shall make available to NCTC at the POC(s) trunks over which NCTC can terminate traffic described in Section 3.1 and Appendix A. By mutual agreement, the Parties may interconnect on a bi-directional basis using two-way trunk groups between the Parties' networks. All interconnecting facilities will be at a DS1 level, multiple DS1 level or DS3 level and will conform to industry standards. This Agreement does not apply to, and interconnection pursuant to this Agreement cannot be used for, traffic originated, terminated or carried by or on third party networks. However, Cingular can purchase facilities from a third party. All methods of interconnection are subject to the compensation structure set forth in Section 5.0 and Appendix B. Cingular shall not route through the BellSouth tandem (or any other third-party provider) any traffic to be terminated by North Central, except for overflow traffic caused by abnormal demands on the network. In the event that any such overflow traffic is routed through the BellSouth tandem (or that of any other third-party provider), Cingular shall be responsible for payment to North Central at the reciprocal compensation rate set forth in the Appendix and Cingular will be responsible for any charges assessed by BellSouth (or any other third-party provider) for the switching and transport of such traffic.
- .2 Service Types - This Agreement provides for the following interconnection arrangements between the Parties for the purpose of delivery by one Party



of specific traffic for transport and termination on the other Party's network. The Parties will interconnect their respective networks based upon a Type 2A Service Interconnection ("Type 2A").

.2.1 Type 2A - Type 2A involves trunk side connections to appropriate NCTC tandem switching offices. Under a Type 2A arrangement, the interconnection facility acts like an interoffice trunk. Type 2A can by mutual agreement be used as a two-way service for originating and terminating traffic between the Parties' respective networks. This Agreement does not apply to, and Type 2A cannot be used for traffic originated or traffic terminated by third party customers.

.2.1.1 For traffic terminating on NCTC, Type 2A interconnection will be used by Cingular to access valid NXX codes associated with NCTC end offices that subtend the specific tandem office to which the Type 2A interconnection is made.

.2.1.2 The Type 2A interconnection may be used by NCTC Telephone to deliver traffic to valid NPA-NXXs of Cingular that are associated with rate center areas with which the originating end user of NCTC has local exchange or extended area service calling.

.2.1.3 The Parties agree that the delivery of traffic pursuant to Subsections 4.2.2.1 and 4.2.2.2 does not create legal or regulatory obligations for either Party that do not otherwise apply.

.3 Signaling - SS7 connectivity may be provided by mutual consent. SS7 connectivity will be provided in accordance with prevailing industry standards. The Parties agree to cooperate on the exchange of all appropriate SS7 messages for local call set-up, including ISDN User Part ("ISUP") and Transaction Capability User Part ("TCAP") messages to facilitate full interoperability of all CLASS features and functions between their respective networks. Any other SS7 message services to be provided using TCAP messages (such as data base queries) will be jointly negotiated and agreed upon. All SS7 signaling parameters will be provided in conjunction with traffic trunk groups, where and as available. These parameters include, but are not limited to, Automatic Number Identification ("ANI"), Calling Party Number ("CPN"), Privacy Indicator, calling party category information, charge number, etc. All parameters related to network signaling information will also be provided, such as Cingular Information Parameter ("CIP"), wherever such information is needed for call routing and billing. Each Party will honor all Privacy Indicators as required under applicable law. Cingular must interconnect, directly or indirectly, with the NCTC Signal Transfer Points ("STPs") serving the Local Service Area in which Local Service Area Traffic and intra-MTA traffic will be exchanged. NCTC may use a third party's STP and SCP facilities. Cingular may choose a third-party SS7 signaling provider to transport signaling messages to and from NCTC's SS7 network. In that event, Cingular's third-party provider must present a letter of agency to NCTC authorizing the third party to act on behalf of Cingular. The third-party provider for Cingular must interconnect with the NCTC STP(s) serving the geographic area in which the traffic exchange trunk groups are located. The Parties will share the costs associated with establishing SS7 connectivity between NCTC and Cingular. Where SS7

signaling is not available, in-band signaling shall be used in accordance with accepted industry standards.

## **5.0 Compensation Arrangements**

### **.1 Subject Traffic**

.1.1 Each Party shall pay the other Party for the Transport and Termination of Subject Traffic that either Party delivers to the other Party's network pursuant to the provisions of this Agreement. These charges and rates do not apply to any other types of traffic or for traffic delivered in any other areas other than those set forth in this Agreement and described in Appendix A.

.2 Rate Structure - A POC(s) will be established between the Parties' facilities-based networks as specified in Appendix A for the delivery of traffic described in Section 3.1. Cingular may obtain special access from NCTC subject to the rates, terms and conditions contained in NCTC's interstate access tariff for the purpose of the connection between the POC and NCTC's applicable tandem office or Cingular may obtain special access through a third party carrier. The charges for any special access provided by NCTC and billed by NCTC to Cingular will be divided as specified in Appendix A, to reflect the proportionate share of total usage of the facilities that is related to Subject Traffic originated by NCTC.

.3 Non-Recurring Charges - Cingular agrees to the non-recurring fees from NCTC for any additions to, or added capacity for, special access connecting facilities to be divided as specified in Appendix A, to reflect the proportionate share of the total usage of the facilities that is related to Subject Traffic originated by NCTC.

.4 Inter-MTA Traffic - The specific compensation arrangements set forth in this Agreement for Subject Traffic are not applicable to Inter-MTA traffic described in Section 3.1.3. Compensation for such Inter-MTA Traffic is governed by the terms and conditions of NCTC's applicable federal and state access tariffs.

.4.1 Cingular and NCTC will develop mutually acceptable percent usage factors for the relative amounts of Inter-MTA traffic and Subject Traffic delivered by Cingular over the connecting facilities pursuant to this Agreement as defined in Section 3.1. These percentage usage factors will apply to traffic exchanged between the parties and will be measured by NCTC. The Parties will work together to develop a mutually-agreeable auditable report, which shows, for traffic originated or terminated by Cingular to NCTC and exchanged over the connecting facilities pursuant to this Agreement, the ratio of Inter-MTA traffic to Subject Traffic for representative periods of time. The Parties agree that the original percent usage factors set forth in Appendix A will be used for a minimum of 12 months following the Effective Date. If a mutually-agreeable auditable report can be developed to identify and measure Inter-MTA Traffic and the Parties mutually agree to new traffic percentages based on a prior 12-month period, the percentages specified in Appendix A will be amended and applied to prospective periods.

- .4.2 The Parties recognize the Inter-MTA Traffic (defined in Section 3.1.3) may be both Interstate and Intrastate in nature. For the Inter-MTA Traffic, the Parties will develop mutually acceptable percent Interstate and Intrastate factors. The percentages are specified in Appendix A. The relative Interstate and Intrastate percentages will be applied for the duration of this Agreement. Interstate access charges will apply to the percentage of Inter-MTA Traffic that is interstate in nature; intrastate access charges will apply to the percentage of Inter-MTA Traffic that is intrastate in nature.
- .4.3 The designation of traffic as either Subject Traffic (for which Transport and Termination charges apply) or Inter-MTA traffic (for which access charges apply) for purposes of compensation pursuant to this Agreement shall be based on the actual originating and terminating points of the complete end-to-end call; to the extent such information is readily available to a Party or the Parties. For Cingular, the location of the initial cell site serving the mobile user at the beginning of the call shall be used as the originating or terminating point for the mobile user. For NCTC, the end office serving the end user shall be used as the originating or terminating point.
- .5 Traffic Distribution - The relative directionality and distribution of traffic with respect to the connecting facilities is set forth in Appendix A. The Parties agree to use the default percentages set forth in Appendix A for the application of charges pursuant to this Agreement for the duration of this Agreement.

## **6.0 Notice of Changes**

If a Party makes a change in its network which it believes will materially affect the interoperability of its network with the other Party, the Party making the change shall provide at least ninety (90) days advance written notice of such change to the other Party. In the event that the provision of ninety (90) days notice is not possible, the Party making the change shall provide notification within ten (10) business days after the determination to make the network change.

## **7.0 General Responsibilities of the Parties**

- .1 Thirty (30) days after the Effective Date of each quarter during the term of this Agreement, Cingular shall provide NCTC with a rolling six (6) calendar month, non-binding forecast of its traffic and volume requirements for the services provided under this Agreement and in the form and such detail as agreed by the Parties. The Parties agree that each forecast provided under this Section shall be deemed "Proprietary Information."
- .2 Each Party is individually responsible to provide facilities within its network which are necessary for routing, transporting and billing traffic from the other Party's network and for delivering of such traffic it receives in that mutually acceptable format to the proper address on its network. NCTC will be responsible for recording all calls over the joint facilities. Such facility shall be designed based upon the description provided under Section 4.0 above. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan. Each party will pay the other for terminating its Subject Traffic (as defined

in the Definitions Section of this Agreement) on the other's network the local interconnection rates as set forth in Appendix B. Charges for terminating traffic will be based upon accumulated conversation minutes, whole and partial, measured from receipt of answer supervision to receipt of disconnect supervision and rounded up to the next whole minute at the close of the billing period. Cingular will charge NCTC a percentage of the NCTC bill for the previous month for all mobile-originated usage. The initial percentage will assume that approximately Seventy Percent (70%) of the total traffic between the Parties is mobile-originated traffic terminated by NCTC Telephone, as shown on Appendix A attached hereto.

- .3 Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that prevents other persons from using their service or destroys the normal quality of service to other carriers or to either Party's customers, and subject to notice and a reasonable opportunity of the offending Party to cure any violation, either Party may discontinue or refuse service if the other Party violates this provision.
- .4 The characteristics and methods of operation of any circuits, facilities or equipment of one Party connected with the services, facilities or equipment of the other Party shall not interfere with or impair service over any facilities of the other Party, its affiliated companies or its connecting and concurring carriers involved in its services; or cause damage to the other Party's plant, impair the privacy of any communications carried over the facilities or create hazards to the employees of the other Party, its affiliated companies or its connecting and concurring carriers or the public.
- .5 If such characteristics or methods of operation are not in accordance with the preceding paragraph, either Party will notify the other Party that temporary discontinuance of the circuit, facility or equipment may be required; however, when prior notice is not practicable, either Party may forthwith temporarily discontinue the use of a circuit, facility or equipment if such action is reasonable under the circumstances. In such case of temporary discontinuance, either Party will promptly notify the other Party and provide the other Party with the opportunity to correct the condition which gave rise to the temporary discontinuance. No allowance for interruption will be applicable unless it is determined that the Party discontinuing service was not justified in doing so.
- .6 Each Party is solely responsible for the services it provides to its customers and to other telecommunications carriers.
- .7 Each Party is responsible for administering NXX codes assigned to it.
- .8 Each Party is responsible for obtaining Local Exchange Routing Guide ("LERG") listings of CLLI codes assigned to its switches.
- .9 Each Party shall use the LERG published by Bellcore or its successor for obtaining routing information and shall provide all required information to Bellcore or its successors for maintaining the LERG in a timely manner.
- .10 Each Party shall be responsible for programming and updating their separate networks to recognize and route traffic to valid NXX codes including those assigned to the other Party. Except as mutually agreed or as otherwise expressly defined in this Agreement, neither Party shall impose any fees or charges on the other Party for such activities.

- .11 At all times during the term of this Agreement, each Party shall keep and maintain in force at each Party's expense all insurance required by law (e.g., workers' compensation insurance) as well as general liability insurance for personal injury or death to any one person, property damage resulting from any one incident, automobile liability with coverage of bodily injury for property damage. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance (which may be provided through a program of self-insurance).
- .12 The physical connection of facilities, delivery of traffic and/or termination of traffic may be temporarily discontinued by either Party upon (30) days' written notice to the other Party for repeated or willful violation of or refusal to comply with any of the provisions of this Agreement if the party in violation has been previously notified and given a chance to cure the violation.
- .13 The Parties shall jointly develop a schedule for promptly implementing all requirements of this Agreement ("Implementation Schedule"). Both NCTC and Cingular shall use commercially reasonable efforts to comply with the Implementation Schedule.

## **8.0 Effective Date, Term and Termination**

- .1 NCTC shall file this Agreement with the State Commission upon full execution. This Agreement shall become effective upon State Commission approval of this Agreement. When the Agreement becomes effective, the provisions contained in Section 2.0 of this Agreement shall apply with respect to the interpretation and construction of this Agreement and its ongoing relation to other references, including subsequent tariffs.
- .2 The initial term of this Agreement shall be two (2) years from the effective date and shall then automatically renew on a year-to-year basis. Upon expiration of the initial term, either Party may terminate this Agreement by providing written notice of termination to the other Party, with such written notice to be provided at least sixty (60) days in advance of the date of termination.
  - .2.1 Post-Termination Arrangements. For service arrangements made available under this Agreement and existing at the time of termination, those arrangements will continue without interruption until a replacement agreement has been executed by the Parties either (a) under a new agreement voluntarily executed by the Parties; (b) under a new agreement negotiated or arbitrated pursuant to the provisions of the Act; or (c) under any agreement available according to the provisions of Section 252(i) of the Act, but in no case will the existing service arrangements continue for longer than 12 months following the date on which notice of termination is provided by either Party to the other.
- .3 Upon termination or expiration of this Agreement in accordance with this Section:
  - (a) each Party shall comply immediately with its obligations set forth above;
  - (b) each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement;

(c) each Party's indemnification obligations shall survive termination or expiration of this Agreement.

- .4 The arrangements pursuant to this Agreement including the provision of services or facilities shall immediately terminate upon the suspension, revocation or termination by other means of either Party's authority to provide services. For NCTC, authority involves the provision of local exchange or exchange access services. For Cingular, authority involves the provision of CMRS services under license from the Federal Communications Commission.
- .5 The services and facilities arrangements pursuant to this Agreement may be terminated by either Party upon not less than ten (10) days notice to the other Party for failure to pay undisputed amounts on the dates or times specified for the facilities and services furnished pursuant to this Agreement; provided an additional 5 days' prior written notice and opportunity to cure is provided after the end of the ten-day period.
- .6 Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party provided, however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) calendar days of receipt of written notice thereof. Default is defined to include:
- (a) A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or
  - (b) A Party's refusal or failure in any material respect properly to perform its obligations under this Agreement, or the violation of any of the material terms and conditions of this Agreement.
  - (c) Default as may be defined elsewhere in this Agreement.

## **9.0 Cancellation Charges**

Except as provided herein, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

## **10.0 Indemnification**

- .1 Each Party agrees to release, indemnify, defend and hold harmless the other Party from and against all losses, claims, demands, damages, expenses, suits or other actions, or any liability whatsoever related to the subject matter of this Agreement, including, but not limited to, costs and attorney's fees (collectively, a "Loss"), (a) whether suffered, made, instituted or asserted by any other party or person, relating to personal injury to or death of any person, defamation or for loss, damage to or destruction of real and/or personal property, whether or not owned by others, arising during the term of this Agreement and to the extent proximately caused by the acts or omissions of the indemnifying Party, regardless of the form of action, or (b) suffered, made, instituted or asserted by its own customer(s) against the other Party arising out of the other Party's provision of services to the indemnifying Party under this Agreement. Notwithstanding the foregoing indemnification, nothing in this Section 6.0 shall affect or limit any claims, remedies or other actions the indemnifying Party may have against the indemnified Party under this Agreement, any other contract, or any applicable Tariff(s) regulations or laws for the indemnified Party's provision of said services.

.2 The indemnification provided herein shall be conditioned upon:

(a) The indemnified Party shall promptly notify the indemnifying Party of any action taken against the indemnified Party relating to the indemnification.

(b) The indemnifying Party shall have sole authority to defend any such action, including the selection of legal counsel, and the indemnified Party may engage separate legal counsel only at its sole cost and expense.

(c) In no event shall the indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the indemnified Party, which consent shall not unreasonably withheld.

(d) The indemnified Party shall, in all cases, assert any and all provisions in its Tariffs or customer contracts that limit liability to third parties as a bar to any recovery by the third party claimant in excess of such limitation of liability.

(e) The indemnified Party shall offer the indemnifying Party all reasonable cooperation and assistance in the defense of any such action.

## **11.0 Limitation of Liability**

.1 Except in the instance of harm resulting from breaches of Section 14.4, Proprietary Information or an intentional misconduct or grossly negligent action of one Party, the Parties agree to limit liability in accordance with this Section 11. The liability of either Party to the other Party for damages arising out of failure to comply with a direction to install, restore or terminate facilities; or out of failures, mistakes, omissions, interruptions, delays, errors or defects occurring in the course of furnishing any services, arrangements or facilities hereunder shall be determined in accordance with the terms of the applicable tariff(s) of the providing Party. In the event no tariff(s) apply, the providing Party's liability shall not exceed an amount equal to the pro rata monthly charge for the period in which such failures, mistakes, omissions, interruptions, delays, errors or defects occur. Recovery of said amount shall be the injured Party's sole and exclusive remedy against the providing Party for such failures, mistakes, omissions interruptions, delays, errors or defects.<sup>9+</sup>

.2 Neither Party shall be liable to the other in connection with the provision or use of services offered under this Agreement for indirect, incidental, consequential, reliance or special damages, including (without limitation) damages for lost profits (collectively, "Consequential Damages"), regardless of the form of action, whether in contract, warranty, strict liability, or tort, including, without limitation, negligence of any kind, even if the other Party has been advised of the possibility of such damages; provided, that the foregoing shall not limit a Party's obligation under Section 10.

.3 The Parties agree that neither Party shall be liable to the customers of the other Party in connection with its provision of services to the other Party under this Agreement. Nothing in this Agreement shall be deemed to create a third party beneficiary relationship between the Party providing the service and the customers of the Party purchasing the service. In the event of a dispute involving both Parties with a customer of one Party, both Parties shall assert the applicability of any limitation on liability to customers that may be contained in either Party's applicable tariff(s) or customer contracts.

## **12.0 Compliance with Laws and Regulations**

- .1 Each Party shall comply with all federal, state and local statutes, regulations, rules, ordinances, judicial decisions and administrative rulings applicable to its performances under this Agreement. Each Party shall promptly notify the other Party in writing of any governmental action that suspends, cancels, withdraws, limits or otherwise materially affects its ability to perform its obligations hereunder.
- .2 The Parties understand and agree that this Agreement will be filed with the Commission. The Parties reserve the right to seek regulatory relief and otherwise seek redress from each other regarding performance and implementation of this Agreement. In the event the Commission rejects this Agreement, both Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the Agreement. Furthermore, this Agreement is subject to change, modification or cancellation, as may be required by a regulatory authority or court in the exercise of its lawful jurisdiction. Notwithstanding these mutual commitments, the Parties nevertheless enter into this Agreement without prejudice to any positions they have taken previously, or may take in the future in any legislative, regulatory or other public forum addressing any matters, including matters related specifically to this Agreement or other types of arrangements prescribed in this Agreement.

### **13.0 Disclaimer of Representation and Warranties**

EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, FUNCTIONS AND PRODUCTS IT PROVIDES UNDER OR CONTEMPLATED BY THIS AGREEMENT AND THE PARTIES DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, NEITHER PARTY ASSUMES ANY RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY THE OTHER PARTY WHEN THIS DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.

### **14.0 Miscellaneous**

#### **.1 Authorization**

- .1.1 NCTC is a corporation duly organized, validly existing and in good standing under the laws of the State of Tennessee and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, subject to necessary regulatory approval.
- .1.2 New Cingular Wireless PCS, LLC is a limited liability corporation duly organized, validly existing and in good standing under the laws of the State of Kentucky and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, subject to necessary regulatory approval.

#### **.2 Disclaimer of Agency; No Third Party Beneficiaries, Independent Contractor**

Neither this Agreement, nor any actions taken by either Party, in compliance with this Agreement, shall be deemed to create an agency or joint venture relationship between the Parties, or any relationship. Neither



this Agreement, nor any actions taken by either Party in compliance with this Agreement, shall create an agency, or any other type of relationship or third party liability between the Parties or between both Party and the customers of the other Party. This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder. Nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

- .3 Force Majeure - Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation: adverse weather conditions fire, explosion, power failure, acts of God, war, revolution, civil commotion or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or delays caused by the other Party; or any other circumstances beyond the Party's reasonable control. In such event, the affected Party shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interferences (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent such Party's obligations related to the performance so interfered with). The affected Party shall use its best efforts to avoid or remove the cause(s) of non-performance and both Parties shall proceed to perform with dispatch once the cause(s) are removed or cease.

.4 Treatment of Proprietary and Confidential Information

- .4.1 Both Parties agree that it may be necessary to provide each other during the term of this Agreement with certain confidential information, including, but not limited to, trade secrets, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data, call detail records and like information (hereinafter collectively referred to as "Proprietary Information"). Proprietary information shall remain the property of the disclosing Party. Both Parties agree that all Proprietary Information shall be in writing or other tangible form and clearly marked with a confidential, private or proprietary legend and that the Proprietary Information will be returned to the owner within a reasonable time. Both Parties agree that the Proprietary Information shall be utilized by the non-disclosing Party only to the extent necessary to fulfill the terms of this Agreement or upon such terms and conditions as may be agreed upon between the Parties in writing, and for no other purpose. Both Parties agree to receive such Proprietary Information and not to disclose such Proprietary Information. Both Parties agree to protect the Proprietary Information received from distribution, disclosure or dissemination to anyone except corporate affiliates, employees and duly authorized agents of the Parties

with a need to know such Proprietary Information and which affiliates, employees and agents agree to be bound by the terms of this Section. Both Parties will use the same standard of care to protect Proprietary Information received, as they would use to protect their own confidential and proprietary information.

.4.2 Notwithstanding the foregoing, both Parties agree that there will be no obligation to protect any portion of the Proprietary Information that is: 1) by a non-party to the Agreement; 2) lawfully obtained from any source other than the owner of the Proprietary Information; 3) publicly known through no wrongful act of the receiving Party; 4) previously known to the receiving Party without an obligation to keep it confidential; 5) required to be disclosed by any governmental authority or applicable law, provided reasonable prior notice is given to the other party; or 6) approved for release by written authorization of the disclosing Party.

.5 Choice of Law - The construction, interpretation, enforcement and performance of this Agreement shall be in accordance with the Act and the regulations promulgated thereunder, and to the extent not inconsistent with Federal law, with the laws of the State of Kentucky without regard to its conflict of laws and principles.

.6 Taxes

.6.1 It is the mutual understanding of the Parties to this Agreement that there are no taxes specifically applicable to the subject matter of this Agreement or to either Party as a result of entering into this Agreement that would not otherwise be applicable to each respective Party. In the event that any government authority, however, determines to the contrary that a tax or taxes are applicable to the subject matter of this Agreement, then the following provisions will apply:

.6.2 Definitions

.6.2.1 14.6.2.1 For purposes of this Subsection 11.6, the terms "taxes" and "fees" shall include but not limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights-of way, whether designated as franchise fees or otherwise) imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments thereof, excluding any taxes levied on income.

.6.2.2 The term "Providing Party" shall mean the Party whose rates apply to the transaction. The term "Purchasing Party" shall be the Party responsible for payment of compensation under this Agreement with respect to a transaction. The term "Selling Party" shall have the same meaning as Providing Party.

- .6.3 Taxes and Fees Imposed Directly on Either Seller or Purchaser
  - .6.3.1 Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the Providing Party to its customers, shall be borne and paid by the Providing Party.
  - .6.3.2 Taxes and fees imposed on the Purchasing Party, which are not required to be collected and/or remitted by the Providing Party, shall be borne and paid by the Purchasing Party.
- .6.4 Taxes and Fees Imposed on Purchaser but Collected and Remitted by Seller
  - .6.4.1 Taxes and fees imposed on the Purchasing Party shall be borne by the Purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the Providing Party.
  - .6.4.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the Purchasing Party remains liable for any such taxes and fees regardless of whether they are actually billed by the Providing Party at the time that the respective service is billed.
  - .6.4.3 If the Purchasing Party determines that in its opinion any such taxes or fees are not payable, the Providing Party shall not bill such taxes or fees to the Purchasing Party if the Purchasing Party provides written certification, reasonably satisfactory to the Providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefore, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the Purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the Providing Party, the Purchasing Party may contest the same in good faith, at its own expense. In any such contest, the Purchasing Party shall promptly furnish the Providing Party with copies of all filings in any proceeding, protest or legal challenge, all rulings issued in connection therewith, and all correspondence between the Purchasing Party and the taxing authority.
  - .6.4.4 In the event that all or any portion of any amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to such contest, the Purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

- .6.4.5 It is ultimately determined that any additional amount of such tax or fee is due to the imposing authority, the Purchasing Party shall pay such additional amount, including any interest and penalties thereon.
  - .6.4.6 Notwithstanding any provision to the contrary, the Purchasing Party shall protect indemnify and hold harmless (and defend at the Purchasing Party's expense) the Providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the Providing Party in connection with any claim for or contest of any such tax or fee.
  - .6.4.7 Each Party shall notify the other Party in writing of any assessment proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.
- .6.5 Taxes and Fees Imposed on Seller But Passed On to Purchaser
- .6.5.1 Taxes and fees imposed on the Providing Party, which are permitted or required to be passed on by the Providing Party to its customers, shall be borne by the Purchasing Party.
  - .6.5.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the Purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the Providing Party at the time that the respective service is billed.
  - .6.5.3 If the Purchasing Party disagrees with the Providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee. Notwithstanding the foregoing, the Providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the Purchasing Party shall abide by such determination and pay such taxes or fees to the Providing Party. The Providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees, provided, however, that any such contest

undertaken at the request of the Purchasing Party shall be at the Purchasing Party's expense.

.6.5.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of such tax or fee, or to avoid the existence of a lien on the assets of the Providing Party during the pendency of such contest, the Purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

.6.5.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the Purchasing Party shall pay such additional amount, including any interest and penalties thereon.

.6.5.6 Notwithstanding any provision to the contrary, the Purchasing Party shall protect, indemnify and hold harmless (and defend at the Purchasing Party's expense) the Providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the Providing Party in connection with any claim for or contest of any such tax or fee.

.6.5.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

.6.6 Mutual Cooperation - In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may be reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.

.7 Assignability - Either Party may, without the other Party's prior written consent, assign this Agreement to an Affiliate, including, without limitation, its parent or other Affiliate. All other assignments shall require the other Party's prior written consent; such consent shall not be unreasonably withheld upon the provision of reasonable evidence by the proposed assignee that it has the resources, ability and authority to provide satisfactory performance under this Agreement. Any assignment or delegation in violation of this Subsection 14.7 shall be void and ineffective and constitute a default of this Agreement. This Agreement shall be binding on and inure to the benefit of the Parties and their respective legal successors and permitted assignee.

.8 Billing and Payment; Disputed Amounts

- .8.1 Bills are due and payable upon receipt but become delinquent thirty (30) days following the postmarked bill date. Although it is the intent of both Parties to submit timely and accurate statements or charges, failure by either Party to present statements to the other Party in a timely manner shall not constitute a breach or default, or a waiver of the right to payment of the incurred charges, by the billing Party under this Agreement, and the billed Party shall not be entitled to dispute the billing Party's statement(s) based on such Party's failure to submit them in a timely fashion. Notwithstanding the foregoing, all charges under this agreement shall be billed within one (1) year from the time the charge was incurred, previously unbilled charges more than one (1) year old shall not be billed by either party, and shall not be payable by either party.
- .8.2 If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within thirty (30) days of its receipt of the invoice containing such disputed amount give notice to the Billing Party of the amount it disputes ("Disputed Amount") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due all undisputed amounts to the Billing Party.
- .8.3 If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within sixty (60) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative that has authority to settle the dispute and that is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however, all reasonable requests for relevant information made by one Party to the other Party shall be honored.
- .8.4 If the Parties are unable to resolve issues related to the Disputed Amounts within thirty (30) days after the Parties' appointment of designated representatives pursuant to Subsection 14.8.3, then either Party may file a complaint with the Commission to resolve such issues or proceed with any other remedy pursuant to law or equity.
- .8.5 The Parties agree that all negotiations pursuant to this Subsection 14.8 shall remain confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.
- .8.6 Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at one percent (1%) per month.

- .9 Dispute Resolution - Any dispute between the Parties regarding the interpretation or enforcement of this Agreement or any of its terms shall be addressed by good faith negotiation between the Parties, in the first instance. Should such negotiations fail to resolve the dispute in a reasonable time, either Party may initiate an appropriate action at the Kentucky Public Service Commission or a Kentucky judicial forum or upon mutual agreement, an acceptable arbitration process may be utilized.
- .10 Notices - Notices given by one Party to the other Party under this Agreement shall be in writing and shall be (i) delivered personally, (ii) delivered by express delivery service or requested to the following addresses of the Parties:

For: Cingular

Cingular Wireless  
Attn: Interconnection Manager  
5565 Glenridge Connector  
Suite 1520  
Atlanta, GA 30342

With Copy To:  
Cingular Wireless  
Attn: Sr. Network Counsel  
16331 NE 72<sup>nd</sup> Way (RTC 1)  
Redmond, WA 98052

To NCTC:

North Central Telephone Cooperative Corp.  
872 Highway 52 By-pass East  
Lafayette, TN 37083  
Attn: Regulatory Affairs

or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery or (iii) three (3) days after mailing in the case of first class or certified U.S. mail.

.11 Joint Work Product - The Agreement is the joint work product of the Parties and has been negotiated by the Parties and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

.12 No License

.12.1 Nothing in this Agreement shall be construed as the grant of a license, either express or implied, with respect to any patent, copyright, trademark, trade name, trade secret or any other proprietary or intellectual property now or hereafter owned, controlled or licensable by either Party. Neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual property right of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.

.12.2 Neither Party shall have any obligation to defend, indemnify or hold harmless or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other Party or its customers based on or arising from any claim, demand or proceeding by any third party alleging or asserting that the use of any circuit, apparatus or system, or the use of any software, or the performance of any service or method or the provision of any facilities by either Party under this Agreement, alone or in combination with that of the other Party, constitutes direct, vicarious or contributory infringement or inducement to infringe, misuse or misappropriation of any patent, copyright, trademark, trade secret or any other proprietary or intellectual property right of any Party or third party. Each Party, however, shall offer to the other reasonable cooperation and assistance in the defense of any such claim.

.12.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY THE PARTIES OF THE OTHER'S FACILITIES, ARRANGEMENTS OR SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM BY ANY THIRD PARTY OF INFRINGEMENT, MISUSE OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT OF SUCH THIRD PARTY.



- .13 Survival - The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.
- .14 Entire Agreement - This Agreement and any Exhibits, Appendices, Schedules or tariffs which are incorporated herein by this reference, sets forth the entire understanding and supersedes prior agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them, and neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby.
- .15 Non-Waiver - Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.
- .16 Publicity and Use of Trademarks or Service Marks - Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.
- .17 Severability - If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results, in the opinion of either Party, in a material change to this Agreement. If a material change as described in this paragraph occurs as a result of action by a court or regulatory agency, the Parties shall negotiate in good faith for replacement language that does not materially alter the economic effect of this Agreement on either Party. If replacement language cannot be agreed upon within a reasonable period, either Party may terminate this Agreement without penalty or liability for such termination upon written notice to the other Party.
- .18 Counterparts - This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- .19 Modification, Amendment, Supplement or Waiver - No modification, amendment, supplement to or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties. A failure or delay of either Party to enforce any of the provisions hereof, to exercise any option which is herein provided or to require performance of any of provisions hereof shall in no way be construed to be a waiver of such provisions or options.
- .20 Changes in Law - If any legislative, regulatory, judicial or other government decision, order, determination or action, or any change in law applicable to this Agreement materially affects any material provision of this Agreement, the rights or obligations of either Party herein, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend this Agreement in writing in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to applicable law.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be  
executed as of this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

New Cingular Wireless PCS, LLC.

North Central Telephone Cooperative, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: Michael F. Van Weelden

Printed: Johnny L. McClanahan

Title: Director SCM Network

Title: Interim CEO / General Manager

**DESIGNATION OF POINT (S) OF CONNECTION  
AND TRAFFIC DISTRIBUTION  
CMRS-LEC AGREEMENT**

This Exhibit specifies the Points of Connection ("POCs") pursuant to the Agreement for Facilities-Based Network Interconnection for Transport and Termination of Telecommunications Traffic (CMRS-LEC Agreement) between Cingular and NCTC, Incorporated and the relative directionality and distribution of traffic with respect to the connecting facilities associated with each POC as follows:

**Type 2A Interconnection**

POC #1 - For the exchange of LEC-CMRS two-way traffic between the Parties' networks within MTA 26 pursuant to this Agreement, the Parties agree to connect forty eight (48) trunks using two (2) DS1 facilities by means of cable at a junction point located at V and H coordinates: 6848 - 2681.

**Traffic Distribution**

For the total amount of two-way traffic delivered by the Parties over the connecting facilities, the Parties agree to the following distribution of traffic:

%Mobile-to-Land traffic terminating on NCTC's network =70%

%Land-to-Mobile traffic terminating on Cingular's network =30%

For the Seventy percent (70%) of total traffic terminating on NCTC's network, the Parties agree to the following distribution of traffic:

%Subject Traffic =98%

%Intrastate Inter-MTA Traffic =1%

%Interstate Inter-MTA Traffic =1%

For the Thirty percent (30%) of total traffic terminating on Cingular's network the Parties agree to the following distribution of traffic:

%Subject Traffic =100%

%Intrastate Inter-MTA Traffic =0%

%Interstate Inter-MTA Traffic =0%

Approved and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

New Cingular Wireless PCS, LLC.

North Central Telephone Cooperative, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: Michael F. Van Weelden

Printed: Johnny L. McClanahan

Title: Director SCM Network

Title: Interim CEO / General Manager

**SCHEDULE OF CHARGES PURSUANT TO THE AGREEMENT FOR  
FACILITIES-BASED NETWORK INTERCONNECTION FOR  
TRANSPORT AND TERMINATION OF LOCAL SERVICE AREA TRAFFIC  
CMRS-LEC AGREEMENT**

This Exhibit specifies the rates for the transport and termination of traffic delivered by one Party to the network of the other Party pursuant to the Agreement for Facilities-Based Network Interconnection for Transport and Termination of Local Service Area Traffic (CMRS-LEC Agreement) between Cingular and NCTC, Incorporated, as follows:

**Charges for Transport, Termination and Tandem Switching (for Local Service Area Traffic):**

Subject Traffic originated by Cingular and delivered to NCTC: The rate per terminating minute of use for all Kentucky end offices of NCTC through its Lafayette tandem switch:

\$0.0150/MOU

**Charges for Access Transport, Access Termination and Access Tandem Switching for Inter-MTA Traffic:**

Current NCTC Telephone's access tariffs in the proper jurisdiction apply.

**Special Access Connecting Facilities:**

The charges for any special access provided by NCTC to Cingular and billed by NCTC to Cingular pursuant to Section 5.2 will be reduced by 30%, and this percentage will be modified to reflect any revised traffic flow percentage, but under no circumstances will the charge be reduced by more than 50%.

Approved and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

New Cingular Wireless PCS, LLC.

North Central Telephone Cooperative, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: Michael F. Van Weelden

Printed: Johnny L. McClanahan

Title: Director SCM Network

Title: Interim CEO / General Manager