

## **Attachment 1**

### **Resale**

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## **RESALE**

### **1. Scope**

- 1.1 For the Purposes of the Agreement, Resale shall be provided under Section 251
- 1.2 The telecommunications services available for purchase by Midcontinent for the purposes of resale to Midcontinent's End User Customers shall be available at NDTc's tariffed rates less the wholesale discount and subject to the exclusions and limitations set forth in Exhibit A to this Agreement.

### **2. General Provisions**

- 2.1 All of the negotiated rates, terms and conditions set forth in this Attachment pertain to the resale of NDTc's retail telecommunications services and other services specified in this Attachment. Subject to effective and applicable FCC and Commission rules and orders, NDTc shall make available to Midcontinent for resale those telecommunications services NDTc makes available, pursuant to its Local Exchange Services Tariff (LEST) to End User Customer customers who are not telecommunications carriers as listed in Exhibit A. When the provisions of the LEST conflict with the provisions of this Agreement, the provisions of this Agreement shall take precedence.
- 2.2 Midcontinent may purchase resale services from NDTc for its own use in operating its business.
  - 2.2.1 Midcontinent must resell services to other End User Customers.
  - 2.2.2 Midcontinent cannot be a CLEC for the single purpose of selling to itself.
- 2.3 Midcontinent will be the Customer of Record for all services purchased from NDTc. Except as specified herein, NDTc will take orders from, bill and receive payment from Midcontinent for said services.
- 2.4 Midcontinent (not Midcontinent agents or third parties hired by Midcontinent) will be NDTc's single point of contact for all services purchased pursuant to this Agreement. NDTc shall have no contact with the End User Customer except to the extent provided for herein. Each Party shall provide to the other a North Dakota toll-free contact number for purposes of repair and maintenance.
- 2.5 NDTc will continue to bill the End User Customer for any services that the End User Customer specifies it wishes to receive directly from NDTc. NDTc maintains the right to serve directly any End User Customer within the service area of Midcontinent. NDTc will continue to market directly its own telecommunications products and services and in doing so may establish

independent relationships with End User Customers of Midcontinent. Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.

- 2.6 When an End User Customer of Midcontinent or NDTC elects to change his/her carrier to the other Party, both Parties agree to release the End User Customer's service to the other Party concurrent with the due date of the service order, which shall be established based on the standard interval for the End User Customer's requested service as set forth in the NDTC Operations Handbook.
- 2.7 Except where otherwise required by law, Midcontinent shall not, without NDTC's prior written authorization, offer the services covered by this Appendix using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of NDTC's or its Affiliates, nor shall Midcontinent state or imply that there is any joint business association or similar arrangement with NDTC in the provision of Telecommunications Services to Midcontinent's customers.
- 2.8 Current telephone numbers may normally be retained by the End User Customer and are assigned to the service furnished. However, neither Party nor the End User Customer has a property right to the telephone number or any other call number designation associated with services furnished by NDTC, and no right to the continuance of service through any particular central office. NDTC reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever NDTC deems it necessary to do so in the conduct of its business and in accordance with NDTC practices and procedures on a nondiscriminatory basis.
- 2.9 If Midcontinent or its End User Customers utilize a NDTC resold telecommunications service in a manner other than that for which the service was originally intended as described in NDTC's retail tariffs, Midcontinent has the responsibility to notify NDTC. NDTC will only provision and maintain said service consistent with the terms and conditions of the tariff describing said service.
- 2.10 Facilities and/or equipment utilized by NDTC to provide service to Midcontinent remain the property of NDTC.
- 2.11 Service Ordering
  - 2.11.1 Midcontinent must order services according to the Pre-ordering and Ordering Attachment to this Agreement.
  - 2.11.2 Denial/Restoral Charge. In the event Midcontinent provides a list of customers to be denied and restored, rather than a Local Service Request

(LSR), each location on the list will require a separate PON and therefore will be billed as one LSR per location.

- 2.11.3 Cancellation Charge. Midcontinent will incur a charge for an accepted LSR that is later canceled.
- 2.12 Midcontinent shall pay, the End User Customer common line charges and any other appropriate Commission approved charges. These charges are set forth in the appropriate NDTc federal and applicable state tariffs(s) and will apply to each local exchange line furnished to Midcontinent. This charge is not subject to the wholesale discount.
- 2.13 To the extent allowable by law, Midcontinent shall be responsible for Primary Interexchange Carrier (both PIC and LPIC) change charges associated with each local exchange line furnished to Midcontinent for resale.
- 2.14 Midcontinent is solely responsible for the payment of charges for all service furnished under this Agreement.
- 2.15 If Midcontinent does not wish to be responsible for toll, collect, third number billed, 900 calls, last call return, caller originated trace, directory assistance inquiries, and operator assistance charges, Midcontinent must order blocking services as outlined in NDTc's local exchange tariff and pay any applicable charges.

### **3. NDTc's Provision of Services to Midcontinent**

- 3.1 Resale of NDTc services shall be as follows:
  - 3.1.1 The resale of telecommunications services shall be limited to users and uses conforming to the class of service restrictions. Midcontinent shall not use resold local exchange telephone service to provide access services to Interexchange Carriers (IXCs), wireless carriers, competitive access providers (CAPs), or other telecommunication service providers or voice over internet protocol companies.
  - 3.1.2 Service is furnished subject to the condition that it will not be used for any unlawful purpose.
  - 3.1.3 Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.
  - 3.1.4 NDTc can refuse service when it has grounds to believe that service will be used in violation of the law.

- 3.1.5 NDTc will cooperate with law enforcement agencies with subpoenas and court orders relating to Midcontinent's End User Customers, pursuant to Section 21 of the General Terms and Conditions.
- 3.1.6 NDTc is authorized, but not required to cooperate with law enforcement agencies with respect to their investigation of any alleged unlawful activity of Midcontinent or its End User Customers. Law enforcement agency subpoenas and court orders regarding the End User Customers of Midcontinent will be directed to Midcontinent. NDTc shall be entitled to bill Midcontinent for any cost associated with complying with any requests by law enforcement agencies regarding Midcontinent or Midcontinent's End User Customers.
- 3.1.7 NDTc reserves the right to periodically audit services purchased by Midcontinent to establish authenticity of use. Such audit shall not occur more than once in a calendar year. Midcontinent shall make any and all records and data available to NDTc or NDTc's auditors on a reasonable basis. NDTc shall bear the cost of said audit. Any information provided by Midcontinent for purposes of such audit shall be deemed Confidential Information pursuant to the General Terms and Conditions of this Agreement.
- 3.2 Subject to Exhibit A hereto, resold services can only be used in the same manner as specified in NDTc's Tariffs. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual End User Customer of NDTc in the appropriate section of NDTc's Tariffs. Specific tariff features (e.g. a usage allowance per month) shall not be aggregated across multiple resold services or End User Customers.
- 3.3 Midcontinent may resell services only within the specific service area as defined in Exhibit B. Midcontinent must have a certificate of operation approved by the Commission to operate in such areas.
- 3.4 Promotions of ninety (90) days or less are not available to CLEC for resale. Promotions of ninety-one (91) days or more are available to CLEC for resale.
- 3.5 If Midcontinent cancels an order for resold services, any costs incurred by NDTc in conjunction with provisioning of such order will be recovered in accordance with NDTc's LEST.
- 3.6 Service Jointly Provisioned within Third Party Company Areas
  - 3.6.1 NDTc will in some instances provision resold services in accordance with the LEST jointly with a third party telecommunications company.

- 3.6.2 When Midcontinent assumes responsibility for such service, all terms and conditions defined in the Tariff will apply for services provided within the NDTC service area only.
- 3.6.3 Midcontinent must establish a billing arrangement with the third party prior to assuming an End User Customer account where such circumstances apply.

#### **4. Establishment of Service**

- 4.1 After receiving certification as a local exchange carrier from the applicable regulatory agency, Midcontinent will provide NDTC the necessary documentation to enable NDTC to establish accounts for resold services (master account) according to the NDTC Operations Handbook.
- 4.2 Requests for customer service records and local service requests shall be accepted in accordance with the Ordering Attachment.
- 4.3 NDTC will accept a request directly from the End User Customer for conversion of the End User Customer's service from Midcontinent to NDTC or will accept a request from another CLEC/CMRS for conversion of the End User Customer's service from Midcontinent to such other CLEC/CMRS. Upon completion of the conversion NDTC will notify Midcontinent that such conversion has been completed.

#### **5. Discontinuance of Service**

- 5.1 The procedures for discontinuing service to an End User Customer are as follows:
  - 5.1.1 NDTC will deny service to Midcontinent's End User Customer on behalf of, and at the request of, Midcontinent. Upon restoration of the End User Customer's service, denial/restoral charges will apply and will be the responsibility of Midcontinent.
  - 5.1.2 At the request of Midcontinent, NDTC will disconnect a Midcontinent End User Customer.
  - 5.1.3 All requests by Midcontinent for denial or disconnection of an End User Customer for nonpayment must be in writing.
  - 5.1.4 Midcontinent will be made solely responsible for notifying the End User Customer of the proposed disconnection of the service.
  - 5.1.5 NDTC may report annoyance calls to Midcontinent when it is determined that annoyance calls are originated from one of its End User Customer's

locations. NDTc shall be indemnified, defended and held harmless by Midcontinent and/or the End User Customer against any claim, loss or damage arising from providing this information to Midcontinent. It is the responsibility of Midcontinent to take the corrective action necessary with its End User Customers who make annoying calls. (Failure to do so will result in NDTc's disconnecting the End User Customer's service.)

5.2 Permanent Disconnects. Midcontenent will return the disconnected resale number immediately following the disconnect. NDTc will be responsible for the message and aging of the number. Both service order and central office non-recurring charges are not applicable.

## 6. **Maintenance of Services**

6.1 Services resold pursuant to this Agreement and NDTc's LEST and facilities and equipment provided by NDTc shall be maintained by NDTc.

6.2 Midcontinent or its End User Customers may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by NDTc except with the written consent of NDTc.

6.3 Midcontinent accepts responsibility to notify NDTc of situations that arise that may result in a service problem.

6.4 Maintenance and repair process is addressed in the Ordering Attachment.

6.5 For all repair requests, Midcontinent shall adhere to NDTc's prescreening guidelines prior to referring the trouble to NDTc.

6.6 Midcontinent shall be NDTc's single point of contact for all repair calls on behalf of Midcontinent' End User Customers with respect to resold services.

6.6 For purposes of this Section, Telecommunications Services is considered restored or a trouble resolved when the quality of services is equal to that provided before the outage or trouble occurred.

6.7 NDTc reserves the right to contact Midcontinent's End User Customers, if deemed necessary, for maintenance purposes.

6.8 In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use these repair calls as the basis for internal referrals or to solicit customers to market services. Either Party may respond with accurate information in answering customer questions.

## 7. Ancillary Services

- 7.1 NDTC shall provide 911/E911 for Midcontinent customers in the same manner that it is provided to NDTC customers. NDTC shall provide and validate Midcontinent customer information to the Public Service Answering Point (PSAP). NDTC shall use its service order process to update and maintain, on the same schedule that it uses for its customers, the Midcontinent customer service information in the ALI/DMS (Automatic Location Identification/Location Information) databases used to support 911/E911 services. NDTC shall not be responsible for any failure of Midcontinent to provide accurate End User Customer information for 911 or listings in any databases in which NDTC is required to retain and/or maintain such information.
- 7.2 Directory
  - 7.2.1 Subject to NDTC's practices, as well as the rules and regulations applicable to the provision of White Pages directories, NDTC will include in appropriate White Pages directories the primary alphabetical listings of all Midcontinent End User Customers located within the local directory scope. The rules, regulations and NDTC practices are subject to change from time to time.
  - 7.2.2 Additional Listing services, as set forth in Appendix Pricing, may be purchased by Midcontinent for its End User Customers on a per listing basis.
  - 7.2.3 Liability relating to End User Customer Listings
    - 7.2.3.1 Midcontinent hereby releases NDTC from any and all liability for damages due to errors or omissions in Midcontinent's End User Customer listing information as provided to NDTC under this Attachment, and/or Midcontinent's End User Customer listing information as it appears in the White Pages directory, including, but not limited to, special, indirect, consequential, punitive or incidental damages.
    - 7.2.3.2 Midcontinent shall indemnify, protect, save harmless and defend NDTC and NDTC's officers, employees, agents, representatives and assigns from and against any and all losses, liability, damages and expense arising out of any demand, claim, suit or judgment by a Third Party in any way related to any error or omission in Midcontinent's End User Customer listing information, including any error or omission related to non-published or non-listed End

User Customer listing information. Midcontinent shall so indemnify regardless of whether the demand, claim or suit by the third party is brought jointly against Midcontinent and NDTC, and/or against NDTC alone. However, if such demand, claim or suit specifically alleges that an error or omission appears in Midcontinent's End User Customer listing information in the White Pages directory, NDTC may, at its option, assume and undertake its own defense, or assist in the defense of Midcontinent, in which event Midcontinent shall reimburse NDTC for reasonable attorney's fees and other expenses incurred by NDTC in handling and defending such demand, claim and/or suit.

7.2.4 Each Midcontinent subscriber will receive one copy per primary End User Customer listing of NDTC's White Pages directory in the same manner and at the same time that they are delivered to NDTC's subscribers.

7.3 Operator Services (Operator Call Processing and Directory Assistance)

7.3.1 NDTC Contracts with a Third Party for Operator Call Processing, (OCP) which provides operator handling for call completion (for example, collect, third number billing, and manual calling-card calls).

7.3.2 Upon request from Midcontinent for OCP, NDTC shall route calls to the Third Party Operator Services Provider for Call Processing. NDTC shall charge Midcontinent the same rates as other NDTC local service customers are charged for the following OCP services:

7.3.2.1 Process calls that are billed to Midcontinent End User Customer's calling card.

7.3.2.2 Process person-to-person calls.

7.3.2.3 Process collect calls.

7.3.2.4 Provide the capability for callers to bill a third party and shall also process such calls.

7.3.2.5 Process station-to-station calls.

7.3.2.6 Process operator-assisted DA calls.

7.3.2.7 Adhere to equal access requirements, providing Midcontinent local End User Customers the same IXC access that NDTC provides its own operator service.

- 7.3.2.8 Exercise at least the same level of fraud control in providing Operator Service to Midcontinent that NDTc provides for its own operator service.
- 7.3.2.9 Perform Billed Number Screening when handling Collect, Person-to-Person, and Billed-To-Third-Party calls.

#### 7.4 Directory Assistance Service

- 7.4.1 DA Service provides local and non-local End User Customer telephone number listings with the option to complete the non-local call at the caller's direction separate and distinct from local switching.
- 7.4.2 DA Service shall provide up to two listing requests per call, if available and if requested by Midcontinent's End User Customer at rates charged to other NDTc customers. NDTc shall provide caller-optional directory assistance call completion service at rates set by third party service provider.

#### 7.4.3 Directory Assistance Service Updates

- 7.4.3.1 NDTc shall update End User Customer listings changes on the same schedule as NDTc updates its own customer listings. These changes include:
  - 7.4.3.1.1 New End User Customer connections
  - 7.4.3.1.2 End user disconnections
  - 7.4.3.1.3 End user address changes
- 7.4.3.2 These updates shall also be provided for non-listed and non-published numbers for use in emergencies.

#### 7.5 Selective Call Routing using Line Class Codes (SCR-LCC)

NDTC is capable of providing SCR-LCC to Midcontinent so that Midcontinent can directly provide operator services to the resold customers. If Midcontinent decides to purchase this service, terms and conditions and pricing shall be negotiated between the Parties.

- 7.5.1 The interface requirements shall conform to the interface specifications for the platform used to provide Operator Services as long as the interface conforms to industry standards.

**8. Line Information Database**

- 8.1 NDTc will store in its Line Information Database (LIDB) records relating to service only in the NDTc region. The LIDB Storage Agreement is included in this Attachment as Exhibit C.
- 8.2 NDTc will provide LIDB Storage upon written request to Midcontinent's Account Manager stating a requested activation date.

**9. Usage Records**

- 9.1 NDTc shall bill Midcontinent for all the usage of operator assistance or directory services generated by their End User Customers.
- 9.2 NDTc will provide Usage Data for completed calls only for service offerings that NDTc records for itself (e.g., Local Measured Services) and recordings performed on behalf of NDTc for operator services and directory assistance.
- 9.3 The usage information shall be provided once per month on a paper bill.

Exhibit A

**EXCLUSIONS & LIMITATIONS ON SERVICES AVAILABLE FOR RESALE**

	Type of Service	North Dakota	
		Resale	Discount
1	Grandfathered Services (Note 1)	Yes	Yes
2	Promotions - > 90 Days (Note 2)	Yes	Yes
3	Promotions - $\leq$ 90 Days (Note 2)	No	No
4	N11 Services	No	No
5	Federal Subscriber Line Charges	Yes	No
6	Nonrecurring Charges	Yes	No
7	Public Telephone Access Svc (PTAS)	Yes	Yes
8	Voice Mail	No	No
9	Private Line including FX (Note 3)	No	No
10	Employee Discount	No	No
11	Centrex	No	No
12	Line of Information	No	No
13	Joint Use Service	No	No
14	Special Billing Number	No	No
15	Lifeline (Note 4)	No	No
16	Deregulated services – Inside wire, ISP, Toll, etc.	No	No
17	Volume Discounts	No	No

**Applicable Notes:**

1. Grandfathered services can be resold only to existing subscribers of the grandfathered service.
2. Where available for resale, promotions will be made available only to End User Customers who would have qualified for the promotion had it been provided by NDTc directly.
3. Midcontinent can order services from the access tariff
4. Midcontinent would apply directly for Lifeline support

## **AREA OF RESALE**

### **Exchange Name**

Devils Lake, North Dakota

## **LINE INFORMATION DATA BASE (LIDB)**

### **RESALE STORAGE AGREEMENT**

#### **I. Definitions (from Exhibit)**

- A. Billing number - a number used by NDTc for the purpose of identifying an account liable for charges. This number may be a line or a special billing number.
- B. Line number - a ten-digit number assigned by NDTc that identifies a telephone line associated with a resold local exchange service.
- C. Special billing number - a ten-digit number that identifies a billing account established by NDTc in connection with a resold local exchange service.
- D. Calling Card number - a billing number plus PIN number assigned by NDTc.
- E. PIN number - a four-digit security code assigned by NDTc that is added to a billing number to compose a fourteen-digit calling card number.
- F. Toll billing exception indicator - associated with a billing number to indicate that it is considered invalid for billing of collect calls or third number calls or both, by Midcontinent.
- G. Billed Number Screening - refers to the query service used to determine whether a toll billing exception indicator is present for a particular billing number.
- H. Calling Card Validation - refers to the query service used to determine whether a particular calling card number exists as stated or otherwise provided by a caller.
- I. Billing number information - information about billing number or Calling Card number as assigned by NDTc and toll billing exception indicator provided to NDTc by Midcontinent.
- J. Get-Data - refers to the query service used to determine, at a minimum, the Account Owner and/or Regional Accounting Office for a line number. This query service may be modified to provide additional information in the future.
- K. Originating Line Number Screening (OLNS) - refers to the query service used to determine the billing, screening and call handling indicators, station type and Account Owner provided to NDTc by Midcontinent for originating line numbers.
- L. Account Owner - name of the local exchange telecommunications company that is providing dialtone on a subscriber line.

## II. General

- A. This Agreement sets forth the terms and conditions pursuant to which NDTC agrees to store in its LIDB certain information at the request of Midcontinent and pursuant to which NDTC, its LIDB customers and Midcontinent shall have access to such information. In addition, this Agreement sets forth the terms and conditions for Midcontinent's provision of billing number information to NDTC for inclusion in NDTC's LIDB. Midcontinent understands that NDTC provides access to information in its LIDB to various telecommunications service providers pursuant to applicable tariffs and agrees that information stored at the request of Midcontinent, pursuant to this Agreement, shall be available to those telecommunications service providers. The terms and conditions contained herein shall hereby be made a part of this Agreement upon notice to Midcontinent's account team and/or Local Contract Manager activate this LIDB Storage Agreement. The General Terms and Conditions of the Agreement shall govern this LIDB Storage Agreement.
- B. The Midcontinent LIDB information shall be used for the following purposes:
  - 1. Billed Number Screening. NDTC is authorized to use the billing number information to determine whether Midcontinent has identified the billing number as one that should not be billed for collect or third number calls.
  - 2. Calling Card Validation. NDTC is authorized to validate a 14-digit Calling Card number where the first 10 digits are a line number or special billing number assigned by NDTC, and where the last four digits (PIN) are a security code assigned by NDTC.
  - 3. OLNS. NDTC is authorized to provide originating line screening information for billing services restrictions, station type, call handling indicators, presubscribed interLATA and local carrier and account owner on the lines of Midcontinent from which a call originates.
  - 4. GetData. NDTC is authorized to provide, at a minimum, the account owner and/or Regional Accounting Office information on the lines of Midcontinent indicating the local service provider and where billing records are to be sent for settlement purposes. This query service may be modified to provide additional information in the future.

## III. Responsibilities of the Parties

- A. NDTC will administer all data stored in the LIDB, including the data provided by Midcontinent pursuant to this Agreement, in the same manner as NDTC's data for NDTC's End User Customer customers. NDTC shall not be responsible to Midcontinent for any lost revenue which may result from NDTC's administration

of the LIDB pursuant to its established practices and procedures as they exist and as they may be changed by NDTC in its sole discretion from time to time.

**B. Billing and Collection Customers**

NDTC currently has in effect numerous billing and collection agreements with various interexchange carriers (IXCs) and billing clearing houses and as such these billing and collection customers (B&C Customers) query NDTC's LIDB to determine whether to accept various billing options from End User Customers. Until such time as NDTC implements in its LIDB and its supporting systems the means to differentiate Midcontinent's data from NDTC's data, the following shall apply:

1. NDTC will identify Midcontinent End User Customer originated long distance charges and will return those charges to the IXC as not covered by the existing B&C agreement. Midcontinent is responsible for entering into the appropriate agreement with IXCs for handling of long distance charges by their End User Customers.
2. NDTC shall have no obligation to become involved in any disputes between Midcontinent and B&C Customers. NDTC will not issue adjustments for charges billed on behalf of any B&C Customer to Midcontinent. It shall be the responsibility of Midcontinent and the B&C Customers to negotiate and arrange for any appropriate adjustments.

**IV. Fees for Service and Taxes**

- A. Midcontinent will not be charged a fee for storage services provided by NDTC to Midcontinent, as described in this LIDB Resale Storage Agreement.
- B. Sales, use and all other taxes (excluding taxes on NDTC's income) determined by NDTC or any taxing authority to be due to any federal, state or local taxing jurisdiction with respect to the provision of the service set forth herein will be paid by Midcontinent in accordance with the tax provisions set forth in the General Terms and Conditions of this Agreement.

