

GENERAL TERMS AND CONDITIONS
BETWEEN
Consolidated Telcom
AND
Midcontinent Communications

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AGREEMENT

THIS AGREEMENT ("Agreement") is effective upon approval by the Commission (the "Effective Date"), by and between Midcontinent Communications, a South Dakota Partnership ("Midcontinent") with offices at 5011 W 41st street, Sioux Falls, SD 57106 and Consolidated Telcom ("Consolidated") with offices at PO Box 1408, Dickinson, ND 58602. This Agreement may refer to either Consolidated or Midcontinent or both as a "Party" or "Parties."

WITNESSETH

WHEREAS, Consolidated is an Incumbent local exchange telecommunications company authorized to provide telecommunications services in the state of North Dakota; and

WHEREAS, Midcontinent is a competitive local exchange telecommunications company ("CLEC") authorized to provide telecommunications services in the state of North Dakota; and

WHEREAS, the Parties wish to provide for resale services specifically for the purposes of fulfilling their obligations pursuant to Sections 251 of the Telecommunications Act of 1996 ("the Act").

NOW THEREFORE, in consideration of the mutual agreements contained herein, Consolidated and Midcontinent agree as follows:

1. Purpose

The Parties agree that the rates, terms and conditions contained within this Agreement, including all Attachments, comply and conform to each Party's obligations under Sections 251 of the Act.

2. Term of the Agreement

2.1 The initial term of this Agreement shall be two years ("Initial Term"), beginning on the above Effective Date. If, as of the expiration of this Agreement, a subsequent agreement has not been executed by the Parties, this Agreement shall automatically renew for successive six-month periods, unless, not less than one hundred twenty (120) days prior to the end of the Initial Term or any renewal term, either Party notifies the other Party of its intent to renegotiate a new agreement. In the event of such renegotiation, this Agreement shall remain in effect until such time that a subsequent agreement becomes effective. If the Parties cease to order services under this Agreement, then either Party may terminate this Agreement upon thirty (30) days written notice.

3. Termination of the Agreement

3.1 Termination Upon Default

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 has notified the defaulting Party in writing of the alleged default and the defaulting Party has not cured the alleged default within thirty (30) calendar days of receipt of written notice thereof. Default is defined to include:

- 3.1.1 A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or
- 3.1.2 A Party's refusal or failure in any material respect to properly perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement.
- 3.1.3 A Party's assignment of any right, obligation, or duty, in whole or in part, or of any interest, under this Agreement without any consent required under Section 6 below.

3.2 Liability Upon Termination

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

4. Contact Exchange

The Parties agree to exchange and to update contact and referral numbers for order inquiry, trouble reporting, billing inquiries, and information required to comply with law enforcement and other security agencies of the government.

5. Amendments

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

6. Assignment

This Agreement shall be binding upon the Parties and shall continue to be binding upon all such entities regardless of any subsequent change in their ownership. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. Each Party covenants that, if it sells or otherwise transfers to a third party, unless the Party which is not the subject of the sale or transfer reasonably determines that the legal structure of the transfer vitiates any such need, it will require as

a condition of such transfer that the transferee agree to be bound by this Agreement with respect to services provided over the transferred facilities. Except as provided in this paragraph, neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party which consent will not be unreasonably withheld; provided that either Party may assign this Agreement to a corporate Affiliate or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party. Any attempted assignment or transfer that is not permitted is void *ab initio*. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

7. Authority

Each person whose signature appears on this Agreement represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement. Each Party represents he or she has had the opportunity to consult with legal counsel of his or her choosing.

8. Responsibility for Payment

Consolidated will render to Midcontinent monthly bill(s) for interconnection and facilities provided hereunder at the rates set forth in the Consolidated's Exchange and Network Price Schedule (Price Schedule). Midcontinent shall pay bills in accordance with terms of this Agreement. In the event that Midcontinent defaults on its payment obligation to Consolidated, Consolidated service to Midcontinent will be terminated and any security deposits held will be applied to the outstanding balance owed by Midcontinent to Consolidated.

9. Billing and Payment

9.1 In consideration of the services and facilities provided under this Agreement, the Parties shall bill each other on a monthly basis all applicable charges set forth in this Agreement or in Consolidated's Price Schedule. The Party billed ("Billed Party") shall pay to the invoicing Party ("Billing Party") all undisputed amounts within twenty (20) days from the bill date. If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the prior business day.

9.2 Billing Disputes Related to Unpaid Amounts:

- 9.2.1 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 written notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The dispute shall be resolved in accordance with the Dispute Resolution Section 13. The Non-Paying Party shall pay when due all undisputed amounts to the Billing Party. The Parties will work together in good faith to resolve issues relating to the disputed amounts. If the dispute is resolved such that payment is required, the Non-Paying Party shall pay the disputed amounts with interest at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under North Dakota's applicable law. If the billed Party has paid the Disputed Amounts and the dispute is resolved such that a refund is required, the Billing Party shall refund the disputed amounts with interest at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under North Dakota's applicable law in either case calculated from the date the dispute was raised. In addition, the Billing Party may cease terminating traffic for the Non-Paying Party after undisputed amounts not paid become more than 90 days past due, provided the Billing Party gives 30 days' written notice prior to ceasing to terminate traffic and opportunity to cure the default.
- 9.2.2 Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under North Dakota's applicable law.
- 9.2.3 Issues related to Disputed Amounts shall be resolved in accordance with all of the applicable procedures identified in the Dispute Resolution provisions set forth in Section 13 of this Agreement.
- 9.3 Except for amounts disputed pursuant to Section 9.2 herein, the following shall apply:
- 9.3.1 If payment is not received within thirty (30) days from the bill date, Consolidated may provide written notice to Midcontinent that additional applications for service will be refused, and that any pending orders for service will not be completed if payment is not received by the fifteenth (15th) day following the date of the notice. If Consolidated does not refuse additional application for service on the date specified in the notice, and Midcontinent's noncompliance continues, nothing contained herein shall preclude Consolidated's right to refuse additional application for service without further notice.

9.3.2 If Midcontinent fails to make any payment following the notice under Section 9.3.1, Consolidated may on thirty (30) days written notice to Midcontinent discontinue the provision of existing services to Midcontinent at any time thereafter. Notice shall be as provided in Section 26 below. In the case of such discontinuance, all billed charges, as well as applicable termination charges, shall become due. If Consolidated does not discontinue the provision of the services involved on the date specified in the thirty (30) days notice, and Midcontinent noncompliance continues, nothing contained herein shall preclude Consolidated's right to discontinue the provision of the services to Midcontinent without further notice.

9.3.3 If payment is not received within sixty (60) day of notice under Section 9.3.2, Consolidated may terminate this Agreement.

9.3.4 After disconnect procedures have begun, Consolidated shall not accept service orders from Midcontinent until all unpaid charges are paid in full in immediately available funds.

9.4 Audits:

Either Party may conduct an audit of the other Party's books and records pertaining to the services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing, data, and invoicing in accordance with this Agreement. Any audit shall be performed as follows: (i) following at least thirty (30) days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.

10. Compliance with Laws and Regulations

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

11. Confidential Information

11.1 Any information such as specifications, drawings, sketches, business information, forecasts, models, samples, data, computer programs and other software and documentation of one Party (a Disclosing Party) that is furnished or made available or otherwise disclosed to the other Party or any of its employees, contractors, or agents (its "Representatives" and with a Party, a "Receiving Party") pursuant to this Agreement ("Proprietary Information") shall be deemed the property of the Disclosing Party. Proprietary Information, if written, shall be

clearly and conspicuously marked "Confidential" or "Proprietary" or other similar notice, and, if oral or visual, shall be confirmed in writing as confidential by the Disclosing Party to the Receiving Party within ten (10) days after disclosure. Unless Proprietary Information was previously known by the Receiving Party free of any obligation to keep it confidential, or has been or is subsequently made public by an act not attributable to the Receiving Party, or is explicitly agreed in writing not to be regarded as confidential, such information: (i) shall be held in confidence by each Receiving Party; (ii) shall be disclosed to only those persons who have a need for it in connection with the provision of services required to fulfill this Agreement and shall be used by those persons only for such purposes; and (iii) may be used for other purposes only upon such terms and conditions as may be mutually agreed to in advance of such use in writing by the Parties. Notwithstanding the foregoing sentence, a Receiving Party shall be entitled to disclose or provide Proprietary Information as required by any governmental authority or applicable law, upon advice of counsel, only in accordance with §11.2 of this Agreement.

- 11.2 Except for Law Enforcement requests for information covered in Section 21, if any Receiving Party is required by any governmental authority or by applicable law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. The Disclosing Party may then seek appropriate protective relief from all or part of such requirement. The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief that such Disclosing Party chooses to obtain.
- 11.3 In the event of the expiration or termination of this Agreement for any reason whatsoever, each Party shall return to the other Party or destroy all Proprietary Information and other documents, work papers and other material (including all copies thereof) obtained from the other Party in connection with this Agreement and shall use all reasonable efforts, including instructing its employees and others who have had access to such information, to keep confidential and not to use any such information, unless such information is now, or is hereafter disclosed, through no act, omission or fault of such Party, in any manner making it available to the general public.
- 11.4 The Parties acknowledge that, in the course of their performance under this Agreement, they will come into possession of customer proprietary network information ("CPNI"). Each Party agrees to protect the CPNI it obtains pursuant to this agreement in accordance with Section 222 of the Act, 47 U.S.C. § 222 and the FCC's rules, including, at a minimum, the protection afforded to Proprietary Information under the other provisions of this Section 11, and to use such CPNI only for the purpose of fulfilling its obligations under this Agreement or as otherwise required by law.

12. Fraud

Neither Party shall bear responsibility for, nor be required to make adjustments to the other Party's account in cases of fraud by the other Party's end-users or on the other Party's end-user customer accounts. The Parties agree to reasonably cooperate with each other to detect, investigate, and prevent fraud and to reasonably cooperate with law enforcement investigations concerning fraudulent use of the other Party's services or network. The Parties' fraud minimization procedures are to be cost effective and implemented so as not to unduly burden or harm one Party as compared to the other.

13. Dispute Resolution

Except as provided under Section 252 of the Act with respect to the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without, to the extent possible, litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following dispute resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

13.1 Informal Resolution of Disputes. At the written request of a Party, each Party will appoint a knowledgeable, responsible representative, empowered to resolve such dispute, to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

13.2 Formal Dispute Resolution. If negotiations fail to produce an agreeable resolution within ninety (90) days, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanisms; provided, that upon mutual agreement of the Parties such disputes may also be submitted to binding arbitration. In the case of an arbitration, each Party shall bear its own costs. The Parties shall equally split the fees of any mutually agreed upon arbitration procedure and the associated arbitrator.

13.3 Continuous Service. The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure (other than a dispute

related to payment for service), and the Parties shall continue to perform their payment obligations including making payments in accordance with this Agreement.

14. Entire Agreement

This Agreement and applicable attachments, constitute the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied have been made or relied upon in the making of this Agreement other than those specifically set forth herein. In the event there is a conflict between any term of this Agreement, the provisions shall be construed to give the greatest possible effect to the intent of this Agreement.

15. Expenses

Except as specifically set out in this Agreement, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

16. Force Majeure

Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). If any Force Majeure condition occurs, the Party delayed or unable to perform shall give immediate notice to the other Party and shall take all reasonable steps to correct the Force Majeure condition. During the pendency of the Force Majeure, the duties of the Parties under this Agreement affected by the Force Majeure condition shall be abated and shall resume without liability thereafter.

17. Good Faith Performance

In the performance of their obligations under this Agreement, the Parties shall act in good faith. In situations in which notice, consent, approval, or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be conditional, unreasonably withheld, or delayed.

18. Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Dakota without regard to its conflict of laws principles and, when applicable, in accordance with the requirements of the Act and the FCC's implementing regulations.

19. Headings

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

20. Independent Contractor Relationship

Neither this Agreement, nor any actions taken by Midcontinent or Consolidated in compliance with this Agreement, shall be deemed to create an agency or joint venture relationship between Midcontinent and Consolidated, or any relationship other than that of co-carriers. Neither this Agreement, nor any actions taken by Midcontinent or Consolidated in compliance with this Agreement, shall create a contractual, agency, or any other type of relationship or third party liability between Midcontinent and Consolidated End Users Customers or others.

21. Law Enforcement Interface

21.1 With respect to requests for call content interception or call information interception directed at Midcontinent's End User Customer, Consolidated will have no direct involvement in law enforcement interface. In the event a Party receives a law enforcement surveillance request for an end-user of the other Party, the Party initially contacted shall direct the agency to the other Party. For resale customers, Midcontinent shall be the contact for Law Enforcement. Once a request has been received, Midcontinent shall request Consolidated to perform the actual surveillance function. If Law Enforcement directly contacts Consolidated concerning a Midcontinent resale customer, Consolidated shall direct Law Enforcement to Midcontinent simultaneously with performing any time sensitive activities. Consolidated may charge Midcontinent for any costs incurred for performing such functions for Midcontinent's resold customers.

21.2 Notwithstanding 21.1, the Parties agree to work jointly in security matters to support law enforcement agency requirements for call content interception or call information interception.

22. Liability

22.1 **DISCLAIMER**

EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, EACH PARTY MAKES NO REPRESENTATIONS OR

WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES OR FACILITIES IT PROVIDES UNDER THIS AGREEMENT. EACH PARTY DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

22.2 Limitation of Liability

22.2.1 No liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants, employees, officers, directors, or partners for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, or providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of gross negligence or willful misconduct.

22.2.2 Except as otherwise provided in Section 22, no Party shall be liable to the other Party for any loss, defect or equipment failure caused by the conduct of the first Party, its agents, servants, contractors or others acting in aid or concert with that Party, except in the case of gross negligence or willful misconduct.

22.2.3 In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages.

22.3 Intellectual Property

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 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 or use of any facilities by either Party under this Agreement constitutes direct or contributory infringement, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any third party.

23. Joint Work Product

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

24. Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

25. No Third Party Beneficiaries

This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any third-party beneficiary rights hereunder. Except for provisions herein expressly authorizing a Party to act for another, 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, in the name of, 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.

26. 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 (iii) mailed, certified mail, return receipt to the following addresses of the Parties:

To: **Midcontinent**

To: **Consolidated**

Mary Lohnes 5001 W 41 st Street Sioux Falls, SD 57106	Manager Paul Schuetzler P.O. Box 1408 Dickinson, ND 58602
With a copy to: J.G. Harrington Dow Lohnes PLLC 1200 New Hampshire Avenue, NW Suite 800 Washington, DC 20036	With a copy to: Hardy Maus & Nordsven PC Michael Maus 137 First Avenue West PO Box 570 Dickinson, ND 58602

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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* overnight mail or personal delivery; or (iii) three (3) days after mailing in the case of certified U.S. mail.

27. Intentionally Left Blank

28. Change in Law

The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Telecommunications Act of 1996 and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment to the Telecommunications Act of 1996, any effective legislative action or any effective, final regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Telecommunications Act to the Parties or in which the FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, Amended Rules), either Party may, to the extent permitted or required, by providing written notice to the other party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

29. Regulatory Approval

The Parties understand and agree that this Agreement will be filed with the Commission, and to the extent required by FCC rules may thereafter be filed with the FCC. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under §252(e) of the Act without modification. The Parties, however, 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 or FCC rejects this Agreement in whole or in part, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion(s).

30. Taxes and Fees

Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To

the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to provide in a timely manner such sale for resale tax exemption certificate will result in no exemption being available to the purchasing Party. If either party (Contesting Party) contests the application of any tax collected by the other party (the Collecting party), the Collecting party shall reasonably cooperate in good faith with the Contesting party's challenge, provided that the Contesting Party pays any costs incurred by the Collecting party. The Contesting party is entitled to the benefit of any refund or recovery resulting from the contests, provided that the Contesting Party is liable for and has paid the tax contested.

Midcontinent is responsible for collecting and remitting directly to the proper agency universal service contributions, 911/E911 fees, telecommunication relay service fees and other assessments paid by carriers that sell telecommunications service at retail, and applicable taxes, provided that Midcontinent shall be exempt from paying such contributions, fees and other assessments to Consolidated only to the extent that Midcontinent certifies to Consolidated in writing that Midcontinent is making such payments or otherwise is not subject to the payment obligation. Consolidated will not pay these fees for the resold services.

31. Trademarks and Trade Names

No patent, copyright, trademark or other proprietary right is licensed, granted, or otherwise transferred by this Agreement. Each Party is strictly prohibited from any use, including but not limited to in sales, in marketing or advertising of telecommunications services, of any name, copyrighted material, service mark, or trademark of the other Party.

32. 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.

33. Bankruptcy

If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act shall be filed by or against a Party, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare the Party insolvent or unable to pay the Party's debts, or the Party makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for the Party or for the major part of the Party's property, the other Party may, if that Party so elects but not otherwise, and with or without notice of such election or other action by that Party, forthwith terminate this Agreement.

34. Operations Handbook

Each Party's Operations Manual will contain its standard operating procedures. It will not supersede this Agreement and if contrary to the terms of the contract, the contract shall control.

35. Intercept Messaging

- a. Each party will make available the following intercept messaging services:
 - i. Temporary Disconnects for Non-Pay. For customers of resold service, Consolidated will have control of the customer's line and will be responsible to provide the intercept message. Both service order and central office non-recurring charges are not applicable but a restoral of service charge will be applied if and when service is restored.
 - ii. Transfer of Service Announcements. For services other than Consolidated resold and ported number services, when an end user customer transfers service from one Party to the other Party, and does not retain its original telephone number, the Party formerly providing service to the end user will provide, upon request and if such service is provided to its own customers, a referral announcement on the original telephone number. This announcement will provide the new number of the end user customer and will remain in effect for the same time period this service is provided to Party's own end users. For Consolidated resold service, Consolidated shall provide an intercept referral on behalf of Midcontinent.

36. Cooperation

Notwithstanding any other provision of this Agreement, the Parties agree to work cooperatively to make appropriate intercompany arrangements and to take such other steps as are necessary to implement the terms of this Agreement in a timely manner after approval by the Commission.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written below.

Consolidated	Midcontinent
By: _____ Name: ___ Paul Schuetzler _____ Date: _____	By: Midcontinent Communications Investor, LLC Managing Partner By: _____ Name: _ Nancy Vogel _____ Title: __Director of Revenue Assurance__ Date: _____

GLOSSARY

1. General Rule

Special meanings are given to common words in the telecommunications industry, and coined words and acronyms are common in the custom and usage in the industry. Words used in this agreement are to be understood according to the custom and usage of the telecommunications industry, as an exception to the general rule of contract interpretation that words are to be understood in their ordinary and popular sense. In addition to this rule of interpretation, the following terms used in this Agreement shall have the meanings as specified below:

2. Definitions

2.1 ACCESS SERVICE REQUEST (ASR).

An industry standard form, which contains data elements and usage rules used by the Parties to add, establish, change or disconnect services or trunks for the purposes of interconnection.

2.2 ACT.

The Communications Act of 1934 (47 U.S.C. §151 et. seq.), as from time to time amended (including, without limitation by the Telecommunications Act of 1996, Public Law 104-104 of the 104th United States Congress effective February 8, 1996), and as further interpreted in the duly authorized and effective rules and regulations of the FCC or the Commission.

2.3 AFFILIATE.

Shall have the meaning set forth in the Act.

2.4 APPLICABLE LAW.

All effective laws, government regulations and orders, applicable to each Party's performance of its obligations under this agreement.

2.5 AUTOMATIC NUMBER IDENTIFICATION (ANI).

The signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling Party.

2.6 CALLING PARTY NUMBER (CPN).

A Signaling System 7 (SS7) parameter that identifies the calling party's telephone number.

2.7 CENTRAL OFFICE.

A local switching system for connecting lines to lines, lines to trunks, or trunks to trunks for the purpose of originating/terminating calls over the public switched telephone network. A single Central Office may handle several Central Office codes ("NXX"). Sometimes this term is used to refer to a telephone company building in which switching systems and telephone equipment are installed.

2.8 CENTRAL OFFICE SWITCH.

A switch used to provide Telecommunications Services including but not limited to an End Office Switch or a Tandem Switch. A Central Office Switch may also be employed as combination End Office/Tandem Office Switch.

2.9 COMMISSION.

Means the North Dakota Public Service Commission.

2.10 COMMON CHANNEL SIGNALING (CCS).

A method of transmitting call set-up and network control data over a digital signaling network separate from the public switched telephone network facilities that carry the actual voice or data content of the call.

2.11 COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC).

Any corporation or other person legally able to provide Local Exchange Service in competition with Consolidated .

2.12 CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI).

Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. § 222.

2.13 DIGITAL SIGNAL LEVEL 1 (DS1).

The 1.544 Mbps first-level signal in the time-division multiplex hierarchy.

2.14 DIGITAL SIGNAL LEVEL 3 (DS3).

The 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

2.15 END OFFICE SWITCH OR END OFFICE.

End Office Switch is a switch in which the End User Customer station loops are terminated for connection to trunks. The End User Customer receives terminating, switching, signaling, transmission, and related functions for a defined geographic area by means of an End Office Switch.

2.16 END USER CUSTOMER.

A retail business or residential end-user subscriber to Telephone Exchange Service provided by either of the Parties.

2.17 END USER CUSTOMER LOCATION

The physical location of the premise where an End User Customer makes use of Telephone Exchange Service.

2.18 EXCHANGE AREA.

Means the geographic area that has been identified by Consolidated for its provision of Telephone Exchange Service.

2.19 FCC.

The Federal Communications Commission.

2.20 INCUMBENT LOCAL EXCHANGE CARRIER (ILEC).

Shall have the meaning stated in the Act. For purposes of this Agreement, Consolidated is an ILEC.

2.21 INTEREXCHANGE CARRIER (IXC).

A Telecommunications Carrier that provides, directly or indirectly, InterLATA or IntraLATA telephone toll services.

2.22 INTERLATA TRAFFIC.

Telecommunications traffic that originates in one LATA and terminates in another LATA.

2.23 INTERCEPT MESSAGE

An Intercept Message is an announcement on the abandoned telephone number that provides the Customer's new number or other appropriate information.

2.24 INTRALATA TRAFFIC

Telecommunications traffic that originates and terminates in the same LATA.

2.25 INTERNET PROTOCOL CONNECTION

The IPC is the connection between the ISP and the customer where end user information is originated or terminated utilizing internet protocol.

2.26 ISDN USER PART (ISUP).

A part of the SS7 protocol that defines call setup messages and call takedown messages.

2.27 LOCAL ACCESS AND TRANSPORT AREA (LATA).

Shall have the meaning set forth in the Act.

2.28 LOCAL NUMBER PORTABILITY (LNP)

LNP is the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

2.29 LINE INFORMATION DATABASE (LIDB).

One or all, as the context may require, of the Line Information databases used by Consolidated and owned other entities which provide, among other things, calling card validation functionality for telephone line number cards issued by Consolidated and other entities. A LIDB also contains validation data for collect and third number-billed calls; i.e., Billed Number Screening.

2.30 LOCAL EXCHANGE CARRIER (LEC).

The term "local exchange carrier" means any company that is authorized by the state public utility commission to provide local exchange and exchange access services. Such term does not include a company engaged in the provision of a commercial mobile service.

2.31 LOCAL EXCHANGE ROUTING GUIDE (LERG).

The Telcordia Technologies reference customarily used to identify NPA/NXX routing and homing information, as well as network element and equipment designation.

2.32 LOCAL/EAS TRAFFIC.

Any call that originates from an End User Customer physically located in one exchange and terminates to an End User Customer physically located in either the same exchange, or other mandatory local calling area associated with the originating End User Customer's exchange as defined and specified in Consolidated's Price Schedule. As clarification of this definition and for reciprocal transport and termination compensation, Local/EAS Traffic does not include traffic that originates from or is directed to or through an ISP.

2.33 NORTH AMERICAN NUMBERING PLAN (NANP).

The system of telephone numbering employed in the United States, Canada, Bermuda, Puerto Rico and certain Caribbean islands. The NANP format is a 10-digit number that consist of a 3-digit NPA Code (commonly referred to as area code), followed by a 3-digit NXX code and 4 digit line number.

2.34 NUMBERING PLAN AREA (NPA).

Also sometimes referred to as an area code, is the first three-digit indicator of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized Telecommunications Service that may be provided across multiple geographic NPA areas. 500, 700, 800, 888 and 900 are examples of Non-Geographic NPAs.

2.35 NXX, NXX CODE, CENTRAL OFFICE CODE OR CO CODE.

The three-digit switch entity indicator (i.e. the first three digits of a seven-digit telephone number). Each NXX Code contains 10,000 station numbers.

2.36 POINT OF INTERCONNECTION (POI).

The physical location(s) within Consolidated's network, at which the Parties' networks meet for the purpose of exchanging Local/EAS Traffic.

2.37 PRICE SCHEDULE

A Price Schedule is Consolidated's generally available rates to its end user customers.

2.38 RATE CENTER AREA.

A Rate Center Area is a geographic location that has been designated by Consolidated as being associated with a particular NPA-NXX code, which has been assigned to Consolidated for its provision of Telephone Exchange Service. Rate Center Area is normally the same as the boundary of the Consolidated Exchange Area as defined by the Commission.

2.35 RATE CENTER

A Rate Center is the finite geographic point identified by a specific V&H coordinate which is used by the Consolidated to measure, for billing purposes, distance sensitive transmission services associated with the specific rate center;

provided that a Rate Center cannot exceed the boundaries of the Consolidated Exchange Area as defined by the Commission.

2.36 SIGNALING SYSTEM 7 (SS7).

The common channel out-of-band signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI). Consolidated and Midcontinent currently utilize this out-of-band signaling protocol.

2.37 SWITCHED ACCESS SERVICE.

The offering of transmission and switching services for the purpose of the origination or termination of Toll Traffic. Switched Access Services include but may not be limited to: Feature Group A, Feature Group B, Feature Group D, 700 access, 8XX access, and 900 access.

2.38 TANDEM SWITCH.

A switching entity that has billing and recording capabilities and is used to connect and switch trunk circuits between and among end office switches and between and among end office switches and carriers' aggregation points, points of termination, or point of presence, and to provide Switched Exchange Access Services.

2.39 TANDEM TRANSIT TRAFFIC OR TRANSIT TRAFFIC

Telephone Exchange Service traffic that originates on Midcontinent's network, and is transported through a Consolidated Tandem to the Central Office of a Midcontinent, Interexchange Carrier, Commercial Mobile Radio Service ("CMRS") carrier, or other LEC, that subtends the relevant Consolidated Tandem to which Midcontinent delivers such traffic. Subtending Central Offices shall be determined in accordance with and as identified in the Local Exchange Routing Guide ("LERG"). Switched Exchange Access Service traffic is not Tandem Transit Traffic.

2.40 TARIFF.

Any applicable Federal or State tariff of a Party, as amended from time to time.

For purposes of this agreement, the term tariff shall also be deemed to include any policies or terms and conditions of service that has been adopted by the Consolidated even if these policies or terms and conditions of service have not been filed with a regulatory or governmental agency.

2.41 TELCORDIA TECHNOLOGIES.

Formerly known as Bell Communications Research. The organization conducts research and development projects for its owners, including development of new

Telecommunications Services. Telcordia Technologies also provides generic requirements for the telecommunications industry for products, services and technologies.

2.42 TELECOMMUNICATIONS CARRIER.

The term "telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services. A telecommunications carrier shall be treated as a common carrier under the Telecommunications Act only to the extent that it is engaged in providing telecommunications services.

2.43 TELECOMMUNICATIONS SERVICE.

The term "telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

2.44 TELEPHONE EXCHANGE SERVICE.

The term "telephone exchange service" means shall have the meaning set forth in 47 U.S.C. Section 3 (47) of the Act.

2.45 VOIP or IP-ENABLED TRAFFIC.

VoIP means any IP-enabled, real-time, multidirectional voice call, including, but not limited to, service that mimics traditional telephony. IP-Enabled Voice Traffic includes:

- (i) Voice traffic originating on Internet Protocol Connection (IPC), and which terminates on the Public Switched Telephone Network (PSTN); and
- (ii) Voice traffic originated on the PSTN, and which terminates on IPC.

AGREEMENT

THIS AGREEMENT ("Agreement") is effective upon approval by the Commission (the "Effective Date"), by and between Midcontinent Communications, a South Dakota Partnership ("Midcontinent") with offices at 5011 W 41st street, Sioux Falls, SD 57106 and Consolidated Telcom ("Consolidated") with offices at PO Box 1408, Dickinson, ND 58602. This Agreement may refer to either Consolidated or Midcontinent or both as a "Party" or "Parties."

WITNESSETH

WHEREAS, Consolidated is an Incumbent local exchange telecommunications company authorized to provide telecommunications services in the state of North Dakota; and

WHEREAS, Midcontinent is a competitive local exchange telecommunications company ("CLEC") authorized to provide telecommunications services in the state of North Dakota; and

WHEREAS, the Parties wish to provide for resale services specifically for the purposes of fulfilling their obligations pursuant to Sections 251 of the Telecommunications Act of 1996 ("the Act").

NOW THEREFORE, in consideration of the mutual agreements contained herein, Consolidated and Midcontinent agree as follows:

1. Purpose

The Parties agree that the rates, terms and conditions contained within this Agreement, including all Attachments, comply and conform to each Party's obligations under Sections 251 of the Act.

2. Term of the Agreement

2.1 The initial term of this Agreement shall be two years ("Initial Term"), beginning on the above Effective Date. If, as of the expiration of this Agreement, a subsequent agreement has not been executed by the Parties, this Agreement shall automatically renew for successive six-month periods, unless, not less than one hundred twenty (120) days prior to the end of the Initial Term or any renewal term, either Party notifies the other Party of its intent to renegotiate a new agreement. In the event of such renegotiation, this Agreement shall remain in effect until such time that a subsequent agreement becomes effective. If the Parties cease to order services under this Agreement, then either Party may terminate this Agreement upon thirty (30) days written notice.

3. Termination of the Agreement