

Mary T. Buley  
651.621.8206 – Direct  
mbuley@otcpas.com



Depend on Our People. Count on Our Advice.™

September 9<sup>th</sup>, 2020

Mr. Steve Kahl  
Executive Secretary  
North Dakota Public Service Commission  
600 East Boulevard Avenue, 12<sup>th</sup> Floor  
Bismarck, ND 58515-0480

Re: Petition for Approval of an Interconnection Agreement between Midstate Communications, Inc and Level 3 Communications, LLC, for the State of North Dakota

Dear Mr. Kahl,

Enclosed for filing for approval by the North Dakota Public Service Commission pursuant to 47 U.S.C. § 252 and N.D. Cent. Code §49-21-01.7 is the negotiated Interconnection Agreement between Midstate Communications, Inc. and Level 3 Communications, LLC for the State of North Dakota.

Contact information for Level 3 Communications is as follows:

Gary Black, VP Carrier Relations  
Level 3 Communications, LLC  
1025 Eldorado Blvd  
Broomfield, CO 80021  
720-888-2000  
Gary.blackjr@centurylink.com

Scott Seab  
Level 3 Communications, LLC  
1025 Eldorado Blvd  
Location COL00-23-423  
Broomfield, CO 80021  
scott.seab@centuryLink.com  
720-888-3942

Thank you for your assistance in this matter. Please contact me if you have any questions or concerns.

Sincerely,

*/s/ Mary T. Buley*

Mary T. Buley  
Consultant for Midstate Telephone Company

1 PU-20-391 Filed 09/10/2020 Pages: 30  
Interconnection and Reciprocal Compensation Agreement  
Midstate Communications Inc./ Level 3 Communications  
Mary Buley

Enclosures  
cc: Ryan Wilhelmi, Midstate Communications, LLC  
Michelle Pedersen, Level 3 Communications

**INTERCONNECTION AGREEMENT**

**By and Between**

**Level 3 Communications, LLC**

**And**

**Midstate Communications, Inc.**

## Table of Contents

1.	SCOPE .....	1
2.	DEFINITIONS.....	2
3.	TERM OF THE AGREEMENT .....	3
4.	TERMINATION OF THE AGREEMENT .....	4
5.	COMPENSATION .....	5
6.	METHODS OF INTERCONNECTION.....	5
7.	BILLING .....	6
8.	SS7 .....	9
9.	CLASSIFICATION OF TRAFFIC. ....	9
10.	ROBOCALL TRACEBACK.....	10
11.	IVP INTERCONNECTION .....	10
12.	NETWORK DESIGN AND MANAGEMENT .....	11
13.	LOCAL NUMBER PORTABILITY .....	12
14.	LIMITATION OF LIABILITY .....	12
15.	INDEMNITY .....	13
16.	TAXES.....	13
17.	MODIFICATION OF AGREEMENT .....	14
18.	INTELLECTUAL PROPERTY .....	14
19.	CONFIDENTIAL INFORMATION .....	14
20.	MISCELLANEOUS .....	14
A.	<i>Compliance with Law</i> .....	14
B.	<i>Force Majeure</i> .....	14
C.	<i>Change of Law</i> .....	15
D.	<i>Participation in Regulatory and Other Proceedings</i> .....	15
E.	<i>Waivers</i> .....	15
F.	<i>Audit and Review</i> .....	15
G.	<i>Assignment</i> .....	16
H.	<i>Severability</i> .....	16
I.	<i>Authority</i> .....	16
J.	<i>Survival</i> .....	16
K.	<i>Governing Law</i> .....	16
L.	<i>Filing of Agreement</i> .....	16
M.	<i>Notices</i> .....	17
N.	<i>Relationship of Parties</i> .....	18
O.	<i>No Third Party Beneficiaries</i> .....	18
P.	<i>Entire Agreement</i> .....	18
Q.	<i>Conflict with Tariffs</i> .....	18
R.	<i>Dispute Resolution</i> .....	18
	<b>ATTACHMENT 1: DIRECTORY LISTINGS .....</b>	<b>21</b>
1.	DIRECTORY LISTINGS AND DIRECTORY DISTRIBUTION .....	22
2.	LISTINGS.....	22
3.	DISTRIBUTION .....	22
	<b>ATTACHMENT 2: 911/E911 .....</b>	<b>23</b>
	<b>EXHIBIT 1 .....</b>	<b>25</b>
	<b>EXHIBIT 2 .....</b>	<b>26</b>
	<b>EXHIBIT 3 .....</b>	<b>27</b>

**INTERCONNECTION AND RECIPROCAL COMPENSATION  
AGREEMENT BETWEEN  
MIDSTATE COMMUNICATIONS, INC.  
AND  
LEVEL 3 COMMUNICATIONS, LLC**

THIS INTERCONNECTION AND RECIPROCAL COMPENSATION AGREEMENT (the "Agreement") is made by and between Midstate Communications, Inc. ("Company") with a place of business of 215 Main St. S, Box 400, Stanley, ND 58784", and Level 3 Communications, L.L.C., with a place of business of 1025 Eldorado Boulevard, Broomfield, CO 80021, and shall be deemed effective upon approval by the Commission ("Effective Date"). This Agreement may refer to either Company or Level 3 as a "Party" or collectively as the "Parties."

In consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**PREMISES**

- A. Company is an Incumbent Local Exchange Carrier ("ILEC"), as defined in Section 251(h) of the Act (47 U.S.C. § 251(h)) and a Rural Carrier as defined in 47 U.S.C. § 251(f)(2)(A) authorized by the North Dakota Public Service Commission. the "Commission") to provide Telecommunications Services in certain exchanges in the State of North Dakota("Company Exchanges");
- B. Level 3 is authorized by Commission to operate as a Competitive Local Exchange Carrier ("CLEC") in certain North Dakota exchanges including Company Exchanges and/or Local Calling Areas which include Company Exchanges
- C. The Parties desire to interconnect their networks, directly or indirectly, to provide local exchange services to End Users in the state of North Dakota; and
- D. The Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks as required by Sections 251(a) and (b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

**1. SCOPE**

- A. Pursuant to Sections 251 (a) and (b) of the Telecommunications Act of 1996 ("Act"), this Agreement sets forth the terms and conditions for the interconnection of the Parties' networks, reciprocal compensation for transport and termination of Local Traffic exchanged between the Parties' End Users, and the provision of other services.
- B. The Parties acknowledge and agree that by entering into and performing in accordance with this Agreement, the Parties have not waived any applicable exemptions that are

provided by or available under the act, including but not limited to those described in 47 U.S.C. § 251(f), or under state law, if any.

- C. Level 3 agrees that it is requesting and will use the interconnection arrangements provided for in this Agreement (“Local Interconnection Arrangement”) for the sole purpose of exchanging Local Traffic and that terminating any other traffic is prohibited, and may be subject to the terms and conditions of the Company’s access tariffs.

## 2. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings specified below in this Section:

- A. “Access Traffic” is traffic exchanged between the Parties’ End Users that are not physically located within the same Local Calling Area. Access Traffic is subject to the Terminating Party’s access tariffs.
- B. “Access Service Request (ASR)” is an industry standard form used by the Parties to add, establish, change or disconnect trunks for the purposes of Interconnection.
- C. “Act” – The Communications Act of 1934 (47 U.S.C. § 151 *et. seq.*) as amended, including without limitation by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission.
- D. “Affiliate” – a person, corporation or other legal entity that, directly or indirectly, owns or controls a Party, or is owned or controlled by, or is under common ownership or control with a Party. For purposes of this definition, the term “own” means to have an equity interest (or the equivalent thereof) of equal to or more than 10 percent.
- E. “Commission” means the North Dakota Public Service Commission
- F. “End User” means the ultimate user that subscribes to a local exchange service provided by a Party to this Agreement.
- G. “FCC” means the Federal Communications Commission.
- H. “Interconnection” is as defined in the Act.
- I. “Interconnected VoIP Provider” (“IVP”) - is an entity that provides interconnected VoIP service, as that term is defined in 47 CFR §9.3 and that obtains numbering resources as described in the VoIP Numbering Order.
- J. “IntraMTA Traffic” means traffic that originates or terminates on the network of a Cellular Mobile Radio Service provider within the Major Trading Area in which the Local Service Area subject to this Agreement is located.
- K. “Local Calling Area” means one or more exchanges, as mandated by order of the Commission, within which End User customers may exchange calls without incurring a toll charge.

- L. "Local Traffic" is traffic exchanged between the Parties' End Users located within a Local Calling Area. Local Traffic is Non-Access Telecommunications Traffic as defined in 47 CFR § 51.701(b)(1). Local Traffic shall include Local VoIP Traffic and VoIP-PSTN Traffic.
- M. "Local VoIP Traffic" means VoIP-PSTN Traffic that originates and terminates within the geographic boundaries of the Local Calling Area as such Local Calling Area is determined by the applicable state commission. For rating purposes, Local VoIP traffic will be determined based upon a comparison of the called from and called to numbers.
- N. "Originating Party" means the Party who delivers Local Traffic originated on its network for termination on the other Party's network.
- O. "Other Traffic" means traffic exchanged between the Parties which is not Local Traffic.
- P. "Point of Interconnection" ("POI") is a physical location at which the Parties' networks meet for the purposes of establishing Interconnection.
- Q. "Tandem Switch" (or switch with tandem functionality) means the third party ILEC switch(es) identified in Exhibit 1.
- R. "Third Party Transit Traffic" is traffic which originates on a third party's network, is switched by a Party and terminated to the other Party's network.
- S. "Third Party Transit Service" is tandem switching and transport service offered by a third party local exchange carrier identified in Exhibit 1 to this agreement.
- T. "Transit Traffic" is traffic originated by an end user of one Party, delivered to a third party transit provider and terminated to the other Party's network.
- U. "VoIP-PSTN Traffic" means traffic which is exchanged between Party's Customer and a Customer of the other Party in Time Division Multiplexing ("TDM") format that originates and/or terminates in Internet Protocol ("IP") format, as determined in Docket No. 01-92, In the Matter of Developing a Unified Intercarrier Compensation Regime, effective December 29, 2011 ("FCC Order" or "Order"), and terminates to a Party's Customer.

### 3. TERM OF THE AGREEMENT

- A. The Initial Term of this Agreement shall be two (2) years, beginning on the Effective Date.
- B. Absent the receipt by a Party of written notice from the other Party at least ninety (90) days prior to the expiration of the Initial Term to the effect that such Party does not intend to extend the Initial Term of this Agreement, this Agreement shall automatically renew and remain in full force and effect on and after the expiration of the Initial Term on a year to year basis.
- C. If pursuant to Section 3B, above, this Agreement continues in full force and effect

after the expiration of the Initial Term, either Party may terminate this Agreement ninety (90) days prior to the expiration of any renewal term as reflected in Section 3B and after delivering written notice to the other Party of its intention to terminate this Agreement.

#### 4. TERMINATION OF THE AGREEMENT

##### A. Termination for Default

Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party provided: 1) the non-defaulting Party notifies the defaulting Party and the Commission in writing of the alleged default and that the defaulting Party fails to cure the alleged default within thirty (30) calendar days; and 2) the non-defaulting Party seeks and obtains permission from the Commission to terminate the agreement and any interconnection arrangements established pursuant to the agreement. Default means any one or more of the following:

1. A Party's refusal or failure in any material respect to perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement; or
2. 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 18G of this Attachment.
3. CLEC is adjudicated to not be a Telecommunications Carrier under the Act.
4. CLEC is adjudicated to not be a common carrier by the Commission or a court of competent jurisdiction

##### B. Termination for Insolvency or Bankruptcy

1. This Agreement is immediately terminated upon a Party becoming insolvent or upon the initiation of a voluntary bankruptcy proceeding.
2. In the event that an involuntary bankruptcy or receivership proceeding is initiated against a Party, this Agreement shall terminate unless such proceeding is set aside within thirty (30) days.

##### C. Liability Upon Termination

Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect to any act or omission prior to termination or from any obligation which is expressly stated herein to survive termination.

##### D. Temporary Continuation During Negotiation

If upon expiration or termination of this Agreement other than pursuant to Section 4A

above, the Parties are negotiating a successor agreement, during such negotiation period each Party shall continue to perform its obligations and provide the services described herein under this Agreement until such time as the successor agreement becomes effective. The Parties expressly agree that the rates, terms, and conditions of the successor agreement shall be retroactive back to the date of termination of this Agreement or such other time period as the Parties may agree, such that all payments made from the date of termination of this Agreement to the effective date of the successor agreement shall be trued-up to comply with the rates, terms and conditions of the successor agreement.

## 5. COMPENSATION

As of the Effective Date of this Agreement, the Parties agree to treat Local Traffic as bill and keep. For avoidance of doubt, all Local Traffic exchanged under this Agreement shall be rated based upon the derivation of jurisdiction by a comparison of the called from number to the called to number. Neither Party shall represent switched access traffic, IntraMTA Traffic or other Access Traffic as Local Traffic for purposes of determining compensation for the call. Neither Party will deliver Other Traffic or Third Party Transit Traffic to the other Party pursuant to this Agreement.

## 6. METHODS OF INTERCONNECTION

- A. Each Party may interconnect either directly or indirectly with the other Party. If either Party sends to the other party for termination 250,000 or more minutes of use per month, for three consecutive months, regardless of the carrier of origin, then Level 3 will submit a request for direct interconnection pursuant to this Section.
- B. Direct interconnection: If the Parties interconnect via direct trunks between their networks, there shall be a minimum of one (1) points of interconnection between the networks for redundancy purposes. Direct interconnection facilities shall be two-way facilities unless otherwise agreed to by the Parties. The POI at the Company's switch or at another point within Company's network as mutually agreed upon between the Parties. Any such direct interconnection agreed upon by the Parties will be mutually agreed upon at that time. Once the Parties have established Direct Interconnection between their networks, neither Party may continue to transmit its originated Local Traffic indirectly except on an overflow basis. At such time as either Party requests Direct Interconnection, the Parties shall establish Direct Interconnection of their networks for the exchange of all Local Traffic between their networks except for indirect overflow traffic.

Leased Facilities. Where facilities exist, Level 3 may order private line facilities from Company pursuant to the Company's North Dakota special access tariff to reach the POI. Where facilities exist, Level 3 may order private line transport from a third party LEC and/or Company for the purposes of establishing local network interconnection.

Fiber Meet Point. Level 3 may choose to establish a facilities meet point at or near a Company Central office or another point on the Company network as may be mutually



agreed upon. The Company will perform splicing at the facility meet point.

Costs: Each Party is responsible for its costs on its side of the POI.

SONET. Company and Level 3 may interconnect their networks to establish a linear SONET system for the exchange of Local Traffic. Each Party shall provide two fibers for interconnection to the location where the fibers are to be spliced. Administrative control of the SONET system shall be mutually agreed upon by the Parties.

The Parties will mutually agree on the capacity of the fiber optic terminals to be used based on equivalent DS1s, DS3s, or STS-1s. The Parties will also agree upon the optical frequency and wavelength necessary to implement the Interconnection.

Trunking. Separate trunk groups shall be established for the exchange of Local Traffic ("Local Trunks") and Other Traffic ("Access Trunks").

Ordering Local Trunks. Level 3 shall submit an ASR to Company to establish local interconnection trunks.

Upon the expiration or termination of this Agreement, the Parties shall cooperate to promptly disconnect any directly connected facilities between them used in the exchange of Local Traffic unless the Parties seek to negotiate a replacement agreement.

- C. Indirect Interconnection: Either Party may choose to interconnect via indirect means, i.e., by connecting to a third Party intermediary carrier that provides connectivity between the Parties ("Transit Traffic") at a Tandem Switch, as noted on Exhibit 1. In such a case, the third Party intermediary carrier would route to Company traffic originated by a customer of Level 3 and destined for a Company customer. Each Party shall be responsible for providing facilities on its side of the Tandem Switch(es) identified in Exhibit 1, which may be updated through an amendment to this agreement. Each Party shall be responsible for providing facilities on its side of the Tandem Switch(es) identified in Exhibit 1.

Transit Charges: If a Party chooses to interconnect indirectly, that Party shall pay all transit charges for its originated traffic sent to the other Party for termination.

Traffic Measurement: When Level 3 uses a third party's tandem and/or transit service to send traffic to Company, Company may use measurements provided by the third party to determine Level 3's traffic volume.

## 7. BILLING

### Charges and Payment

- A. Level 3 shall pay invoices within forty-five (45) days from the Bill Date. If the payment due date is a Saturday, Sunday or a designated bank holiday, payment shall be made the next business day. Invoices shall be sent to:

Midstate Communications, Inc.  
ATTN: Ryan Wilhelmi  
P.O. Box 400  
Stanley ND 58784

**For Paper Invoices (not sent on CD)**

CenturyLink Communications  
CLK01 – CenturyLink  
CLK01 Media Processing CenturyLink  
PO Box 15700  
Phoenix, AZ 85060  
Or VIA EMAIL at:  
[centurylink.invoices@synchronoss.com](mailto:centurylink.invoices@synchronoss.com)

**For CDs, FedEx, UPS or Overnight Packages**

CenturyLink Communications  
CLK01 – CenturyLink  
c/o Synchronoss  
4020 E Indian School Rd  
Phoenix, AZ 85018

Any electronically submitted E-paper or mechanized invoices should be directed to  
[centurylink.invoices@synchronoss.com](mailto:centurylink.invoices@synchronoss.com)

Ryan Wilhelmi  
[ryan@midstate.net](mailto:ryan@midstate.net)

or such other address as the Parties may designate to one another on at least thirty (30) days prior written notice.

Level 3 prefers to receive billing information in an electronic media format such as BOSCABS, CABS, SECABS. If Company is able to send paper invoices and has the ability to supply invoices in EDI format, please send Level 3 an email at

7

ndmftpsetup@synchronoss.com and Level 3 will contact Company in order to setup electronic invoice transmission protocol.

- B. All charges under this Agreement shall be billed within two (2) years from the time the charge was incurred; previously unbilled charges more than two (2) years from the time the charge was incurred shall not be billed by either Party, and shall not be payable by either Party. Nothing in this subsection shall affect the right of a Party to contest inaccurate invoices to the extent provided under law.
- C. If no previous interconnection agreement exists between the Parties, there shall be no liability or billing for services otherwise subject to this Agreement but provided prior to the Effective Date of this agreement. If a previous interconnection agreement exists between the Parties, then the terms and conditions of this Agreement shall relate back to the date of termination of the previous agreement, and the Parties shall true-up all payments made from the date of termination of the previous agreement to the Effective Date of this Agreement.
- D. Invoices between the Parties shall be clearly organized and charges must be accompanied by a brief, clear, non-misleading description of the service or services rendered including the minutes of use, the rate applied, and whether the charge is for facilities or usage. Invoices not complying with this section shall not be paid until re-issued in the proper format.
- E. The applicable Billing Party will provide information and documentation to Billed Party of the traffic considered to be roaming, and Billed Party will have reasonable time to refute or confirm such documentation.

## 8. SS7

- A. The Parties shall implement all defined and industry supported SS7 mandatory parameters as well as procedures in accordance with ANSI standards to support SS7 signaling for call setup for the interconnection trunks.
- B. The Parties shall provide each other the proper signaling information (e.g., originating Calling Party Number ("CPN"), Jurisdiction Indication Parameter ("JIP") and destination called party number, etc). If either Party fails to provide CPN (valid originating information) or JIP on at least ninety five- percent (95%) of total traffic, then such unidentified traffic will be subject to audit.
- C. The Parties shall support 64 KBPS clear channel where it provides such capability to its end users.
- D. The Parties will cooperate in the exchange of TCAP messages to facilitate full interoperability of SS7-based features between their networks, including all CLASS features and functions, to the extent each Party offers such features and functions to its own end users.

## 9. CLASSIFICATION OF TRAFFIC.

- A. The Parties agree to implement the proper Signaling and Signaling Parameters for determining the correct classification of traffic pursuant to Section 8 Signaling of this Attachment.
  - 1. The delivery of traffic that has had Signaling or Signaling Parameters stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned ("Misclassified Traffic") is prohibited under this Agreement. Due to the technical nature of its origination, certain traffic that is not Misclassified Traffic may be properly transmitted without all the Signaling and Signaling Parameters pursuant to Section 8 of this Attachment ("Unclassified Traffic").
  - 2. If a terminating Party determines in good faith in any month that any traffic delivered by the originating Party is Misclassified Traffic, the Parties agree:
    - a. The terminating Party will provide its reasoning as to why the traffic is Misclassified notification to the other Party. Upon receipt of such notification, the Party originating such traffic shall investigate and identify the alleged Misclassified Traffic;
    - b. The Party originating Misclassified Traffic agrees to take all reasonable steps to cease all actions, and cancel or reroute any service that is permitting the delivery of Misclassified Traffic.
    - c. Each Party shall take all reasonable steps to correct the causes of misrouted toll traffic, misidentified traffic, Misclassified Traffic and Unclassified

Traffic. Such traffic shall be rerouted to toll trunk groups and properly identified. This obligation applies during the pendency of a dispute.

- B. Audit of Misclassified Traffic. In the event of a dispute with regard to Misclassified Traffic, each Party shall have the right to audit the other Party's records to ensure that no traffic is misrouted, misclassified, or is otherwise in circumvention of access charges. Both Parties shall cooperate in providing the records required to conduct such audits. Upon request, the audited Party will cooperate in identifying the physical location of the End User Customer originating or terminating the call. No Party shall have the right to conduct an audit more than one time in a consecutive six-month period.

## **10. ROBOCALL TRACEBACK**

- A. Cooperation with Traceback Requests. Company agrees that when it is acting as an upstream provider originating traffic (hereinafter referred to as an "Originating Provider") or passing traffic through (hereinafter referred to as a "Transit Provider"), if it receives a request from an industry recognized traceback administrator for information about suspicious robocalls that have been sent to a downstream provider (hereinafter referred to as a "Traceback Request"), Company will promptly respond to the Traceback Request in good faith. Company agrees that its response to the traceback administrator shall indicate if Company is in the call path as the Originating Provider of the calls (i.e., Company received the calls from Company's End User) or (ii) a Transit Provider (i.e., Company received the calls from another voice provider). The response shall also identify the source of the calls. Company agrees to share this information without requiring a subpoena or other formal demand or request. Company is not required to respond to more than ten (10) Traceback Requests per week. Company otherwise agrees that it will cooperate with Level 3 on reasonable traceback requests for the purposes of mitigating potentially harmful mass calling or TDoS events.
- B. Inclusion of Traceback Provisions with Company's upstream providers. Company agrees that, with any new or renegotiated agreements that Company will include materially similar terms of this Addendum in each of its agreements with its upstream providers.

## **11. IVP INTERCONNECTION**

- A. LEVEL 3 is providing services to an IVP in which it will be IVP's Carrier Partner, as that term is used and defined by the FCC, and it wishes to order interconnection services from Company in order to provide such services.

- B. Company and LEVEL 3 will interconnect, exchange traffic and maintain compensation for traffic originated by or destined to an IVP as if it were traffic to or from LEVEL 3's end users as provided for in the Agreement. The Parties agree that such traffic may be intermingled with other LEVEL 3 traffic under this Agreement.
- C. Company and LEVEL 3 shall exchange such IVP traffic originating from and destined for LEVEL 3's end office(s) as defined in the LERG, using IVP's OCN and LEVEL 3, shall be responsible, including financially, for any such traffic.
- D. IVPs will directly obtain NXX codes and/or thousands number blocks consistent with current FCC rules. The Parties understand and agree that IVP's OCN and LRN will be associated with its Carrier Partner, LEVEL 3 for all traffic under this Agreement.
- E. LEVEL 3 will pass unaltered signaling information for the IVP's traffic per 47 C.F.R. § 64.1601 and applicable industry standards.
- F. LEVEL 3 shall be responsible for providing 911 services to its IVP(s).
- G. These terms do not otherwise modify or supersede any terms or conditions of the Agreement.

## **12. NETWORK DESIGN AND MANAGEMENT**

- A. The Parties will work cooperatively to install and maintain reliable interconnected telecommunications networks, including but not limited to, maintenance contact numbers and escalation procedures. Company will provide written notice to Level 3 of changes in the information necessary for the transmission and routing of services using its local exchange facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.
  - (1) Each Party shall provide to the other's surveillance management center a twenty-four (24)-hour contact number for network traffic management issues. A fax number and email address must also be provided to

facilitate event notifications for planned mass calling events.

- (2) Each Party has the duty to alert the other to any network events that can result or have resulted in material service interruption, blocked calls, or negative changes in network performance.
- B. Neither Party will charge rearrangement, reconfiguration, disconnection, termination or other non-recurring fees that may be associated with the initial reconfiguration of either Party's network interconnection arrangement contained in this Agreement.
- C. Each Party shall provide prior notification of any scheduled maintenance activity that may be service affecting to the other Party.
- D. In the case of direct interconnection, each Party is responsible for the transport of originating calls from its network to the POI, and each Party will ensure that its facilities are compatible with the agreed upon transmission and facility specifications.

### **13. LOCAL NUMBER PORTABILITY**

Both Parties shall abide by the rules and regulations of the FCC and applicable state public utility commission rules and regulations to port numbers from and to each other.

### **14. LIMITATION OF LIABILITY**

- A. Except as otherwise provided for in this paragraph, neither Party shall be liable to the other Party for any indirect, incidental, consequential, reliance, punitive, or special damages suffered by the other Party (including without limitation damages for harm to business, lost revenues, lost savings, or lost profits suffered by the other Party), regardless of the form of action, whether in contract, warranty, strict liability, or tort, including without limitation negligence of any kind whether active or passive, and regardless of whether the Parties knew of the possibility that such damages could result. In no event shall either Party's liability to the other for direct damages arising out of (1) a material breach of this Agreement, or (2) activities related to or involved in performance under this Agreement (whether such alleged damages in this second category arise in contract or tort) shall not exceed an amount equal to the proportionate charge for the affected service(s) during the period in which damages occurred. If that standard is not applicable, such damages shall not exceed the total amount billed under this Agreement (during the calendar year(s) in which the damage occurred) by the damaged Party to the other Party. The foregoing shall not limit a Party's obligation as set out in this Agreement to indemnify, defend, and hold the other Party harmless against amounts payable to third parties.
- B. Disclaimer of Warranties. NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY

CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, 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.

## 15. INDEMNITY

A. Each Party shall be indemnified, defended and held harmless by the other Party against any claim, loss or damage arising from the other Party's negligent or grossly negligent acts or omissions under this Agreement, or arising from the other Party's intentional misconduct under this Agreement, including without limitation: 1) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the other Party's own communications; 2) all other claims arising out of an act or omission of the other Party.

C. As to all indemnification obligations throughout this Agreement, the indemnifying Party agrees to (a) defend, or at its option settle, any claim or suit against the indemnified Party as agreed to herein; and (b) pay any final judgment entered against the indemnified Party on such issue or any settlement thereof. The indemnified Party above: (i) must notify the other Party in writing promptly upon learning of any claim or suit for which indemnification may be sought, provided that failure to do so shall have no effect except to the extent that the other Party is prejudiced thereby; (ii) must

of, the other Party in connection with the conduct of the defense and settlement thereof; and (iii) may participate in such defense or settlement with its own counsel at its sole expense, but without control or authority to defend or settle. The indemnifying Party shall not take any action, which unreasonably exposes the indemnified Party to a risk of damages, which would not be covered by such indemnity, and may not settle any matter without the prior written consent of the indemnified Party, which shall not be unreasonably withheld.

C. Notwithstanding anything to the contrary in any agreement between the parties, no indemnification shall arise as to Claims that are paid by the indemnified Party without the express written consent of the indemnifying Party, which consent will not be unreasonably withheld, conditioned or delayed.

## 16. TAXES

CLEC and Company will each collect from their respective customers all applicable federal, state, and local taxes including, but not limited to, value-added, consumption, sales, use, gross receipts, foreign withholding (which will be grossed up), excise, access, bypass, ad valorem, franchise or other taxes, fees, duties or surcharges (including regulatory and 911 surcharges) ("Taxes") payable by each of them.



Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be exempt from taxes, the purchasing Party shall furnish the providing Party a proper resale or other tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale or other tax exemption. Failure to provide the tax exemption certificate will result in no exemption being available to the purchasing Party until it is provided.

## **17. MODIFICATION OF AGREEMENT**

No modification, amendment, supplement to, or waiver or default under this 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, and such amendment has been approved by the Commission.

## **18. INTELLECTUAL PROPERTY**

Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark, service mark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel. It is the responsibility of Company to ensure, at no separate or additional cost to CLEC, that Company has obtained any necessary licenses (in relation to own use of facilities or equipment (including software) in the provision of service to Company's end-user customers.

## **19. CONFIDENTIAL INFORMATION**

The Parties to this Agreement recognize that they or their authorized representatives may come into possession of confidential and/or proprietary data about each other's business as a result of this Agreement. Each Party agrees to treat all such data as strictly confidential and to use such data only for the purpose of performance under this Agreement. Each Party agrees not to disclose data about the other Party's business, unless such disclosure is required by lawful subpoena or order, to any person without first securing the written consent of the other Party. A Party may request a nondisclosure agreement of the other Party under this section.

## **20. MISCELLANEOUS**

### **A. COMPLIANCE WITH LAW**

The Parties shall comply with any applicable orders, rules or regulations of the FCC, Commission and Federal and State law during the term of this Agreement.

### **B. FORCE MAJEURE**

Notwithstanding anything to the contrary contained herein, a Party shall not be liable nor deemed to be in default for any delay or failure of performance under this Agreement resulting directly from acts of God, civil or military authority, acts of public enemy, war, hurricanes, tornadoes, storms, fires, explosions, earthquakes, floods, electric power outages, government regulation, strikes, lockouts or other work interruptions by employees or agents not within the reasonable control of the non- performing Party.

C. CHANGE OF LAW

In the event that any final and non-appealable legislative, regulatory, judicial, or other legal action materially affects any material terms of this Agreement, either Party may, on thirty (30) days written notice require that such Agreement, or such terms thereof be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required or appropriate to reflect the results of such action.

D. PARTICIPATION IN REGULATORY AND OTHER PROCEEDINGS

By entering into this Agreement, neither Party waives its right or ability to participate in any regulatory, judicial, or legislative proceedings regarding the proper application that may differ from the terms contained within this Agreement.

E. WAIVERS

Any failure by either Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

F. AUDIT AND REVIEW.

Upon reasonable written notice, each Party or its authorized representative shall have the right to conduct annual reviews of and make copies of the data relating to this agreement (including without limitations billing records or third party usage records) possessed by the other Party to give assurance of compliance with the provisions of this Agreement. Each Party's right to access information for review purposes is limited to data not in excess of twenty-four (24) months in age. Each Party shall bear its own costs associated with conducting the review or complying with such review. Billing data or usage records stored by a Party in electronic format shall be made available electronically to the Party in electronic format upon request. The Party being reviewed will fully cooperate with the reviewing Party and provide access to necessary and applicable information at no charge to the reviewing Party during normal business hours.

G. ASSIGNMENT

A Party may not assign this Agreement other than to an Affiliate without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. A Party may, however, assign this Agreement, or any portion thereof, without prior written consent to any entity which controls, is controlled by or is under common control with the assigning Party by providing written notice. Any such assignment shall not, in any way, affect or limit the rights and obligations of the Parties, under the terms of this Agreement. Request for written consent must be given at least sixty (60) days in advance of the proposed assignment. The Party making the assignment shall notify the Commission sixty (60) days in advance of the effective date of the assignment.

H. SEVERABILITY

In the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable, it shall be severed from the Agreement and the remainder of this Agreement shall remain valid and enforceable and shall continue in full force and effect; provided however, that if any severed provisions of this Agreement are essential to any Party's ability to continue to perform its material obligations hereunder, the Parties shall immediately begin negotiations of new provisions to replace the severed provisions.

I. AUTHORITY

The undersigned signatories represent that they have the authority to execute this Agreement on behalf of their respective companies.

J. SURVIVAL

Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a Party under the provisions regarding indemnification, confidential information, limitations of liability and any other provisions of this Agreement which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, shall survive cancellation or termination thereof.

K. GOVERNING LAW

This Agreement shall be governed by and construed and enforced in accordance with the laws of the state of North Dakota, the Act, and other applicable federal law.

L. FILING OF AGREEMENT

Upon execution, Company shall file this Agreement with the Commission pursuant to the requirements of Section 252 of the Act.

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

**Midstate Communications**

Attn: Ryan Wilhelmi

P.O. Box 400

Stanley ND 58784

**Level 3 Communications, LLC**

Attn: Gary Black

VP Carrier Relations

1025 Eldorado Blvd

Broomfield, CO 80021

With a copy to:

**Level 3 Communications, LLC**

Attn: Scott Seab

1025 Eldorado Blvd

Location COL00-23-423

Broomfield, CO 80021

Email: [scott.seab@centurylink.com](mailto:scott.seab@centurylink.com)

Email 2:

[legal.interconnection@centurylink.com](mailto:legal.interconnection@centurylink.com)

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 certified U.S. mail.

N. RELATIONSHIP OF PARTIES

It is the intention of the Parties that each shall be an independent contractor and nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other.

O. NO THIRD PARTY BENEFICIARIES

The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person, and this Agreement shall not provide any person not a Party hereto with any remedy, claim, liability, reimbursement, right of action, or other right in excess of those existing without reference hereto. The parties agree to give notice to the Commission of any lawsuits or other proceedings that involve or arise under this Agreement to ensure that the Commission has the opportunity to seek to intervene in these proceedings on behalf of the public interest.

P. ENTIRE AGREEMENT

This constitutes the entire Agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified in writing signed by an officer of each Party.

Q. CONFLICT WITH TARIFFS

In the event of any conflict between the language of this Agreement and the language of an applicable tariff, the applicable tariff shall control.

R. DISPUTE RESOLUTION


The Parties agree to use the following dispute resolution procedure with respect to any claim arising out of or relating to this Agreement.

1. At the written request of a Party commencing the dispute resolution process described herein, each party will appoint a representative to meet and negotiate in good faith for a period of ninety (90) days (unless it becomes clear that a

voluntary resolution is unlikely) after the request to resolve any dispute arising under this agreement. The Parties intend that these negotiations be conducted by non-lawyer business representatives, but nothing prevents either party from also involving an attorney in the process. The location, format, frequency, duration and conclusion of these discussions shall be left to the discretion of the representatives. The Parties may agree to extend negotiations beyond ninety (90) days if resolution is progressing. Upon mutual agreement of the representatives, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations.

2. If the negotiations do not resolve the dispute within ninety (90) days (sooner if it becomes clear that a voluntary resolution is unlikely) after the initial written request, then either party may proceed with any legal or equitable remedy available to it.
3. If the Parties agree to seek alternative dispute resolution each Party shall bear its own costs and attorneys' fees of these procedures set forth in this section and shall equally split the fees and costs of any mediation or arbitration procedure, including the fees of the arbitrator or mediator.
4. If the Parties have agreed to a third party arbitrator, any decision of the arbitrator shall be subject to review by the Commission. The parties shall submit a copy of each arbitration decision to the Commission. The arbitrator's decision shall remain in effect unless the Commission acts within forty-five (45) days to suspend, modify or reject the decision.

Midstate Communications, Inc.

  
\_\_\_\_\_  
Ryan Wilhelmi

Vice President  
Title

8-21-20  
(Date)

Level 3 Communications, LLC.

  
\_\_\_\_\_  
Gary Black

VP -Carrier Relations  
Title

9/8/2020  
(Date)

**ATTACHMENT 1**

**DIRECTORY LISTINGS**



## **1. DIRECTORY LISTINGS AND DIRECTORY DISTRIBUTION**

CLEC will be required to negotiate a separate agreement for directory listings with COMPANY's vendor ("Publisher") for directory publications. COMPANY will not impede CLEC in the listing of CLEC's End Users for inclusion in COMPANY's directory. CLEC will be required to work directly with the Publisher for publishing of the directory listings, book distribution, and associated charges.

## **2. LISTINGS**

CLEC agrees to supply directly to the Publisher on a regularly scheduled basis, and in a format prescribed by the directory publisher, all listing information for CLEC's End Users who wish to be listed in any COMPANY published directory for the relevant operating area. Listing information will consist of names, addresses (including city, state and ZIP code) and telephone numbers. Nothing in this Agreement shall require COMPANY to publish a directory where it would not otherwise do so. Listing inclusion in a given directory will be in accordance with directory publisher's solely determined directory configuration, scope, and schedules and listings will be treated in the same manner as COMPANY's listings.

## **3. DISTRIBUTION**

A. CLEC will work directly with Publisher for all directory distribution.

B. Directory Charges.

Any charges for directory listings or distribution will be between CLEC and Publisher.

**ATTACHMENT 2**

**911/E911**

## 1. INTRODUCTION

This Appendix sets forth terms and conditions that shall apply for 911 (E911) arrangements.

## 2. 911 SERVICE

- A. 911 Arrangements are arrangements for routing 911 calls from a Party's Customers to the appropriate Public Safety Answering Point ("PSAP"), passing certain customer information for display at the PSAP answering station based on the class of 911 service (Basic 911 or E911) deployed in the area.
  
- B. As of the Effective Date of this Agreement, COMPANY is not the 911 service provider serving the PSAP and each party is solely responsible for making their own 911 Arrangements to connect to the current 911 service provider and for making updates on a timely basis to the ALI database for their respective Customers. In the event that COMPANY becomes the 911 service provider for any exchange where CLEC is providing service under this Agreement, COMPANY will provide CLEC advance notice and the Parties agree to negotiate terms to amend this Agreement for the provision of 911 Arrangements by Company to CLEC.

# EXHIBIT 1

## Midstate Communications, Inc. – Level 3 Communications Tandem Homing for Indirect Traffic Exchange

Company Exchange	EAS To:	Tandem
Beach, ND	Medora, ND	BSMRNDBC12T
	Wibaux, MT	
	Wibaux (Mid-Rivers) MT	
	West Beach, MT	
West Beach, MT	Beach, ND	
	Medora, ND	
	Wibaux, MT	
	Wibaux (Mid Rivers), MT	

## EXHIBIT 2

### **Midstate Communications, Inc. – Level 3 Communications POI Location(s) for Direct Interconnection**

INTENTIONALLY LEFT BLANK

## EXHIBIT 3

### Midstate Communications, Inc. – Level 3 Communications Rates and Charges

1. Reciprocal Compensation
  - a. Non-Access Reciprocal Compensation (Local Traffic) Bill and Keep
  - b. Access Reciprocal Compensation (Other Traffic) MN or Interstate Access Tariff\*  
\* Party receiving Access traffic will bill the other Party
  
2. Service Order (Porting)
  - a. Migration LSR Charge \$15.00
  - b. Subsequent LSR Charge \$15.00
  
3. Leased Facilities (per Section 6.2) Company ND Access Tariffs