

**FROM NETWORK ELEMENTS ATTACHMENT**

**1. General**

- 1.1 Verizon shall provide to NUI, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, access to Verizon's Network Elements on an unbundled basis and in combinations (Combinations); provided, however, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide unbundled Network Elements (UNEs) and Combinations to NUI only to the extent required by Applicable Law and may decline to provide UNEs or Combinations to NUI to the extent that provision of such UNEs or Combinations is not required by Applicable Law.
- 1.2 Verizon shall be obligated to combine UNEs that are not already combined in Verizon's network only to the extent required by Applicable Law. Except as otherwise required by Applicable Law: (a) Verizon shall be obligated to provide a UNE or Combination pursuant to this Agreement only to the extent such UNE or Combination, and the equipment and facilities necessary to provide such UNE or Combination, are available in Verizon's network; and (b) Verizon shall have no obligation to construct or deploy new facilities or equipment to offer any UNE or Combination. Consistent with the foregoing, should NUI engage in a pattern of behavior that suggests that NUI either (i) knowingly induces Verizon Customers to order Telecommunications Services from Verizon with the primary intention of enabling NUI to convert those Telecommunications Services to UNEs or Combinations, or (ii) itself orders Telecommunications Services from Verizon without taking delivery of those Telecommunications Services in order to induce Verizon to construct facilities that NUI then converts to UNEs or Combinations, then Verizon will provide written notice to NUI that its actions suggest that NUI is engaged in a pattern of bad faith conduct. If NUI fails to respond to this notice in a manner that is satisfactory to Verizon within fifteen (15) Business Days, then Verizon shall have the right, with thirty (30) calendar days advance written notice to NUI, to institute an embargo on provision of new services and facilities to NUI. This embargo shall remain in effect until NUI provides Verizon with adequate assurances that the bad faith conduct shall cease. Should NUI repeat the pattern of conduct following the removal of the service embargo, then Verizon may elect to treat the conduct as an act of material breach in accordance with the provisions of this Agreement that address default.
- 1.3 NUI may use a UNE or Combination only for those purposes for which Verizon is required by Applicable Law to provide such UNE or Combination to NUI. Without limiting the foregoing, NUI may use a UNE or Combination (a) only to provide a Telecommunications Service and (b) to provide Exchange Access services only to the extent that Verizon is required by Applicable Law to provide such UNE or Combination to NUI in order to allow NUI to provide such Exchange Access services.
- 1.4 Notwithstanding any other provision of this Agreement:
  - 1.4.1 To the extent Verizon is required by a change in Applicable Law to provide to NUI a UNE or Combination that is not offered under this Agreement to NUI as of the Effective Date, the terms, conditions and prices for such UNE or Combination (including, but not limited to, the terms and conditions defining the UNE or Combination and stating when and where the UNE or Combination will be available and how it will be used, and terms, conditions and prices for pre-ordering,

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ordering, provisioning, repair, maintenance and billing) shall be as provided in an applicable Verizon Tariff, or, in the absence of an applicable Verizon Tariff, as mutually agreed in writing by the Parties.

- 1.4.2 Verizon shall not be obligated to provide to NUI, and NUI shall not request from Verizon, access to a proprietary advanced intelligent network service.
- 1.5 Without limiting Verizon's rights pursuant to Applicable Law or any other section of this Agreement to terminate its provision of a UNE or a Combination, if Verizon provides a UNE or Combination to NUI, and the Commission, the FCC, a court or other governmental body of appropriate jurisdiction determines or has determined that Verizon is not required by Applicable Law to provide such UNE or Combination, Verizon may terminate its provision of such UNE or Combination to NUI. If Verizon terminates its provision of a UNE or a Combination to NUI pursuant to this Section 1.5 and NUI elects to purchase other services offered by Verizon in place of such UNE or Combination, then: (a) Verizon shall reasonably cooperate with NUI to coordinate the termination of such UNE or Combination and the installation of such services to minimize the interruption of service to Customers of NUI; and, (b) NUI shall pay all applicable charges for such services, including, but not limited to, all applicable installation charges.
- 1.6 Nothing contained in this Agreement shall be deemed to constitute an agreement by Verizon that any item identified in this Agreement as a Network Element is (i) a Network Element under Applicable Law, or (ii) a Network Element Verizon is required by Applicable Law to provide to NUI on an unbundled basis or in combination with other Network Elements.
- 1.7 Except as otherwise expressly stated in this Agreement, NUI shall access Verizon's UNEs specifically identified in this Agreement via Collocation in accordance with the Collocation Attachment at the Verizon premises where those UNEs exist, and each Loop or Port shall, in the case of Collocation, be delivered to NUI's Collocation node by means of a Cross Connection.
- 1.8 If as the result of NUI Customer actions (i.e., Customer Not Ready ("CNR")), Verizon cannot complete requested work activity when a technician has been dispatched to the NUI Customer premises, NUI will be assessed a non-recurring charge associated with this visit. This charge will be the sum of the applicable Service Order charge as provided in the Pricing Attachment and the Premises Visit Charge as provided in Verizon's applicable retail or wholesale Tariff.

## **2. Verizon's Provision of Network Elements**

Subject to the conditions set forth in Section 1 of this Attachment, in accordance with, but only to the extent required by, Applicable Law, Verizon shall provide NUI access to the following:

- 2.3 Line Splitting, as set forth in Section 5 of this Attachment;

## **5. Line Splitting**

CLECs may provide integrated voice and data services over the same Loop by engaging in "Line Splitting" as set forth in paragraph 18 of the FCC's Line Sharing Reconsideration Order (CC Docket Nos. 98-147, 96-98), released January 19, 2001. Any Line Splitting between two CLECs shall be accomplished by prior negotiated arrangement between those CLECs. To achieve a Line Splitting capability, CLECs may utilize supporting Verizon OSS to order and combine in a Line Splitting configuration an unbundled xDSL

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Compatible Loop terminated to a collocated splitter and DSLAM equipment provided by a participating CLEC, unbundled switching combined with shared transport, collocator-to-collocator connections, and available cross-connects, under the terms and conditions set forth in their Interconnection Agreement(s). The participating CLECs shall provide any splitters used in a Line Splitting configuration. CLECs seeking to migrate existing UNE platform configurations to a Line Splitting configuration using the same Network Elements utilized in the pre-existing platform arrangement, or seeking to migrate a Line Sharing arrangement to a Line Splitting configuration using the existing Loop, a Verizon Local Switching Network Element, and the existing central office wiring configuration, may do so consistent with such implementation schedules, terms, conditions and guidelines as are agreed upon for such migrations in the ongoing DSL Collaborative in the State of New York, NY PSC Case 00-C-0127, allowing for local jurisdictional and OSS differences.

### **15. Maintenance of Network Elements**

If (a) NUI reports to Verizon a Customer trouble, (b) NUI requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon's facilities or equipment in whole or in part, then NUI shall pay Verizon a charge set forth in the Pricing Attachment for time associated with said dispatch. In addition, this charge also applies when the Customer contact as designated by NUI is not available at the appointed time. NUI accepts responsibility for initial trouble isolation and providing Verizon with appropriate dispatch information based on its test results. If, as the result of NUI instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), a charge set forth in the Pricing Attachment will be assessed per occurrence to NUI by Verizon. If as the result of NUI instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), a charge set forth in the Pricing Attachment will be assessed per occurrence to NUI by Verizon. Verizon agrees to respond to NUI trouble reports on a non-discriminatory basis consistent with the manner in which it provides service to its own retail Customers or to any other similarly situated Telecommunications Carrier.

### **17. Rates and Charges**

The rates and charges for UNEs, Combinations and other services, facilities and arrangements, offered under this Attachment shall be as provided in this Attachment and the Pricing Attachment.