

## QWEST PRIVATE SWITCH/AUTOMATIC LOCATION IDENTIFICATION SERVICE

Agreement Number  
Billing Number

This Qwest Corporation Private Switch/Automatic Location Identification Service Agreement ("Agreement") is between CITY OF PEORIA ("Customer") and Qwest Corporation, ("Qwest").

**1. Scope.**

1.1. Qwest will provide, and Customer will purchase, the Qwest Private Switch/Automatic Location Identification service provided under this Agreement ("Service"). Service allows customers using a private telephone switch such as a Private Branch Exchange ("PBX"), Cellular or other telephone service switch located on a customer premises to forward Automatic Number Identification ("ANI") information, identifying the individual station line to a 911 system, via dedicated Service transport facilities. Service is also available to Centrex/Centron customers who wish to provide the 911 system with more specific location and routing information. Service is employed to allow for the storage and retrieval of Automatic Location Identification (ALI) on a 911 call, and/or for selectively routing that call to the appropriate Public Safety Answering Point ["PSAP"]. The accuracy of the data base records for ALI and Selective Routing is established based on the information provided by Customer to Qwest. Qwest cannot guarantee or confirm the accuracy of Customer-provided information. Customer's private switch main locations to be included in this agreement are found in Attachment 1, incorporated by reference.

1.2. Any Qwest tariff, price list, price schedule, administrative guideline, catalog, and other rate and term schedules (hereinafter, whether individually or together, "Tariff") applicable to the Service is incorporated into the Agreement by reference and made a part of the Agreement. The Service will be governed by: (a) the Tariff applicable to the Service; and (b) to the extent a comparable Tariff term or condition does not apply to the Service, the terms and conditions set forth in this Agreement. Qwest reserves the right to amend, change, withdraw, or file additional Tariffs in its sole discretion, with such updated Tariffs effective upon posting or upon fulfillment of any necessary regulatory requirements. Qwest may provide certain other services to Customer in conjunction with Service (such as exchange access), which are not included in this Agreement. Qwest and Customer will be responsible for any other services in accordance with existing Tariffs, including payment of applicable charges. Nothing in this Agreement is intended to waive, limit, or alter those Tariffs.

2. **Term.** This Agreement will commence on the latest signature date, provided mandatory filing requirements are met. Service will be provided on a month-to-month basis.

3. **Installation.** The estimated installation date for Service is 6-29-2007; however, Qwest will not be liable for delays in the installation of Service regardless of the reason.

4. **Payment.** Customer agrees to pay the charges for Service as specified on Attachment 1A incorporated by this reference. Customer must pay Qwest all charges by the date on the invoice. Any amount not paid when due will be subject to a late charge as specified by the Tariff, or if there is no such late charge specified in the Tariff, the amount due will be subject to late interest at the lesser of 1½% per month or the highest rate permitted by applicable law. Customer must also pay Qwest any applicable federal, state, and local taxes, surcharges, and other similar charges ("Taxes") assessed in connection with Customer's Service. Taxes are subject to change. Qwest may reasonably modify the payment terms or require other assurance of payment based on Customer's payment history or a material and adverse change in Customer's financial condition.

**5. Customer's Responsibilities.**

5.1. Customer must provide a single point of contact as well as written documentation to Qwest and the Public 911 jurisdiction stating that the affected PSAPs are able to accept and dispatch calls for those private switch stations, and to identify area boundaries and to provide any Master Street Address Guide ("MSAG") additions or modifications that are required.

5.2. Customer's private switch must provide a full seven-digit numbering system and the associated ANI for every station within the private switch. This information must be approved by Qwest prior to implementation to assure that no conflict exists between the private switch numbering plan and the Qwest overall numbering plan.

5.3. If the seven-digit number is not dialable (is not capable of receiving incoming calls), Customer is responsible to identify the associated call back number to be populated in the database in a standard format as provided by Qwest. The use of non-dialable numbers must be approved in writing by Qwest prior to implementation.

5.4. Customer must also maintain and provide to Qwest complete and current telephone number and address data in the agreed-upon format and within the required time schedule. Customer will be notified of telephone number and address data errors that are identified during the ALI database processing phase or by the PSAP, such as misroutes and No Record Found ("NRF") telephone numbers. Customer is responsible for issuing a correction to the ALI database within one business day of being notified. Until these errors are corrected, the affected telephone number(s) and associated addresses may not be available in the ALI database. Customer accepts any liability for the absence or inaccuracy of this information.

5.5. Customer's private switch must be capable of recognizing the "911" or "9911" code as a complete dialing sequence and routing those calls to the Service trunk group.

5.6. Customer agrees that it will develop and establish methods and procedures to prevent the use or misuse of the voice grade trunks for other than 911 Service.

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5.7. Customer will be fully liable for the use or misuse of the voice grade trunks in the event its methods and procedures fail. Qwest will have the right to terminate this Agreement as a result of use or misuse of the voice grade trunks for other than 911 service.

5.8. For each private switch location listed in Attachment 1, where the private switch resides on Customer's premises, Customer agrees to order a minimum of two (2) Service trunks between the main private switch location and the 911 system. The number of Service trunks employed should be adequate to allow for a P.01 grade of service for each location.

5.9. Customer must develop, validate and install PC hardware (or equivalent) and software for ongoing Customer record update programs and processes. Customer is responsible for any data base corrections identified by Qwest.

5.10. Customer must meet Qwest hardware, software and file specification requirements as defined in the Qwest PS/ALI Specification and Installation Guide.

5.11. Customer agrees to provide updates or positive acknowledgment of zero updates to Qwest. Customer may choose the frequency of the updates (daily, weekly, or monthly) and will advise Qwest in writing of the frequency chosen. Customer may change the frequency of its updates by written notice to Qwest.

**6. Qwest's Responsibilities.**

6.1. Qwest will provide a minimum of two Service trunks for each main location listed in Attachment 1, where the private switch resides on Customer's premises to the 911 system and will suggest and provide trunks to maintain a P.01 grade of service for Customer.

6.2. Qwest will provide to Customer the information required to order the private switch interface specifications, Service data file format specifications, and the Qwest custom Service Order Transfer System ("SOTS") file software including software installation and file transfer instructions.

6.3. Qwest will maintain the 911 database using updates as provided by Customer.

6.4. Qwest will retain Customer's update file for seven days for back-up and/or recovery purposes.

7. **Moves, Changes.** Any changes to this Agreement may be made only by written amendment signed by both parties hereto.

8. **Termination.** Either party may terminate this Agreement by providing the other party 30 days written notice of termination.

**9. Confidentiality; Publicity.**

9.1 Neither party will, without the prior written consent of the other party: (a) disclose any of the terms of the Agreement or use the name or marks of the other party or its Affiliates; or (b) disclose or use (except as expressly permitted by, or required to achieve the purposes of, the Agreement) the Confidential Information of the other party. Qwest's consent may only be given by its Legal Department. A party may disclose Confidential Information if required to do so by a governmental agency, by operation of law, or if necessary in any proceeding to establish rights or obligations under the Agreement, provided that the disclosing party gives the non-disclosing party reasonable prior written notice. "Confidential Information" means any information that is not generally available to the public, whether of a technical, business or other nature and that: (c) the receiving party knows or has reason to know is confidential, proprietary or trade secret information of the disclosing party; and/or (d) is of such a nature that the receiving party should reasonably understand that the disclosing party desires to protect such information against unrestricted disclosure. Confidential Information will not include information that is in the public domain through no breach of this Agreement by the receiving party or is already known or is independently developed by the receiving party.

9.2. Qwest may receive or have access to written or oral records and information which Customer considers to be confidential and proprietary, including but not limited to, technical information such as specifications, drawings, guidelines, models and other types of information which relate to Customer's present and future development of business activities. Such information will be designated by Customer as confidential and/or proprietary and Qwest will hold such confidential or proprietary information in trust and confidence for Customer; will use it only for the purposes permitted hereunder; and will deliver to Customer all such records and information, in written or graphic form, upon expiration or termination of this Agreement.

9.3. Customer information contains names, addresses and telephone numbers of Customer's subscribers, including subscribers having non-published and non-listed telephone service. Customer understands and agrees that there are certain duties and responsibilities imposed by this Agreement and by law or Tariff with regard to the confidential and private nature of the information.

10. **Interruptions to Service.** Tariff specifies the credit allowance due Customer, if any, for interruptions to Service which are not caused by Customer's negligence. In the event Service is provided where there is no Tariff, the provisions of the F.C.C.1 Access Service Tariff will apply with respect to credit allowances due Customer.

11. **Personal Injury, Death, and Property Damage.** Each party will be responsible for the actual, physical damages it directly causes to the other party in the course of its performance under the Agreement, limited to damages resulting from personal injury or death to a party's employees and loss or damage to a party's personal tangible property arising from the negligent acts or omissions of the liable party; PROVIDED, HOWEVER, THAT NEITHER PARTY, ITS AFFILIATES, AGENTS, OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST PROFITS OR REVENUES OR LOST DATA OR COSTS OF COVER.

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12. **Indemnification.** Customer will defend and indemnify Qwest, its Affiliates, agents, and contractors against all third party claims, liabilities, costs, expenses, and reasonable attorneys' fees, arising from or related to the use, modification, or resale of the Service by Customer or End Users, including, without limitation, any claim for invasion of privacy. "End User" means Customer's members, end users, customers, or any other third parties who use or access the Service or the Qwest network via the Service. "Affiliate" means any entity controlled by, controlling, or under common control with a party.

13. **Limitation of Liability.** NEITHER PARTY, ITS AFFILIATES, AGENTS, OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST PROFITS OR REVENUES OR LOST DATA OR COSTS OF COVER RELATING TO THE SERVICE OR THE AGREEMENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED. WITH REGARD TO ANY SERVICE RELATED CLAIM BY CUSTOMER FOR DAMAGES THAT IS NOT LIMITED BY THE PRECEDING SENTENCE, CUSTOMER'S EXCLUSIVE REMEDIES FOR SUCH CLAIM WILL BE LIMITED TO THE APPLICABLE OUT-OF-SERVICE CREDITS, IF ANY. This limitation of liability will not apply to a party's indemnification obligations or Customer's payment obligation for all charges under the Agreement, (e.g., Service charges, Taxes, interest, and termination or cancellation charges).

14. **No Warranties.** QWEST DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY QWEST, ITS AFFILIATES, AGENTS, OR CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES WILL CREATE ANY WARRANTY. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE.

15. **Governing Law; Dispute Resolution.**

15.1 **Governing Law; Forum.** This Agreement will be governed by the laws of the state of Colorado, except with regard to matters which are within the exclusive jurisdiction of the state or federal regulatory agency. Those matters alone will be governed by the laws of the appropriate jurisdiction. Any legal proceeding relating to this Agreement will be brought in a U.S. District Court, or absent federal jurisdiction, in a state court of competent jurisdiction, in the location of the party to this Agreement not initiating the action, as indicated in the Notices section. But Qwest may, at its discretion, initiate proceedings in Denver, Colorado to collect undisputed amounts billed. This provision is not intended to deprive a small claims court or state agency of lawful jurisdiction that would otherwise exist over a claim or controversy between the parties.

15.2 **Waiver of Jury Trial and Class Action.** Each party, to the extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a jury trial and any right to pursue any claim or action relating to this Agreement on a class or consolidated basis or in a representative capacity.

16. **Notices.** Unless otherwise provided herein, all required notices to Qwest must be in writing, sent to 1801 California St., #900, Denver, CO 80202; Fax #: 888-778-0054; Attn.: Legal Dep't., and to Customer at its then current address as reflected in Qwest's records; Attn.: General Counsel or other person designated for notices. Unless otherwise provided herein, all notices will be deemed given: (a) when delivered in person to the recipient named above; (b) three business days after mailed via regular U.S. Mail; (c) when delivered via overnight courier mail; or (d) when delivered by fax if duplicate notice is also sent by regular U.S. Mail.

17. **General.** Customer may not assign the Agreement or any of its rights or obligations under the Agreement without the prior written consent of Qwest, which consent will not be unreasonably withheld. Customer may not assign to a reseller or telecommunications carrier under any circumstances and represents that it will not resell the Service. The Agreement is intended solely for Qwest and Customer and not to benefit any other person or entity, (e.g., End Users). If any term of the Agreement is held unenforceable, such term will be construed as nearly as possible to reflect the original intent of the parties and the remaining terms will remain in effect. Neither party's failure to insist upon strict performance of any provision of the Agreement will be construed as a waiver of any of its rights hereunder. All terms of the Agreement that should by their nature survive the termination of the Agreement will so survive. In the event of a conflict in any term or condition of any documents that govern the provision of the Service hereunder, the following order of precedence will apply in descending order of control: the Tariff, this Agreement, and Qwest records. Neither party will be liable for any delay or failure to perform its obligations hereunder if such delay or failure is caused by a Force Majeure Event. "Force Majeure Event" means an unforeseeable event beyond the reasonable control of that party, including without limitation: act of God, fire, flood, labor strike, sabotage, fiber cuts, acts of terror, material shortages or unavailability, government laws or regulations, war or civil disorder, or failures of suppliers of goods and services. Except for Tariff or Service modifications initiated by Qwest, all amendments to the Agreement must be in writing and signed by the parties' authorized representatives. However, any change in rates, charges, or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. Each party reserves the right at any time to reject any handwritten change to the Agreement.

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18. Entire Agreement. This Agreement constitutes the entire agreement between Customer and Qwest and supersedes all prior oral or written agreements or understandings relating to this subject matter.

CITY OF PEORIA

John T  
Authorized Signature

LYNDA DAVIS JOHN T MIC  
Name Typed or Printed

IT MANAGER OPERATIONS MGR.  
Title

6-7-2007  
Date

Customer Address:  
8401 W MONROE ST, PEORIA, AZ

Qwest Corporation

Lynda Santoro  
Authorized Signature

LYNDA SANTORO  
Name Typed or Printed

SALES MANAGER  
Title

6-27-07  
Date

**QWEST PRIVATE SWITCH/AUTOMATIC LOCATION IDENTIFICATION SERVICE  
ATTACHMENT 1A  
TO**

**QWEST PRIVATE SWITCH/AUTOMATIC LOCATION IDENTIFICATION SERVICE  
(For Arizona, Colorado, Iowa, Minnesota, New Mexico, Oregon, Utah and Washington only)**

These charges are based on Qwest receiving updates from one single location for the Private Switch listed on Attachment 1. The updates will be in separate "account files," one for each 911 system. Qwest will not accept updates on a call-in basis. Any scheduled updates missed by Customer will wait and occur at the next scheduled update time.

1. Service Feature:	Unit Price/ Recurring/	Unit Price/ Nonrecurring/	Total Price/ Recurring	Total Price/ Nonrecurring
Per 1,000 records*	\$ 73.63	\$ 252.67	\$ 73.63	\$ 252.67
Per incoming trunk**	\$	\$	\$	\$
<b>2. Transport:</b>				
<b>Service Provisioning</b>				
First Circuit	\$	\$	\$	\$
Each Additional	\$	\$	\$	\$
Network Access Channel	\$	\$	\$	\$
Channel Performance	\$	\$	\$	\$
<b>Transport Mileage</b>				
Fixed:	\$	\$	\$	\$
Per Mile:	\$	\$	\$	\$
<b>Total:</b>			\$	\$

\* Rounded up to the nearest 1,000.

\*\* Minimum of two. Does not apply if Service Feature is ALI only.

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ATTACHMENT 1  
TO  
QWEST PRIVATE SWITCH/AUTOMATIC LOCATION IDENTIFICATION SERVICE

PRIVATE SWITCH LOCATION:

SERVING CENTRAL OFFICE:

911 CONTROL OFFICE:

911 SYSTEM:

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CITY OF PEORIA, ARIZONA  
A Municipal Corporation

  
Herman Koebergen, Materials Manager  
City of Peoria

Approved as to form:

**William L. Emerson, Assistant City Attorney**  
  
*for* Stephen M. Kemp, City Attorney  
City of Peoria

Attested by:

  
Mary Jo Kief, City Clerk  
City of Peoria



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