State of New Mexico
General Services Department
Purchasing Division

Contract Amendment

Awarded Vendor
0000117052
Level 3 Financing, Inc.
dba Level 3 Communications
1025 Eldorado Blvd.
Broomfield, CO 80021

Telephone No. (505) 924-0405

Price Agreement Number: 50-361-15-01844AA
Price Agreement Amendment No.: One
Term: November 16, 2015 – December 03, 2019

Ship To:
New Mexico Department of Information Technology
715 Alta Vista
Santa Fe, Nm 87502

Invoice:
As Requested

Procurement Specialist: Debra Saiz
Telephone No.: (505) 827-0521

Title: Internet Service Provider (ISP) Services

This Contract Amendment is to be attached to the respective Agreement and become a part thereof.

This amendment is issued to reflect the following effective modifications immediately.

- Extend the Terms of this Agreement through December 03, 2019.

Except as modified by this amendment, the provisions of the Contract shall remain in full force and effect.

Accepted for the State of New Mexico

Date: 10/31/2017

New Mexico State Purchasing Agent

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472

DS
State of New Mexico  
Department of Information Technology Agreement  
Information Technology Agreement  
Department of Information Technology Price Agreement No.: 50-361-15-01844L3  
General Services Department Contract No.: 50-361-15-01844AA  
Amendment No. 001

THIS AGREEMENT is made and entered into by and between the State of New Mexico, 
Department of Information Technology, hereinafter referred to as the "Procuring Agency," 
and "Level 3 Communications, LLC", hereinafter referred to as the "Contractor".

IT IS MUTUALLY AGREED BETWEEN THE PARTIES THAT THE FOLLOWING 
PROVISIONS OF THE ABOVE-REFERENCED AGREEMENT ARE AMENDED AS 
FOLLOWS:

1. Terms and Conditions. The purpose of this amendment is for an extension to the 
Department of Information Technology Price Agreement to "Internet Service Provider 
(ISP) Services" as a result of RFP#50-361-15-01844 for two (2) additional years.

Article 5. This Agreement shall neither be effective nor binding 
until approved by the DoIT and the State Purchasing Agent. This 
Agreement shall terminate on December 3, 2019 with no option to extend, unless 
terminated pursuant to Article 6. No contract term, including extensions and renewal, 
shall not exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

All other articles of the original Agreement remain the same.
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: [Signature]  
Darryl M. Ackley, State CIO and Cabinet Secretary  
Secretary of Department of Information Technology  

Date: 29 SEP 2017

By: [Signature]  
Dwight Steiner, Vice President  
Level 3 Communications, Inc.  

Date: Sept 12, 2017

Approved for legal sufficiency:

By: [Signature]  
Maria R. Sanchez  
General Counsel of Department of Information Technology  

Date: Sept 24, 2017

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes:

CRS ID Number: 02-385722-00-6  

By: [Signature]  
Taxation & Revenue Department  

Date: 9/19/17

Approved as to information technology contractual specifications and compliance with the Department of Information Technology Act, Chapter 9, Article 27 NMSA 1978 and Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico.

By: [Signature]  
Darryl Ackley, State CIO and Cabinet Secretary  
Department of Information Technology  

Date: 29 SEP 2017

This Agreement has been approved by the State Purchasing Agent:

By: [Signature]  
Purchasing Agent for the State of New Mexico  

Date: 10/31/17

Taxation and Revenue is only verifying the registration and will not confirm or deny any taxability statements contained in this contract.
State of New Mexico  
General Services Department  

Contract

Awarded Vendor
0000117052
Level 3 Financing, Inc. dba
Level 3 Communications, LLC.
1025 Eldorado Blvd.
Broomfield, CO 80021
Telephone No. (800) 829-0420

Contract Number: 50-361-15-01844AA
Payment Terms: See Contract
F.O.B.: See Contract
Delivery: See Contract

Procurement Specialist: Angelica Lopez
Telephone No.: (505) 827-0425

Ship To:
NM Department of Information Technology
715 Alta Vista
Santa Fe, NM 87502

Invoice:
Same as ‘Ship to’

For questions regarding this contract please contact:
Phil Bachicha (505) 476-3469

Title: Internet Service Provider (ISP) Services

Term: November 16, 2015 – November 15, 2017

This Contract is made subject to the “terms and conditions” as indicated in the attached Contract.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 11/16/15

Purchasing Division, 1100 St. Francis Drive, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472 AL
State of New Mexico

New Mexico Department of Information Technology

Information Technology Agreement
Price Agreement No. 50-361-15-01844L3

THIS Information Technology Agreement (“Agreement” or “Contract”) is made by and between the State of New Mexico, Department of Information Technology hereinafter referred to as the “Procuring Agency” and Level 3 Communications, LLC, hereinafter referred to as the “Contractor” and collectively referred to as the “Parties”.

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 et. seq; and Procurement Code Regulations, NMAC 1.4.1 et. seq; the Contractor has held itself out as expert in implementing the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of the RFP#50-361-15-01844 "Internet Service Provider (ISP) Services" and the Contractor’s response to such document(s) are incorporated herein by reference; and

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

ARTICLE 1 – DEFINITIONS
A. “Acceptance” or “Accepted” shall mean the approval, after Quality Assurance, of all Deliverables by an Executive Level Representative of the Procuring Agency.
B. “Application Deployment Package” shall mean the centralized delivery of business critical applications including the source code (for custom software), documentation, executable code and deployment tools required to successfully install application software fixes including additions, modifications, or deletions produced by the Contractor.
C. “Business Days” shall mean Monday through Friday, 7:30 a.m. (MST or MDT) to 5:30 p.m. except for federal or state holidays.
D. “Change Request” shall mean the document utilized to request changes or revisions in the Scope of Work – Exhibit A, attached hereto and incorporated herein.
E. “Chief Information Officer (“CIO”)” shall mean the Cabinet Secretary/CIO of the Department of Information Technology for the State of New Mexico or Designated Representative.
F. “Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of: (1) confidential client information as such term is defined in State or Federal statutes and/or regulations; (2) all non-public State budget, expense, payment and other financial information; (3) all attorney-client privileged work product; (4) all information designated by the Procuring Agency or any other State agency as confidential, including all information designated as confidential under federal or state law or regulations; (5) unless publicly disclosed by the
records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.

U. "Payment Invoice" shall mean a detailed, certified and written request for payment of Services by and rendered from the Contractor to the Procuring Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the Payment Invoice is submitted.

V. "Performance Bond" shall mean a surety bond which guarantees that the Contractor will fully perform the Contract and guarantees against breach of contract.

W. "Project" shall mean a temporary endeavor undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The Project terminates once the Project scope is achieved and the Project approval is given by the Executive Level Representative and verified by the Procuring Agency CIO to the DoIT.

X. "Project Manager" shall mean a Qualified person from the Procuring Agency responsible for the application of knowledge, skills, tools, and techniques to the Project activities to meet the Project requirements from initiation to close. Under the terms of this Agreement, the Project Manager shall be assigned by the Department of Information Technology or his/her Designated Representative.

Y. "Qualified" means demonstrated experience performing activities and tasks with Projects.

Z. "Quality Assurance" shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.

AA. "Services" shall mean the tasks, functions, and responsibilities assigned and delegated to the Contractor under this Agreement.

BB. "State Purchasing Agent (SPA)" shall mean the State Purchasing Agent for the State of New Mexico or his/her Designated Representative.

CC. "State Purchasing Division (SPD)" shall mean the State Purchasing Division of the General Services Department for the State of New Mexico.

DD. "Software" shall mean all operating system and application software used by the Contractor to provide the Services under this Agreement.

EE. "Software Maintenance" shall mean the set of activities which result in changes to the originally Accepted (baseline) product set. These changes consist of corrections, insertions, deletions, extensions, and Enhancements to the baseline system.

FF. "Source Code" shall mean the human-readable programming instructions organized into sets of files which represent the business logic for the application which might be easily read as text and subsequently edited, requiring compilation or interpretation into binary or machine-readable form before being directly useable by a computer.

GG. "Turnover Plan" means the written plan developed by the Contractor and approved by the Procuring Agency in the event that the work described in this Agreement transfers to another vendor or the Procuring Agency.
an estimated restore time to include hourly updates until outage is repaired.

7. Internet Service as a Direct Connection. This requirement is at no added cost to the Department of Information Technology based upon the Contractor’s Price Listings for internet services at any of the Service Locations listed above. The Contractor shall provide internet service as a direct connection for the Service Locations in this Agreement.

8. Customer Reporting. This requirement is at no added cost to the Department of Information Technology based upon the Contractor’s Price Listings for internet services at any of the Service Locations listed in this Agreement. The Contractor must provide the customer reports listed per Appendix I, “Customer Reports Provided by Contractor”.

9. Monitoring Capability. This requirement is at no added cost to the Department of Information Technology based upon the Contractor’s Price Listings for internet services at any of the Service Locations listed in this Agreement. The Contractor shall provide for full time monitoring of internet services 24 hours a day, 7 days a week and 365 days a year for the Department of Information Technology across the Service Locations listed in this Agreement.

10. Prevention Solutions to Stop DDoS attacks. This requirement is at no added cost to the Department of Information Technology based upon the Contractor’s Price Listings for internet services at any of the Service Locations listed in this Agreement. The Contractor shall provide a prevention solution to stop a DDoS attack. The Contractor’s prevention solution to stop DDoS attacks by providing IP filtering/null routing of malicious IP addresses on a temporary basis.

11. Security. The Contractor shall provide security of its own network to ensure the integrity, availability, and confidentiality of the customer and company information in support of internet services.

12. Provisioning and Upgrading Timeframe by Location. The Contractor shall provide the lead times (in calendar days) for provisioning internet services and upgrading internet services that include hardware upgrades using its portal starting from the date the Department of Information Technology or customer requests service formally in writing with signature approval through the date the customer receives services successfully for any of the Service Locations listed in this Agreement. See Appendix J, “Contractor’s Lead Time for Provisioning and Upgrading Internet Services at Service Locations Listed”.

B. Performance Measures. The Contractor shall substantially perform to the satisfaction of the Procuring Agency the Performance Measures set forth in Exhibit A. In the event the Contractor fails to obtain the results described in Exhibit A, the Procuring Agency may provide written notice to the Contractor of the Default and specify a reasonable period of time in which the Contractor shall advise the Procuring Agency of specific steps it will take to achieve these results and the proposed timetable for implementation. Nothing in
Payment shall be made upon Acceptance of each Deliverable according to Article 4 and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

C. **Taxes.**

The Contractor shall be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).

Contractor and any and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the Procuring Agency harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker’s Compensation.

Each authorized entity contracting for services pursuant to this Agreement shall be responsible for its taxes and fees. Any fees charged by the Contractor shall require the review and approval of the Department of Information Technology with at least a 60 day notification to include the reason for having the fee to include any changes to fees. The fees shall not include the fees waived by the Contractor that include installation fees, nonrecurring costs, cross connect charge and the Service Price Listings outlined in Exhibit A of this Agreement.

D. **Retainage.** For any work made for hire, the Procuring Agency shall retain twenty percent (20%) of the fixed-price Deliverable cost for each Deliverable that is the subject of this Agreement as security for full performance of this Agreement. All amounts retained shall be released to the Contractor upon Acceptance of the final Deliverable.

E. **Performance Bond.** Not Applicable.

G. **Waiving Installation Fees (Non-Recurring Costs (NRCs)).** The Contractor shall waive any installation fees, nonrecurring costs, and cross connect charge (CCC).

H. **Service Levels Resulting in Service Credits.** The Contractor shall provide service level credits. See Appendix N, “Contractor Service Credits for IP Services” and Section 5 of Exhibit B. In the event of any inconsistencies between Appendix N and Exhibit B, Appendix N will govern.

**ARTICLE 4 – ACCEPTANCE**
The Procuring Agency may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the Procuring Agency may terminate this Agreement.

**ARTICLE 5 – TERM**

This Agreement shall terminate on **October 31, 2017**, or two years from the date on which it is executed by all Parties, unless terminated pursuant to Article 6. The Agreement shall be for two calendar years in duration with the option to renew on an annual basis or for another 2 (two) years. The contract term, including extensions and renewals, shall not exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

**ARTICLE 6 – TERMINATION**

A. **Grounds.** The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency’s uncured, material breach of this Agreement.

B. **Appropriations.** By the Procuring Agency, if required by changes in State or federal law, or because of court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico State Legislature for the performance of this Agreement. The Procuring Agency’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency terminates this Agreement pursuant to this subsection, the Procuring Agency shall provide the Contractor written notice of such termination at least fifteen (15) Business Days prior to the effective date of the termination.

C. **Notice; Agency Opportunity to Cure.**
   1. Except as otherwise provided in Paragraph (3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.
   2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency’s material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor’s notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.
   3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, “Appropriations”, of this Agreement.
9. In the event this Agreement is terminated for any reason, or upon its expiration, the Contractor shall develop and submit to the Procuring Agency for approval an Agreement Turnover Plan at least ten (10) Business Days prior to the effective date of termination. Such Turnover Plan shall describe the Contractor's policies and procedures that will ensure: (1) the least disruption in the delivery of Services during the transition to a substitute vendor; and (2) cooperation with the Procuring Agency and the substitute vendor in transferring information and Services. The Turnover Plan shall consist of the orderly and timely transfer of files, data, computer software, documentation, system turnover plan, Know How, Intellectual Property and other materials, whether provided by the Procuring Agency or created by the Contractor under this Agreement, to the Procuring Agency, including but not limited to, user manuals with complete documentation, functional technical descriptions of each program and data flow diagrams. At the request of the Procuring Agency, the Contractor shall provide to the Procuring Agency a copy of the most recent versions of all files, software, Know How, Intellectual Property and documentation, whether provided by the Procuring Agency or created by the Contractor under this Agreement.

B. **Procuring Agency.** In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Procuring Agency shall:
1. Retain ownership of all work products and documentation created pursuant to this Agreement; and
2. Pay the Contractor all amounts due for Services Accepted prior to the effective date of such termination or expiration.

**ARTICLE 8 – INDEMNIFICATION**

A. **General.** The Contractor shall defend, indemnify and hold harmless the Procuring Agency, the State of New Mexico and its employees from all third party actions, proceedings, claims, demands, costs, damages, attorneys’ fees and all other liabilities to a third party and related expenses of any kind from any source for bodily injury or physical damage to tangible property which may arise out of the of the performance of this Agreement, caused by the negligent act, or willful misconduct, of the Contractor, its officers, employees, servants, subcontractors or agents, during the time when the Contractor, its officer, agent, employee, servant or subcontractor thereof has or is performing Services pursuant to this Agreement. This indemnity does not apply to claims or liabilities arising from 911 service or other emergency referral calls, nor to the assertion of any affirmative claims (even compulsory counter claims). The Procuring Agency must notify the Contractor promptly upon receiving notice of any claim falling within the scope of this indemnity, and in any case within 5 business days, and acknowledges that delays in notifying Contractor will prejudice Contractor's ability to provide a defense. In the event that any third party action, suit or proceeding within the scope of this indemnity related to the Services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable, but no later than seven (7) Business Days after it receives notice thereof, notify, by certified mail, the legal counsel of the Procuring Agency, the Risk Management Division of the New Mexico General Services Department, and the DoIT.

B. The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages,
ARTICLE 10 - INTELLECTUAL PROPERTY INDEMNIFICATION

A. Intellectual Property Indemnification. The Contractor shall defend, at its own expense, the Procuring Agency, the State of New Mexico and/or any other State of New Mexico body against any third party claim that any service provided by the Contractor under this Agreement infringes any patent, copyright or trademark or trade secret ("IP Right"), and shall pay all third party costs and damages that may be awarded as a result of such claim. To qualify for such defense and indemnification, the Procuring Agency shall:
1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
2. Provide the Contractor with sole control and authority over the defense and settlement of the claim; and
3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

The foregoing will not apply to any claim unless these items were previously agreed to by the Contractor: (i) based on the combination of Service with other products, services or functionality; or (ii) related to any Service modified by the Procuring Agency or the State to the extent that such modification is the cause of the claim.

B. Procuring Agency Rights. If any service becomes, or in the Contractor's opinion is likely to become, the subject of a claim for which the Contractor may have an indemnification obligation hereunder, Contractor may, at its option and expense:
1. Obtain for Procuring Agency the right to continue to use the Service consistent with this Agreement;
2. Modify the Service so that it is non-infringing and in compliance with the Agreement; or
3. Replace the Service with an alternative, non-infringing Service with equivalent functionality. The foregoing states Contractor's only obligations (and the indemnitees' sole and exclusive remedy) for any claims, actions, liabilities, damages or losses arising in connection with alleged or actual infringement, violation or misappropriation of an IP Right by the Services.

ARTICLE 11 - WARRANTIES

A. General. The Contractor hereby expressly warrants the Deliverable(s) as being correct and compliant with the terms of this Agreement, Contractor's official published specification and technical specifications of this Agreement and all generally accepted industry standards. This warranty encompasses correction of defective Deliverable(s) and revision of the same, as necessary, including deficiencies found during testing, implementation, or post-implementation phases.

B. Software. Not Applicable. The Parties agree there is no Software to be purchased or developed for the Services outlined in Exhibit A of this Agreement.

C. LEVEL 3 MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT OR A DEPARTMENT OF INFORMATION TECHNOLOGY APPROVED LEVEL 3 SERVICE SCHEDULE.
by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

B. **Subject of Proceedings.** Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor's ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the Procuring Agency.

**ARTICLE 14 - CHANGE MANAGEMENT**

A. **Changes.** Contractor may only make changes or revisions within the Scope of Work as defined by Article 2 and Exhibit A after receipt of written approval by the Executive Level Representative. Such change may only be made to Tasks or Sub-Task as defined in the Exhibit A. Under no circumstance shall such change affect the:

1. Deliverable requirements, as outlined in Exhibit A;
2. Due date of any Deliverable, as outlined in Exhibit A;
3. Compensation of any Deliverable, as outlined in Exhibit A;
4. Agreement compensation, as outlined in Article 3; or
5. Agreement termination, as outlined in Article 5.

B. **Change Request Process.** In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1. The Project Manager shall draft a written Change Request for review and approval by the Executive Level Representative to include:
   (a) the name of the person requesting the change;
   (b) a summary of the required change;
   (c) the start date for the change;
   (d) the reason and necessity for change;
   (e) the elements to be altered; and
   (f) the impact of the change.

2. The Executive Level Representative shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Executive Level Representative are final. Change Requests, once approved, become a part of the Agreement and become binding as a part of the original Agreement.
ARTICLE 18 - LIABILITY

EXCEPT FOR INDEMNIFICATION RESPONSIBILITIES, NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, THE COST OF PURCHASING REPLACEMENT SERVICES, OR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN ANY WAY RELATED TO THIS AGREEMENT OR ANY ORDER. LEVEL 3 WILL HAVE NO LIABILITY FOR ANY CLAIMS RELATING TO 911 OR OTHER EMERGENCY REFERRAL CALLS. LEVEL 3 MAKES NO WARRANTIES OR REPRESENTATIONS RESPECTING THE SERVICE, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY.

ARTICLE 19 – ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of this Agreement's approval authorities.

ARTICLE 20 – SUBCONTRACTING

A. General Provision. The Contractor shall not subcontract any portion of this Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Agreement, nor shall any subcontracting obligate payment from the Procuring Agency.

B. Responsibility for subcontractors. The Contractor must not disclose Confidential Information of the Procuring Agency or of the State of New Mexico to a subcontractor unless and until such subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of the Contractor under this Agreement.

ARTICLE 21 – RELEASE

The Contractor’s Acceptance of final payment of the amount due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.
ARTICLE 26 – NEW MEXICO EMPLOYEES HEALTH COVERAGE

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: http://insurenewmexico.state.nm.us/.

D. For Indefinite Quantity, Indefinite Delivery contracts (state price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the Contractor reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000.

ARTICLE 27 – NEW MEXICO EMPLOYEES PAY EQUITY REPORTING

A. The Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this Agreement, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for Agreements up to one (1) year in duration. If Contractor has (250) or more employees Contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for Agreements up to one (1) year in duration. For Agreements that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual Agreements anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the Agreements, whichever comes first. Should Contractor not meet the size requirement for reporting as of the effective date of this Agreement but subsequently grows such that they meet or exceed the size requirement for reporting, Contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.
ARTICLE 29 – NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail (return receipt requested), when sent by overnight carrier, or upon telephone confirmation by Contractor to the sender of receipt of a facsimile communication that is followed by a mailed hard copy from the sender. Notices shall be addressed as follows:

For PROCURING AGENCY

To SPA:
State Purchasing Agent
Purchasing Division
Joseph M. Montoya State Building, Room 2016
1100 St. Francis Drive
Phone: (505) 827-0472

With a copy to DoIT:
Phil Bachicha, Procurement Specialist
Contracts and Procurement Bureau
Department of Information Technology
Simms Building
715 Alta Vista
Santa Fe, NM 87502
Phone: (505) 476-3469

For CONTRACTOR

Level 3 Communications, LLC
1025 Eldorado Blvd.
Broomfield, Colorado 80021
Attn: General Counsel
Facsimile: (720) 888-5128

For billing inquiries/disputes, requests for Service Level credits and/or requests for disconnection of Service (other than for default):
Level 3 Communications, LLC
1025 Eldorado Blvd.
Broomfield, Colorado 80021
Attn: Director, Billing
Facsimile: (877) 460-9867
E-mail: billing@level3.com

Any change to the Notice individual or the address, shall be effective only in writing.
ARTICLE 31 - SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement.

ARTICLE 32 - TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days, unless Business Days are used; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

ARTICLE 33 - FORCE MAJEURE

Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or Default in performing hereunder if such delay or Default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
I. EXHIBIT A – SCOPE OF WORK

This section will consist of the following ISP Services and Price Listings:

1. APPENDIX C: Price Listing for Internet Service to Compass Bank
   505 Marquette Ave., UNM Gigapop Suite 120A
   Albuquerque, NM 87102

2. APPENDIX C-1: Price Listing for Internet Service to John F. Simms Building
   715 Alta Vista, Simms Building Basement Comm. Room
   Santa Fe, NM  87502

3. APPENDIX C-2: Price Listing for Internet Service to 501 West Overland
   El Paso, TX 79901
   RR 215.15, Customer Access at SE door, one large room
   (Must be on Level 3 access list to enter facility)

4. APPENDIX C-3: Price Listing for Internet Service to New Mexico State
   University
   1275 Stewart St., NMSU ICT – Building, Room 131
   24x7 Escort access by ICT personnel
   Las Cruces, NM  88003

5. APPENDIX C-4: NOT APPLICABLE, There are no courses offered by the
   Contractor for this Agreement.

6. Price Listing for Internet Service Provider Training Course(s)

7. APPENDIX C-5: Price Listing for Internet Service Provider's (ISP) Professional
   Services

8. APPENDIX C-6: Other Alternative Price Listing for Internet Service Provider’s
   (ISP) in CenturyLink’s Data Center
   400 Tijeras Ave. NW, Albuquerque, NM 87102

9. APPENDIX I: Customer Reports Provided By the Contractor

10. APPENDIX J: Contractor’s Lead Time for Provisioning and Upgrading Internet
    Services at Service Locations Listed

11. APPENDIX N – Contractor’s Service Credits for IP Services

II. EXHIBIT B: LEVEL3's SERVICE LEVEL AGREEMENT
### Gigabit Ethernet (1000 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
<th>3 Year MRC ($)</th>
<th>5 Year MRC ($)</th>
<th>(1) Cross Connect Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 Mbps</td>
<td>$1,514.00</td>
<td>$1,286.00</td>
<td>$1,210.00</td>
<td></td>
</tr>
<tr>
<td>200 Mbps</td>
<td>$2,123.00</td>
<td>$1,805.00</td>
<td>$1,699.00</td>
<td></td>
</tr>
<tr>
<td>300 Mbps</td>
<td>$2,741.00</td>
<td>$2,449.00</td>
<td>$2,192.00</td>
<td></td>
</tr>
<tr>
<td>400 Mbps</td>
<td>$3,372.00</td>
<td>$2,866.00</td>
<td>$2,697.00</td>
<td></td>
</tr>
<tr>
<td>500 Mbps</td>
<td>$4,003.00</td>
<td>$3,402.00</td>
<td>$3,202.00</td>
<td></td>
</tr>
<tr>
<td>600 Mbps</td>
<td>$4,187.00</td>
<td>$3,558.00</td>
<td>$3,349.00</td>
<td></td>
</tr>
<tr>
<td>700 Mbps</td>
<td>$4,376.00</td>
<td>$3,715.00</td>
<td>$3,495.00</td>
<td></td>
</tr>
<tr>
<td>800 Mbps</td>
<td>$4,545.00</td>
<td>$3,868.00</td>
<td>$3,639.00</td>
<td></td>
</tr>
<tr>
<td>900 Mbps</td>
<td>$4,733.00</td>
<td>$4,023.00</td>
<td>$3,786.00</td>
<td></td>
</tr>
<tr>
<td>1000 Mbps</td>
<td>$4,916.00</td>
<td>$4,179.00</td>
<td>$3,932.00</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX C-1

Price Listing for Internet Service to John F. Simms Building
at 715 Alta Vista, Simms Building Basement Comm. Room, Santa Fe, NM
87502

a. Fast Ethernet (100 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
<th>3 Year MRC ($)</th>
<th>5 Year MRC ($)</th>
<th>(4) Cross Connect Charge</th>
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<tbody>
<tr>
<td>10 Mbps</td>
<td>$940.17</td>
<td>$896.17</td>
<td>$881.17</td>
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</tr>
<tr>
<td>20 Mbps</td>
<td>$1,074.17</td>
<td>$1,010.17</td>
<td>$989.17</td>
<td></td>
</tr>
<tr>
<td>30 Mbps</td>
<td>$1,208.17</td>
<td>$1,124.17</td>
<td>$1,095.17</td>
<td></td>
</tr>
<tr>
<td>40 Mbps</td>
<td>$1,339.17</td>
<td>$1,234.17</td>
<td>$1,200.17</td>
<td></td>
</tr>
<tr>
<td>50 Mbps</td>
<td>$1,473.17</td>
<td>$1,348.17</td>
<td>$1,307.17</td>
<td></td>
</tr>
<tr>
<td>60 Mbps</td>
<td>$1,540.17</td>
<td>$1,406.17</td>
<td>$1,360.17</td>
<td></td>
</tr>
<tr>
<td>70 Mbps</td>
<td>$1,607.77</td>
<td>$1,462.17</td>
<td>$1,414.17</td>
<td></td>
</tr>
<tr>
<td>80 Mbps</td>
<td>$1,671.77</td>
<td>$1,517.17</td>
<td>$1,465.17</td>
<td></td>
</tr>
<tr>
<td>90 Mbps</td>
<td>$1,737.77</td>
<td>$1,574.17</td>
<td>$1,519.17</td>
<td></td>
</tr>
<tr>
<td>100 Mbps</td>
<td>$1,805.77</td>
<td>$1,630.17</td>
<td>$1,572.17</td>
<td></td>
</tr>
</tbody>
</table>
### 10 Gigabit Ethernet (10,000 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
<th>3 Year MRC ($)</th>
<th>5 Year MRC ($)</th>
<th>(1) Cross-Connect-Charge ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1000 Mbps</td>
<td>$27,717.77</td>
<td>$24,718.29</td>
<td>$23,331.55</td>
<td></td>
</tr>
<tr>
<td>2000 Mbps</td>
<td>$30,935.77</td>
<td>$27,452.29</td>
<td>$25,905.55</td>
<td></td>
</tr>
<tr>
<td>3000 Mbps</td>
<td>$34,149.77</td>
<td>$30,185.29</td>
<td>$28,477.55</td>
<td></td>
</tr>
<tr>
<td>4000 Mbps</td>
<td>$37,363.77</td>
<td>$32,916.29</td>
<td>$31,047.55</td>
<td></td>
</tr>
<tr>
<td>5000 Mbps</td>
<td>$40,579.77</td>
<td>$35,649.29</td>
<td>$33,621.55</td>
<td></td>
</tr>
<tr>
<td>6000 Mbps</td>
<td>$43,795.77</td>
<td>$38,384.29</td>
<td>$36,193.55</td>
<td></td>
</tr>
<tr>
<td>7000 Mbps</td>
<td>$47,011.77</td>
<td>$41,117.29</td>
<td>$38,766.55</td>
<td></td>
</tr>
<tr>
<td>8000 Mbps</td>
<td>$50,223.77</td>
<td>$43,848.29</td>
<td>$41,336.55</td>
<td></td>
</tr>
<tr>
<td>9000 Mbps</td>
<td>$53,439.77</td>
<td>$46,581.29</td>
<td>$43,909.55</td>
<td></td>
</tr>
<tr>
<td>10,000 Mbps</td>
<td>$56,655.77</td>
<td>$49,316.29</td>
<td>$46,482.55</td>
<td></td>
</tr>
</tbody>
</table>
## Gigabit Ethernet (1000 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
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<td>$3,932.00</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX C-3

Price Listing for Internet Service to
New Mexico State University
1275 Stewart St., NMSU ICT – Building, Room 131, (24x7 Escort access by
ICT personnel,
Las Cruces, NM 88003

a. Fast Ethernet (100 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
<th>3 Year MRC ($)</th>
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</tr>
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<tbody>
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</tr>
<tr>
<td>20 Mbps</td>
<td>$ 1,074.17</td>
<td>$ 1,010.17</td>
<td>$ 989.17</td>
<td></td>
</tr>
<tr>
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</tr>
</tbody>
</table>
c. 10 Gigabit Ethernet (10,000 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
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<td>$ 46,482.55</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX C-5

Price Listing for Internet Service Provider's (ISP) Professional Services

a. “Level One” means a qualified team member that has greater than ten (10) years of relevant past experience.
b. “Level Two” means a qualified team member that has five (5) to ten (10) years of relevant past experience.
c. “Level Three” means a qualified team member that has less than five (5) years of relevant past experience.

<table>
<thead>
<tr>
<th>No.</th>
<th>Professional Service Title</th>
<th>2) Professional Service Description</th>
<th>3) Onsite Maximum Hourly Rate ($)</th>
<th>4) Offsite Maximum Hourly Rate ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Title:</td>
<td>Advanced Technical Services ONLY for Internet Related Services</td>
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<td></td>
</tr>
<tr>
<td>a</td>
<td>Level One</td>
<td></td>
<td>$190.42</td>
<td>$190.42</td>
</tr>
<tr>
<td></td>
<td>Level Two</td>
<td></td>
<td>$N/A</td>
<td>$N/A</td>
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<tr>
<td></td>
<td>Level Three</td>
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<td>$N/A</td>
<td>$N/A</td>
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<tr>
<td>2</td>
<td>Title:</td>
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<td></td>
</tr>
<tr>
<td>a</td>
<td>Level One</td>
<td></td>
<td>$N/A</td>
<td>$N/A</td>
</tr>
<tr>
<td>b</td>
<td>Level Two</td>
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<tr>
<td>c</td>
<td>Level Three</td>
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<td>$N/A</td>
<td>$N/A</td>
</tr>
<tr>
<td>3</td>
<td>Title:</td>
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<td>a</td>
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<td>$80.70</td>
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<tr>
<td>b</td>
<td>Level Two</td>
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<td>$69.82</td>
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<tr>
<td>c</td>
<td>Level Three</td>
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<td>$59.85</td>
<td>$59.85</td>
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</table>
### Gigabit Ethernet (1000 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
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<th>5 Year MRC ($)</th>
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</tr>
</thead>
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<td>$ 3,932.00</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX C-7

Other Alternative Price Listing for Internet Service Provider's (ISP)

Location: Any OFF NET Location in Albuquerque, Rio Rancho, and Santa Fe.

The Customer will check with the Contractor for availability of ISP Services at the customer requested address. These alternative prices are for locations other than those documented above in this Agreement at specific locations and addresses.

a. Fast Ethernet (100 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
<th>3 Year MRC ($)</th>
<th>5 Year MRC ($)</th>
<th>(1) Cross-Connect Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 Mbps</td>
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</tbody>
</table>
c. Gigabit Ethernet (10,000 Mbps)

<table>
<thead>
<tr>
<th>Level</th>
<th>1 Year MRC ($)</th>
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<td>$37,363.77</td>
<td>$32,916.29</td>
<td>$31,047.55</td>
<td></td>
</tr>
<tr>
<td>5000 Mbps</td>
<td>$40,579.77</td>
<td>$35,649.29</td>
<td>$33,621.55</td>
<td></td>
</tr>
<tr>
<td>6000 Mbps</td>
<td>$43,795.77</td>
<td>$38,384.29</td>
<td>$36,193.55</td>
<td></td>
</tr>
<tr>
<td>7000 Mbps</td>
<td>$47,011.77</td>
<td>$41,117.29</td>
<td>$38,766.55</td>
<td></td>
</tr>
<tr>
<td>8000 Mbps</td>
<td>$50,223.77</td>
<td>$43,848.29</td>
<td>$41,336.55</td>
<td></td>
</tr>
<tr>
<td>9000 Mbps</td>
<td>$53,435.77</td>
<td>$46,581.29</td>
<td>$43,909.55</td>
<td></td>
</tr>
<tr>
<td>10,000 Mbps</td>
<td>$56,655.77</td>
<td>$49,316.29</td>
<td>$46,482.55</td>
<td></td>
</tr>
</tbody>
</table>

3. Direct Communication: Communicate directly with order, technical and billing specialists on any open order, trouble ticket or billing request via the portal. Our highly rated Portal Support Center is also available for additional support.


Functionality includes:

On-demand Order Capabilities
   a. View order status and track progress for voice, IP, transport, and data services
   b. Create, cancel, change and disconnect order for Telephone Number (TN)-based services
   c. Submit Test and Service Activation requests for new IP, transport, and data services
   d. Submit change orders for services as the business needs evolve

2. Simplified Service Management
   a. Create, view, update, escalate or cancel trouble tickets; field tech requests, Local Number Portability (LNP) and portal support tickets; view ticket history for performance trending
   b. Create and view Reason for Outage (RFO) requests on trouble tickets
   c. Prepare for scheduled maintenance events with the Network Maintenance Calendar
   d. Receive proactive notification of trouble tickets and network maintenance activities across services

3. Robust Reports and Network Tools
   a. Monitor Level 3 Network performance
   b. View, track and analyze network performance and usage levels using standard and custom reports (Service Level Agreements, utilization and usage, call detail records and more)
   c. Create an inventory view by Account, Service Type, Product or any other search criteria via search/filter functionality
   d. Print and export inventory views
   e. View historical reports of billing inquiries and disputes, order requests and trouble tickets for each service

4. Convenient and Secure Billing
   a. View, download and analyze Level3 invoices
   b. Pay invoices easily online with multiple payment options
   c. Submit and manage billing inquiries, disputes and requests
   d. Create standard and custom billing reports
   e. “Go Green” by selecting a “paperless” invoice option
APPENDIX N - Contractor’s Service Credits for IP Services

The Department of Information Technology and/or procuring entity will be entitled to receive a service credit off the actual usage charges for the particular month affected, to be applied within ninety calendar days starting the day after the affected month.

a. **Availability Service Level:** The Department of Information Technology requires Available Service Level for high speed IP service at 99.98%. The Department of Information Technology requires a service level credit off the actual usage charges for that specific month when the availability of high speed IP service is unavailable (unable to send or receive traffic), excluding scheduled and/or excused outage(s). The credits are based on the cumulative unavailability in a given calendar month as outlined in the following table:

<table>
<thead>
<tr>
<th>Service Level Description: Cumulative Unavailability (hrs:mins:secs)</th>
<th>Service Level Credit Based on Service Level as a (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>00:00:01 – 00:10:00</td>
<td>No Credit</td>
</tr>
<tr>
<td>00:10:01 – 00:45:00</td>
<td>5%</td>
</tr>
<tr>
<td>00:45:00 – 04:00:00</td>
<td>10%</td>
</tr>
<tr>
<td>04:00:01 – 08:00:00</td>
<td>20%</td>
</tr>
<tr>
<td>08:00:01 – 12:00:00</td>
<td>30%</td>
</tr>
<tr>
<td>12:00:01 – 16:00:00</td>
<td>40%</td>
</tr>
<tr>
<td>16:00:01 – 24:00:00</td>
<td>50%</td>
</tr>
<tr>
<td>24:00:01 or greater</td>
<td>100%</td>
</tr>
</tbody>
</table>

Additional Level 3 Service Levels include the following Tables (2 – 3):

**Protected Service Table 2:**

<table>
<thead>
<tr>
<th>Cumulative Unavailability (in hrs:mins:secs)</th>
<th>Service Level Credit Based on Service Level as a (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>00:00:01 – 00:05:00</td>
<td>No Credit</td>
</tr>
<tr>
<td>00:05:01 – 00:45:00</td>
<td>15%</td>
</tr>
<tr>
<td>00:45:01 – 04:00:00</td>
<td>35%</td>
</tr>
<tr>
<td>04:00:01 – 08:00:00</td>
<td>50%</td>
</tr>
<tr>
<td>08:00:01 – 12:00:00</td>
<td>75%</td>
</tr>
<tr>
<td>12:00:01 or greater</td>
<td>100%</td>
</tr>
</tbody>
</table>
b. **Delay Service Level**: The Delay Service Level for high speed IP Service, See Table 1 below. The Department of Information Technology requires a service credit off of the actual usage charges if there is a delay in excess of Table 1 below over a twenty-four (24) hour period in any calendar month for traffic on the Contractor’s network between Gateways, excluding scheduled and/or excused outage(s). The service credits are outlined in Table 2 below:

<table>
<thead>
<tr>
<th>Route</th>
<th>Delay Service Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within the United States</td>
<td>25 ms</td>
</tr>
<tr>
<td>Level 3, AS 3356 (one way)</td>
<td>&lt;25 ms</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Amount of Delay in Excess of Service Level</strong></td>
</tr>
<tr>
<td><strong>Service Level Credit (%)</strong></td>
</tr>
<tr>
<td>0.1 – 5 ms</td>
</tr>
<tr>
<td>5.1 – 10 ms</td>
</tr>
<tr>
<td>10.1 – 15 ms</td>
</tr>
<tr>
<td>15.1 – 20 ms</td>
</tr>
<tr>
<td>20.1 – 25 ms</td>
</tr>
<tr>
<td>25.1 ms or greater</td>
</tr>
</tbody>
</table>
EXHIBIT B – Level 2’s Standard Level Agreement (SLA) for ISP Services
SERVICE SCHEDULE
LEVEL 3 DEDICATED INTERNET ACCESS SERVICE (DIA)
(Version Issue Date: March 26, 2012)

1. Service Description. DIA is a dedicated internet service providing access to the Level 3 IP network and the global Internet, available through Serial/POS and Ethernet interfaces. Level 3 provisions DIA service on two networks, identified as AS 3356 (Level 3) and/or AS 3549 (Global Crossing). Where DIA is purchased in connection with Level 3 VoIP Services, Level 3 voice packets will be prioritized over other packets, unless otherwise agreed.

"Back-Up Port" shall mean any DIA Service port other than the Primary Port that is configured to send/receive traffic only in the event the applicable Primary Port becomes unavailable to send/receive traffic. The Back-Up Port must be identified as such in the applicable Customer Order and provisioned on a Level 3 router or switch (within the same Level 3 facility) that is separate from the Primary Port. Requests for backup ports will be handled on an individual case basis and are not standard.

"E2E" means end to end, and includes the On-Net Port and Off-Net Access components of Services, taken together.

"On-Net" means Service provided entirely on the network owned (or operated and controlled) by Level 3 between two locations that are served directly by Level 3 owned (or operated and controlled) fiber and Level 3 owned equipment. Services that are not On-Net are Off-Net.

"Primary Port" shall mean any DIA Service port that is configured to send/receive traffic during normal network operations, as identified in the applicable Customer Order.

2. Managed Router Service (Option). Not Applicable at this time, may be an option available in the future pursuant to the terms and conditions in the Department of Information Technology Price Agreement No. 50-381-16-01844L3 and approved by the Department of Information Technology using the amendment process.

3. Charges. DIA Services are charged using one of the following billing options, as set forth in each Order.

Fixed Rate Option. Customer is NOT billed a non-recurring installation charge per port plus, Customer is billed a fixed recurring charge per month by location pursuant to the Price Listings outlined in the Department of Information Technology Price Agreement No. 50-381-16-01844L3 to include Exhibit A.

CDR/ACDR Option (Optional). Not Applicable at this time, may be an option available in the future pursuant to the terms and conditions in the Department of Information Technology Price Agreement No. 50-381-16-01844L3 and approved by the Department of Information Technology using the amendment process.

4. IP Addresses and Domain Names. If Level 3 assigns Customer an IP address, such IP address shall revert to Level 3 upon expiration or termination of Service, and Customer shall cease using such address. If Level 3 obtains a domain name for Customer, Customer will own such domain name and shall be responsible for: a) paying all fees relating thereto; b) complying with legal or other requirements imposed by the domain name registration authority; c) modifying the mapping of the domain name to the new provider if Customer changes service providers; and d) all third party claims (including claims for intellectual property infringement) relating thereto, including where brought against Level 3.

5. Service Levels.

(a) Installation Service Level. Level 3 will exercise commercially reasonable efforts to install any DIA Service on or before the Customer Commit Date or the particular DIA Service. This Installation Service Level shall not apply to Customer Orders that contain incorrect information supplied by Customer or Customer Orders that are altered at Customer's request after submission and acceptance by Level 3. In the event Level 3 does not meet this Installation Service Level for a particular DIA Service for reasons other than an Excused Outage, Customer will be entitled to a service credit for each day of delay equal to either (i) for DIA Service billed on an Aggregate CDR basis, the charges for one (1) day of the pro rata share of the monthly recurring charges ("MRC") associated with the Aggregate CDR for the affected DIA Service port(s) (pro-rated based on the number of total ports that contribute to such Aggregate CDR) or (ii) for DIA Service with any other manner of billing, the charges for one (1) day of the allocated port MRC for the affected DIA Service port(s), in each case up to a monthly maximum credit of ten (10) days.

(b) Availability. The Availability Service Level for DIA is 99.98% for Standard Service and 99.99% for Protected Service, provided that the Availability Service Level for DIA Service with any Off-Net (E2E) is 99.9%. Standard Service is configured with a single Primary Port and no Back Port. Protected Service is configured with both a Primary Port and a Back Up Port. Service is unavailable (except in the case of an Excused Outage) if: (i) in the case of Standard Service, the Primary Port cannot send or receive traffic, or (ii) in the case of Protected Service, both the Primary Port and the Back Up Port are unable to send or receive traffic. If credits are due under this Service Level, no other Service Level agreements apply to the same event. If DIA Service is unavailable, Customer will be entitled to a service credit off the port MRC for the affected DIA port based on the cumulative unavailability of the port in a given calendar month as set forth in the Department of Information Technology Price Agreement No. 50-381-16-01844. Appendix N.
<table>
<thead>
<tr>
<th>Route</th>
<th>Level 3 AS 3356 (one-way)</th>
<th>AS 3549 GC (round trip)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within the North American Network [Intra-N. America]</td>
<td>&lt; 25 ms</td>
<td>&lt; 50 ms*</td>
</tr>
<tr>
<td>European Network to North American Network</td>
<td>&lt; 40 ms</td>
<td>&lt; 60 ms**</td>
</tr>
<tr>
<td>Within the European Network [Intra-Europe]</td>
<td>&lt; 15 ms</td>
<td>&lt; 35 ms</td>
</tr>
<tr>
<td>Within the Asia Network [Intra-Asia]</td>
<td>N/A</td>
<td>&lt; 110 ms</td>
</tr>
<tr>
<td>Within the LATAM Network [Intra-LATAM, excluding Mexico City]</td>
<td>N/A</td>
<td>&lt; 120 ms</td>
</tr>
<tr>
<td>Asian Network to European Network</td>
<td>N/A</td>
<td>&lt; 345 ms**</td>
</tr>
<tr>
<td>Asian Network to North American Network</td>
<td>N/A</td>
<td>&lt; 185 ms**</td>
</tr>
<tr>
<td>Asian Network to LATAM Network [excluding Mexico City]</td>
<td>N/A</td>
<td>&lt; 315 ms**</td>
</tr>
<tr>
<td>European Network to LATAM Network [excl. Mexico City]</td>
<td>N/A</td>
<td>&lt; 210 ms**</td>
</tr>
<tr>
<td>North American Network to LATAM Network [excl. Mexico City]</td>
<td>N/A</td>
<td>&lt; 140 ms**</td>
</tr>
</tbody>
</table>

*Add 90ms from/to the Mexico IP Hub on GC network.
**Plus the applicable latency parameter for the region in which the applicable Customer Site is located.

6. Chronic Outage. Customer may elect to terminate an affected DIA Service prior to the end of the Service Term without termination liability if, for reasons other than an Excused Outage and pursuant to the terms in the Department of Information Technology Price Agreement No. 50-361-15-01844:

(1) For Standard Service, such Standard Service is unavailable (as defined in Section 5(B) above) in any calendar month for: (a)

three (3) or more separate occasions of more than twelve (12) consecutive hours each, OR (b) more than forty two (42) hours in the aggregate;

(2) For Protected Service, such Protected Service is unavailable (as defined in Section 5(B) above) in any calendar month for: (a) four (4) or more separate occasions of more than two (2) consecutive hours each OR (b) more than twenty four (24) hours in the aggregate.

The Customer may only terminate such DIA Service that is unavailable as described above, and must exercise its right to terminate the affected DIA Service under this Section, in writing, within thirty (30) days after the event giving rise to a right of termination hereunder, which termination will be effective as set forth by Customer in such notice of termination. Except for any credits that have accrued pursuant to Section 5, this Section 6 sets forth the sole remedy of Customer for chronic outages or interruptions of any DIA Service.

7. Level 3 arranged Third Party Internet Access: Upon Customer’s written request, Level 3 may agree to arrange Internet access using third party providers (“Third Party Internet Access”) pursuant to the same terms and conditions as defined in Department of Information Technology Price Agreement No. 50-361-15-01844. Access options vary by country and may include access to the Internet via overbooked and/or non-overbooked connections, DSL technology, private leased circuits (fixed or wireless) and/or Satellite. Specific service details (access type, e.g., downstream/upstream speed, customer premises equipment requirements and number of IP addresses) also differ by country. Third Party Internet Access will, if requested by Customer and accepted by Level 3, be provided by third party subcontractor(s) to Level 3 and, accordingly, is provided on an “as is” basis with the limited service level described below. Customer may report faults and/or outages in Third Party Internet Access to Level 3 on a 24x7 basis and Level 3 will contact the applicable third party service provider to effect restoration. Details of any agreed Third Party Internet Access (including pricing and equipment requirements, if any) will be set out in a Customer Order.

(A) The Availability Service Level for Third Party Internet Access is pursuant to the Department of Information Technology Price Agreement No. 50-361-15-01844 to include D Appendix 1 x N.

(B) Service Level Credit: In the event that Third Party Internet Access becomes unavailable for reasons other than an Excused Outage, Customer will be entitled to a service credit pursuant to the Department of Information Technology Price Agreement No. 50-361-15-01844 to include D Appendix 1 x N.

8. Latin American Services. With respect to Services provided in Latin America, Customer agrees that it (or its local Affiliate) will enter into a separate local country addendum/agreement (as approved by local authorities) (“LCA”) with the respective Level 3 Affiliate which provides the local Service(s), containing terms necessary to comply with local laws/regulations, and such Level 3 Affiliate will invoice the Customer (or its local Affiliate) party to the LCA for the respective local Service(s).

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2.4 Regulatory and Legal Charges. Refer to the Department of Information Technology Price Agreement No. 50-361-15-01844L3 to include Article 6.

2.5 Cancellation and Termination Charges. Refer to the Department of Information Technology Price Agreement No. 50-361-15-01844L3 to include Article 6-7.

ARTICLE 3. DEFAULT

Refer to the Department of Information Technology Price Agreement No. 50-361-15-01844L3 to include Article 16.

ARTICLE 4. LIABILITIES AND SERVICE LEVELS

4.1 Damages Limitations. Refer to the Department of Information Technology Price Agreement No. 50-361-15-01844L3 to include Article 18.

4.2 Disclaimer of Warranties. LEVEL 3 MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT OR ANY APPLICABLE SERVICE SCHEDULE.

4.3 Service Levels. The "Service Level" commitments applicable to Services are contained in the Department of Information Technology Price Agreement No. 50-361-15-01844L3 Article 3. If Level 3 does not meet a Service Level, a credit will be issued to Customer as stated in the applicable Service Schedule on Customer's request. Level 3's maintenance log and trouble ticketing systems are used to calculate Service Level events. To request a credit, Customer must contact Level 3 Customer Service at Global Network Operations Center: at 1-877-4-LEVEL or deliver a written request (with sufficient detail to identify the affected Service) within 60 days after the end of the month in which the event occurred. Total monthly credits will never exceed the charges for the affected Service for that month. Customer's sole remedies for any non-performance, outages, failures to deliver or defects in Service are contained in the Service Levels applicable to the affected Service and in the Department of Information Technology Price Agreement No. 50-361-15-01844L3.

4.4 Right of Termination for Installation Delay. In lieu of installation Service Level credits, if Level 3's installation of Service is delayed by more than 30 business days beyond the Customer Commit Date, Customer may terminate the affected Service without liability upon written notice to Level 3, provided such written notice is delivered prior to Level 3 delivering a Connection Notice for the affected Service. This Section shall not apply where Level 3 is constructing facilities to a new location not previously served by Level 3.

ARTICLE 5. GENERAL TERMS

5.1 Force Majeure. Refer to the Department of Information Technology Price Agreement No. 50-361-15-01844L3 to include Article 33.
Affiliate which provides the local Service(s), and such Level 3 Affiliate will invoice the Customer (or its local Affiliate) party to the LCA for the respective local Service(s).

5.9 **Relationship and Counterparts.** The relationship between the parties is not that of partners, agents, or joint ventures. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. Digital signatures and electronically exchanged copies of signed documents shall be sufficient to bind the parties to this Agreement.