

**Amendment to the Agreement
Between
FeroNetworks, Inc.
and
BellSouth Telecommunications, Inc.
Dated December 22, 2002**

Pursuant to this Amendment (the "Amendment"), FeroNetworks, Inc. ("FeroNetworks") and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to collectively as the "Parties", hereby agree to amend that certain Interconnection Agreement between the Parties dated December 22, 2002 ("Agreement") to be effective thirty (30) days after the date of the last signature executing the Amendment ("Effective Date").

WHEREAS, BellSouth and FeroNetworks entered into the Agreement on December 22, 2002, and;

WHEREAS, BellSouth and FeroNetworks are amending the Agreement to incorporate language regarding access to Network Elements pursuant to the Order and Notice of Proposed Rulemaking, WC Docket No. 04-313, released August 20, 2004 and effective September 13, 2004 ("Interim Order");

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Parties agree to add the following language to Section 1 of Attachment 2 as new Sections 1.12 through 1.22.
 - 1.12 Until the earlier of (1) March 12, 2005 or (2) the effective date of the final unbundling rules adopted by the FCC pursuant to the Notice of Proposed Rulemaking described in the Interim Order ("Interim Period"), BellSouth shall continue providing unbundled access to Mass Market Switching (as defined herein), DS1, or equivalent, and higher capacity Loops, including dark fiber Loops (collectively "Enterprise Market Loops"), and DS1, or equivalent, and higher capacity dedicated transport, including dark fiber transport (collectively "High Capacity Transport") under the rates, terms and conditions set forth herein except to the extent that they are or have been superseded by:
 - 1.12.1 voluntarily negotiated agreements;
 - 1.12.2 an intervening FCC order affecting specific unbundling obligations (e.g., an order addressing a pending petition for reconsideration) ("Intervening Order"); or,

- 1.12.3 (with respect to rates only) a Commission order raising the rates for such network elements.
- 1.13 For purposes of this Agreement, Mass Market Switching shall be defined as unbundled access to local switching except when FeroNetworks: (1) serves an End User with four (4) or more voice-grade (DS0) equivalents or lines served by BellSouth in Zone 1 of one of the following MSAs: Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro-Winston Salem-High Point, NC; Nashville, TN; and New Orleans, LA; or (2) serves an End User with a DS1 or higher capacity service or Loop in any service area covered by this Agreement. Notwithstanding anything to the contrary herein, local switching other than Mass Market Switching will not be provided hereunder.
- 1.14 For purposes of this Agreement “Transition Period” is defined as the six (6) month period following the Interim Period, or such other time period as may be specified by the FCC in an effective order adopted pursuant to the Notice of Proposed Rulemaking in the Interim Order (“Final FCC Unbundling Rules”). In the absence of an effective FCC ruling that Mass Market Switching, High Capacity Transport, and/or Enterprise Market Loops, or any subset of such network elements, must be unbundled pursuant to section 251(c)(3) in any particular case, the following terms and conditions shall apply to such elements or subset thereof:
- 1.14.1 During the Transition Period, BellSouth shall only be required to provide Mass Market Switching to FeroNetworks in combination with shared (common) transport and Loops (*i.e.*, as a component of the “UNE platform”). The applicable rate shall be the higher of (1) the rate at which FeroNetworks leased that combination of elements on June 15, 2004 plus one dollar, or (2) the rate the state public utility commission establishes, if any, between June 16, 2004, and March 12, 2005, for this combination of elements plus one dollar.
- 1.14.2 During the Transition Period, BellSouth shall only be required to provide High Capacity Transport and/or Enterprise Market Loops to FeroNetworks at a rate equal to the higher of (1) 115% of the rate FeroNetworks paid for that element on June 15, 2004, or (2) 115% of the rate the state public utility commission establishes, if any, between June 16, 2004, and March 12, 2005, for that element.
- 1.15 During the Transition Period, to the extent BellSouth provides Mass Market Switching, High Capacity Transport and/or Enterprise Market Loops, or any subset thereof, pursuant to Sections 1.14.1-1.14.2 above, BellSouth shall only provide such elements to FeroNetworks for the embedded customer base, as it existed on the last day of the Interim

Period, and FeroNetworks may not add new End Users or customers or place any new orders for such elements during the Transition Period.

- 1.16 In the event that the Final FCC Unbundling Rules set forth any modification as to the length of the Transition Period or the rates, terms and conditions applicable during the Transition Period to Mass Market Switching, Enterprise Market Loops and/or High Capacity Transport, or any subset thereof, such modifications shall be deemed incorporated into this Agreement by reference without further modification by the Parties, and such modified rates, terms and conditions shall apply to the Transition Period rather than those set forth herein.
- 1.17 Upon request, BellSouth shall convert an unbundled Network Element or Combination to an equivalent wholesale service or group of wholesale services. Such conversions shall be subject to the nonrecurring switch-as-is rates for conversion as set forth in Exhibit A of this Attachment.
 - 1.17.1 Any changes from an unbundled Network Element or Combination that requires physical rearrangement will not be considered a conversion for purposes of this Agreement.
- 1.18 At the conclusion of the Transition Period, in the absence of an effective FCC ruling that Mass Market Switching, Enterprise Market Loops and/or High Capacity Transport, or any subset thereof (individually or collectively referred to herein as the “Eliminated Elements”) are subject to unbundling, such Eliminated Elements shall be subject to the following provisions.
 - 1.18.1 Upon the end of the Transition Period FeroNetworks must transition Eliminated Elements to either Resale, tariffed services, or services offered pursuant to a separate agreement negotiated between the Parties (collectively “Comparable Services”) or must disconnect such Eliminated Elements, pursuant to Sections 1.18.1.1 – 1.18.1.4 below.
 - 1.18.1.1 Eliminated Elements including Mass Market Switching Function (“Switching Eliminated Elements”). In the event that FeroNetworks has not entered into a separate agreement for the provision of Mass Market Switching or services that include Mass Market Switching, FeroNetworks will submit orders to either disconnect Switching Eliminated Elements or convert such Switching Eliminated Elements to Resale within thirty (30) days of the last day of the Transition Period. If FeroNetworks submits orders to transition such Switching Eliminated Elements to Resale within thirty (30) days of the last day of the Transition Period, applicable recurring and nonrecurring charges shall apply as set forth in the appropriate BellSouth tariff, subject to

the appropriate discounts described in Attachment 1 of this Agreement. If FeroNetworks fails to submit orders within thirty (30) days of the last day of the Transition Period, BellSouth shall transition such Switching Eliminated Elements to Resale, and FeroNetworks shall pay the applicable nonrecurring and recurring charges as set forth in the appropriate BellSouth tariff, subject to the appropriate discounts described in Attachment 1 of this Agreement. In such case, FeroNetworks shall reimburse BellSouth for labor incurred in identifying the lines that must be converted and processing such conversions. If no equivalent Resale service exists, then BellSouth may disconnect such Switching Eliminated Elements if FeroNetworks does not submit such orders within thirty (30) days of the last day of the Transition Period. In all cases, until Switching Eliminated Elements have been converted to Comparable Services or disconnected, the applicable recurring and nonrecurring rates for Switching Eliminated Elements during the Transition Period shall apply as set forth in this Agreement. Applicable nonrecurring disconnect charges may apply for disconnection of service or conversion to Comparable Services.

1.18.1.2 Other Eliminated Elements. Upon the end of the Transition Period, FeroNetworks must transition the Eliminated Elements other than Switching Eliminated Elements (“Other Eliminated Elements”) to Comparable Services. Unless the Parties agree otherwise, Other Eliminated Elements shall be handled in accordance with sections 1.18.1.3 - 1.18.1.4 below.

1.18.1.3 FeroNetworks will identify and submit orders to either disconnect Other Eliminated Elements or transition them to Comparable Services within thirty (30) days of the last day of the Transition Period. Rates, terms and conditions for Comparable Services shall apply per the applicable tariff for such Comparable Services as of the date the order is completed. Where FeroNetworks requests to transition a minimum of fifteen (15) circuits per state, FeroNetworks may submit orders via a spreadsheet process and such orders will be project managed. In all other cases, FeroNetworks must submit such orders pursuant to the local service request/access service request (LSR/ASR) process, dependent on the Comparable Service elected. For such transitions, the non-recurring and recurring charges shall be those set forth in BellSouth's FCC#1 tariff, or as otherwise agreed in a separately negotiated agreement. Until such time as the Other Eliminated Elements are transitioned to such Comparable Services, such Other Eliminated Elements will be provided pursuant to the rates, terms and conditions applicable to the subject Other Eliminated Elements during the Transition Period as set forth in this Agreement.

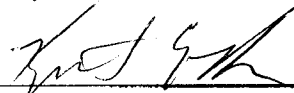
- 1.18.1.4 If FeroNetworks fails to identify and submit orders for any Other Eliminated Elements within thirty (30) days of the last day of the Transition Period, BellSouth may transition such Other Eliminated Elements to Comparable Services. The rates, terms and conditions for such Comparable Services shall apply as of the date following the end of the Transition Period. If no Comparable Services exist, then BellSouth may disconnect such Other Eliminated Elements if FeroNetworks does not submit such orders within thirty (30) days of the last day of the Transition Period. In such case FeroNetworks shall reimburse BellSouth for labor incurred in identifying such Other Eliminated Elements and processing such orders and FeroNetworks shall pay the applicable disconnect charges set forth in this Agreement. Until such time as the Other Eliminated Elements are disconnected pursuant to this Agreement, such Other Eliminated Elements will be provided pursuant to the rates, terms and conditions applicable to the subject Other Eliminated Elements during the Transition Period as set forth in this Agreement.
- 1.19 To the extent the FCC issues an effective Intervening Order that alters the rates, terms and conditions for any Network Element or Other Service, including but not limited to Mass Market Switching, Enterprise Market Loops and High Capacity Transport, the Parties agree that such Intervening Order shall supersede those rates, terms and conditions set forth in this Agreement for the affected Network Element(s) or Other Service(s).
- 1.20 Notwithstanding anything to the contrary in this Agreement, in the event that the Interim Rules are vacated by a court of competent jurisdiction, FeroNetworks shall immediately transition Mass Market Switching, Enterprise Market Loops and High Capacity Transport pursuant to Section 1.18.1.1 through 1.18.1.4 above, applied from the effective date of such vacatur, without regard to the Interim Period or Transition Period.
- 1.21 Notwithstanding anything to the contrary in this Agreement, upon the Effective Date of the Final FCC Unbundling Rules, to the extent any rates, terms or requirements set forth in such Final FCC Unbundling Rules are in conflict with, in addition to or otherwise different from the rates, terms and requirements set forth in this Agreement, the Final FCC Unbundling Rules rates, terms and requirements shall supercede the rates, terms and requirements set forth in this Agreement without further modification of this Agreement by the Parties.
- 1.22 In the event that any Network Element, other than those already addressed above, is no longer required to be offered by BellSouth pursuant to Section 251 of the Act, FeroNetworks shall immediately transition such elements pursuant to Section 1.18.1.1 through 1.18.1.4

above, applied from the effective date of the order eliminating such obligation.

2. All of the other provisions of the Agreement dated December 22, 2002 shall remain unchanged and in full force and effect.
3. Either or both of the Parties are authorized to submit this Amendment to the respective state regulatory authorities for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

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

BellSouth Telecommunications, Inc.

By: 

Name: Kristen Rowe

Title: Director

Date: 11/4/04

FeroNetworks, Inc.

By: 

Name: Don Carrié

Title: VP + COO

Date: 10-25-04