

EASEMENT AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS that the **STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**, acting by and through the **RHODE ISLAND DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the "State," in pursuance of and by virtue of Title 37, Chapter 7, Section 8 of the General Laws of Rhode Island, as amended, hereby grants Level 3 Communications, LLC, a Delaware limited liability company, hereinafter referred to as "Level 3," its successors and assigns:

1. A construction permit for a period of eighteen (18) months commencing on June 20, 2000 and terminating on December 20, 2001 for the placement, installation and construction of no more than twenty-nine (29), conduits (two (2) conduits shall be the State's Conduits, as set forth in Exhibit "E") and any and all appurtenances (hereinafter referred to as the "Facilities"), in, upon, above, under and within a portion of the public right of way of State roads located in the Cities/Towns of Providence, Cumberland, Foster, Glocester, Lincoln, North Providence, Scituate and Smithfield, County of Providence, State of Rhode Island and Providence Plantations, said location of which is more particularly set forth in Exhibit "A."

2. A non-exclusive easement commencing on July 11, 2000 and expiring no earlier than midnight on July 10, 2030 (the "Initial Term") to install, operate, access, maintain, repair, remove and replace the Facilities and related appurtenances in, upon, above, under and within a portion of the public right of way of State roads located in the Cities/Towns of Providence, Cumberland, Foster, Glocester, Lincoln, North Providence, Scituate and Smithfield, County of Providence, State of Rhode Island and Providence Plantations, hereinafter referred to as the "Easement Areas" under the terms and conditions of this Easement Agreement (the "Agreement"), said location of which is more particularly set forth in Exhibit "B."

3. This Agreement may be renewed by mutual agreement of the parties hereto, their respective successors and assigns (any renewal period is hereinafter referred to as a "Renewal Term"). If Level 3 wants to renew this Agreement, Level 3 shall notify the State in writing at least one (1) year before the end of the then-current term of Level 3's intent to renew. Any Renewal Term shall be subject to the State's approval (and the approval of the Rhode Island State Properties Committee's written approval). If the parties agree to renew, this Agreement shall be renewed for such length and subject to such terms and conditions as may be mutually agreed to by the parties. The Initial Term and, if this Agreement is renewed for any Renewal Term, the period(s) of any such renewal may hereinafter be collectively referred to as the "Term." In the event the State does not agree to a Renewal Term that has been requested by Level 3, this Agreement shall terminate.

At the termination or expiration of this Agreement and at Level 3's expense, Level 3 shall leave the Easement Areas in the condition required by this Agreement and shall repair, to the State's reasonable satisfaction, any damage Level 3 causes to the Easement Areas or to the access areas related thereto. In addition, in all cases of (a) termination for default; or (b) termination by expiration of the Term, all State Conduits and State Fibers, State Access Points and the State Drops Points, as hereinafter defined in the attached Exhibits (collectively the "State Equipment"), shall remain intact, undisturbed, in place, functioning and in full operation and

shall be the property of the State, but only to the extent the same is located in the Easement Areas. With respect to State Equipment located on non-state property, if any, the State's indefeasible right of use shall not be otherwise impaired and Level 3, or its successors or assigns, shall use commercially reasonable efforts to assign to the State or otherwise provide to the State or its agents, to the extent Level 3 is permitted to do so, direct access to the applicable State Equipment including the Johnston Fiber Connection, as hereinafter defined in Exhibit "F," so that the State may maintain, the same where necessary.

It is the intention and agreement of the parties hereto that:

A. The rights granted to Level 3 under this Agreement shall be subject to, if any, legal highways, existing natural watercourses, physical conditions, occupancies, encroachments, rights of access to the rights of way, relevant taxes and assessments not yet due and payable, other existing easements, covenants, restrictions and other encumbrances of record, if any, zoning and building laws and ordinances; and the reservations and covenants of this Agreement. Also, the right of Level 3 to use the Easement Areas does not convey, nor purport to convey, to Level 3 any fee interest in or to any real property or mineral rights associated with the Easement Areas.

B. Level 3 shall have the right during the Term to enter and reenter the Easement Areas with its servants, employees, independent contractors, agents, vehicles, machinery and equipment for the purpose stated herein.

C. Level 3 shall not fence in or otherwise enclose the Easement Areas.

D. In the exercise of its rights under this Agreement, Level 3, at its sole cost, shall promptly refill any holes or depressions made by it, its agents or contractors in the Easement Areas, and regrade and restore the Easement Areas to substantially the same condition as existed prior to any such excavation. Such restoration shall include, but not be limited to, any necessary regrading and replanting of any grass areas or landscaping items and paving of any paved areas. Such restoration shall be subject to the written approval of the State, which approval should not be unreasonably withheld or delayed. Level 3 shall notify the State within thirty (30) days prior to commencing any restoration. All restoration is guaranteed to be performed in a workmanlike manner and will be subject to the State's written approval, which will not be unreasonably withheld or delayed.

E. The exercise of the rights of Level 3 under this Agreement shall be at the sole cost and expense of Level 3 and such rights shall be exercised in a manner which will not unreasonably interfere with the State's use of the Easement Areas. The State and Level 3 shall use reasonable efforts to coordinate their work in the Easement Areas. In the event such work cannot reasonably be conducted simultaneously, if either party is performing work that could reasonably be considered to be of an emergency nature, the parties will work together to provide access during the emergency. If both parties are doing work of an emergency nature or both are doing work of a non-emergency nature, and such work cannot reasonably be conducted simultaneously, then the State's work shall be given priority.

In the event of an interruption in service over the State Fibers or the Johnston Fiber Connection, Level 3 shall correct such interruption as soon as commercially practicable, regardless of fault of the cause of the interruption. If Level 3 fails to restore service to the State Fibers or the Johnston Fiber Connection to the State's reasonable satisfaction within forty-eight (48) hours of Level 3's receipt of verbal and/or written notice of the interruption, Level 3 shall, only to the extent Level 3 is permitted to do so, immediately (a) use its best efforts to assign or otherwise provide to the State Level 3's right to access the State Equipment and the Johnston Fiber Connection located on non-State property which are necessary to properly service the same, and (b) use its best efforts to assign or otherwise provide to the State direct access to the State Equipment and the Johnston Fiber Connection. In such a circumstance, the State may correct such interruption at Level 3's expense through a qualified contractor; provided, however, that where the interruption is caused by the State or its agents' negligence or intentional acts or omissions, the costs and expenses associated with the correction of such interruption shall be incurred solely by the State. In all cases, access by the State to the State Conduits and State Fibers shall be through the State Access Points only. Access to the Johnston Fiber Connection shall be, subject to the terms of this Section E, only with prior written approval of Level 3.

Level 3 shall have twenty-four (24) hour access to the Facilities upon providing forty-eight (48) hours' notice to the State; except that where Level 3 requires immediate access to perform emergency work on the Facilities, Level 3 need not provide the State prior notice. Where emergency access is required, however, Level 3 shall provide the State with notice following the emergency work indicating the time the work was performed.

The State further agrees to facilitate and expedite all engineering approvals necessary to support completion of the facilities on, or before, October 31, 2000 for the entire route as set forth in Exhibit "B." Additionally, the State agrees to make available its resources to support this completion date, generally including support from the State's Engineering and Real Estate and Property Management Sections, adequate traffic control and inspection services (at Level 3's cost); adequate working hours and days (twelve (12) or more hours per day; six (6) days per week); and the ability to perform night work if necessary, at Level 3's expense.

F. In connection with any placement, installation, construction, operation, access, maintenance, repair removal, relocation and/or replacement to be performed to said Facilities by or on behalf of Level 3, Level 3 agrees that such work shall be performed in a good and workmanlike manner and in as prompt, efficient and continuous manner as possible. Level 3 shall be solely and completely obligated to repair any damage to the State's right of way, land and/or facilities caused by such work, subject to Section P of this Agreement. All restoration is guaranteed to be performed in a workmanlike manner and will be subject to the State's written approval, which will not be unreasonably withheld or delayed.

G. Level 3, for itself and on behalf of its successors and assigns, hereby agrees and covenants to defend, indemnify and hold forever harmless the State from and against all claims, causes of action, suits, losses, damages, liability and expenses including, but in no way limited to, the costs of suits and reasonable attorneys' fees, to the extent they arise out of or are in any way related to Level 3's activities and operations in, upon, under and over the right of way and/or Level 3's failure to perform any or all of the covenants of this Agreement required of

Level 3 to be performed hereunder and/or Level 3's failure to comply with all Federal, State and municipal laws and regulations with respect to Level 3's obligations under this Agreement except when caused by the negligence or intentional misconduct of the State or its employees or agents, and Level 3's indemnification shall include, without limitation thereto, damage to property, personal injuries and bodily injury including death. Level 3 hereby waives any right to recovery or offset against the State of the cost or payment of any such claims, causes of action, suits, losses, damages, liabilities and expenses including, but in no way limited to, the cost of suits and attorneys' fees, to the extent arising solely out of the Level 3's activities and operations in, upon, under and over the Easement Areas and/or Level 3's failure to perform any or all of the covenants of this Agreement required of Level 3 to be performed hereunder and/or Level 3's failure to comply with all Federal, State, municipal laws and regulations with respect to Level 3's obligations under this Agreement except when caused by the negligence or willful misconduct of the State or its employees or agents.

Level 3 shall give the State prompt and timely notice of any claim made or suit instituted against Level 3 and/or the State which in any way could result in indemnification hereunder. The State and Level 3 shall have the right to participate in any compromise, or any settlement of such claims or suits. All final decisions as to any compromise or settlement shall be made by Level 3 in its sole discretion; provided, however, that in arriving at any compromise or settlement of such claims or suits, Level 3 agrees to give reasonable consideration to the State's concerns. In any event, Level 3 shall inform the State of any claims or suits and provide a status of any compromise or settlement before the same is finalized.

H. Level 3 will procure and keep in effect for the duration of this Easement Agreement public liability insurance as well as contractual liability insurance covering all liabilities assumed by Level 3 hereunder without exception or restriction of any kind. Said insurance shall be in limits of not less than Two Million (\$2,000,000.00) Dollars per occurrence for personal injury, bodily injury, including death, and/or property damage whether of Level 3, the State, or other person, and shall contain a waiver of subrogation against the State. Level 3 will also provide and keep in effect a Workmen's Compensation Insurance policy complying with the requirements of the statutes of the State covering all employees of Level 3. Said policy will be in limits of not less than Five Hundred Thousand (\$500,000.00) Dollars per occurrence and naming the State as additional insured and stating whether or not there is a deductible and the amount if any. As evidence of such coverage, Level 3 shall on an annual basis provide the State with a certificate of insurance issued by an insurance company licensed to do business in the State of Rhode Island, in a form acceptable to the State. Coverage will be on an occurrence basis. Deductibles in excess of Ten Thousand (\$10,000.00) Dollars will require the prior written approval of the State. Self-insured retentions will not be allowed without the prior, express written approval of the State. The State, its agents and employees shall be named as a loss payee and an additional insured to the policy. An endorsement giving the State thirty (30) days notice of cancellation will be required. Coverage will be continuous and remain in effect for the duration of this Easement Agreement and evidence of renewals will be provided to the State. Any failure of Level 3 to comply with reporting requirements or other breaches of warranties shall not affect coverage provided to the State as indemnitee and additional insured, its officers or employees. Coverage shall be in 1994 ISO (Insurance Services Office, Inc.) Commercial General Liability form or equivalent.

I. Level 3 agrees that the Easement Areas shall not be used for storage of flammable, explosive or hazardous materials or waste.

J. Level 3 will indemnify, save harmless and defend the State from any claim or claims arising from the discovery, uncovering, finding, transportation, storage or disposal of any oil, hazardous material, hazardous waste or hazardous substances, as those terms are defined by any applicable law, rule or regulation, including without limitation, the Rhode Island Hazardous Waste Management Corporation Act, R.I.G.L. 23-19-1 et seq., the Rhode Island Hazardous Substance Act, R.I.G.L. 23-24-1 et seq., the Rhode Island Rules and Regulations for Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 et seq., and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., on, beneath, above and under the Easement Areas attributable to Level 3 subsequent to the date of this Agreement.

K. This Agreement is conveyed by the State solely to Level 3 and is subject to the right of the State, its successors and assigns, to disapprove any subsequent transfer or conveyance by Level 3 of any or all of the rights and interests herein conveyed, whether by lease, license or any other means, except that Level 3 may convey, assign or otherwise transfer without approval of the State, its rights and interests hereunder, in whole or in part, to any parent, affiliate, subsidiary, or any purchaser of all or substantially all of the assets of Level 3 or any person into which Level 3 may merge or consolidate; and the State hereby covenants that with respect to Level 3 and/or any other subsequent transferee or assignee of Level 3's rights and interests under this Agreement, that its approval shall not be unreasonably withheld or delayed. In the event of any transfer or assignment permitted hereunder without the State's approval, Level 3 will notify the State of such in writing within sixty (60) days. Notwithstanding anything to the contrary contained herein, Level 3 need not obtain the approval or provide notice to the State of any sale, sub-lease or sub-license by Level 3 of any conduits and appurtenant equipment or of space in any conduits, the sale or lease of fiber strands, the provision of lit fiber capacity or dark fiber strands or indefeasible right of use grants, sales, leases or other rights to use fibers in the Facilities to third parties or customers of Level 3. Level 3 shall have the right to grant a lien or security interest in all or any portion of the Facilities (but not its interest in this Agreement or the Easement Areas).

L. This Easement Agreement is executed, delivered and accepted upon the express terms, covenants and conditions contained herein, which terms, covenants and conditions shall be binding upon and inure to the benefit of the parties hereto and their successors, heirs, legal representatives and assigns. This Easement Agreement is intended to be governed by and construed in accordance with the law of the State of Rhode Island. This Agreement may not be amended or modified except pursuant to a written instrument signed by all parties hereto.

It is understood and agreed by the parties hereto that the State makes no representations regarding the ownership for the real estate described in this Agreement, which may be subject to the right of the owners in fee simple of said real estate other than the State, if such be the case, and subject also to any prior easements affecting said real estate and any other rights of any other

parties therein. Notwithstanding the foregoing and Section A, in the event of any third party claim, defect in title or other claim, suit or action related to the ownership or title to the Easement Areas, the State shall secure title to the affected portion of the Easement Areas.

M. Level 3 understands that the rights granted under this Agreement are for the sole purpose of the installation, maintenance, operation, removal, repair and relocation of the Facilities and appurtenant facilities, and prior written permission from the State will be required for any upgrade (i.e., the installation of additional conduits not contemplated under this Agreement), excepting the installation of innerducts.

N. Each of the parties warrants to the other that the person or persons executing this Agreement on behalf of such party has the full right, power and authority to enter into and execute this Agreement on such party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

O. If Level 3 shall fail to perform or abide by the covenants, conditions and/or restrictions of this Agreement, such rights granted herein, to the extent lawful, shall terminate without any further act undertaken by the State and Level 3 shall not be entitled to any reimbursement to which Level 3 might otherwise be entitled under this Agreement; provided, however, that in the event that Level 3 fails to perform or abide by any covenant, condition and/or other term or condition under this Agreement, the State shall first provide Level 3 with written notice of such event and Level 3 shall have thirty (30) days from receipt of the same to cure. Where Level 3 is diligently pursuing a cure and a cure for such event cannot reasonably be achieved within such thirty (30) day period, Level 3 shall notify the State in writing and request such additional amount of time as is necessary to achieve a cure to the State's reasonable satisfaction. The State shall not unreasonably withhold or delay the grant of the necessary additional amount of time. All notices under this section shall be deemed given upon actual receipt. Notices to Level 3 shall be delivered to: Level 3 Communications, LLC, Attn: Senior Director of Intercity Network Planning and Development, 1025 Eldorado Blvd., Broomfield, CO 80021, with a copy to Level 3 Communications, LLC, Attn: General Counsel, 1025 Eldorado Blvd., Broomfield, CO 80021.

P. In the event any relocation, removal or realignment of the Facilities is required, whether in whole or in part, for a period of five (5) years from the Effective Date of this Agreement, the State shall incur the costs and expenses, whether direct or indirect, associated with such relocation. After the fifth (5th) year, Level 3 hereby agrees to pay the costs and expenses, associated with any relocation, removal or realignment of the Facilities subject to Title 24, Chapter 8.1, Section 24-8.1-1 and Section 24-8.1-2 of the General laws of the State of Rhode Island. In the event that a party other than the State requests that Level 3 relocate, remove or realign the Facilities, such relocation, removal or realignment (assuming the same can be accomplished without interfering with Level 3's provision of telecommunications services), shall be performed at the cost and expense of that party. If relocation, removal or realignment cannot be accomplished without interfering with Level 3's provision of telecommunication services, Level 3 need not relocate, remove or realign its Facilities. In all cases, relocation of the Facilities shall be performed by Level 3.

Q. As compensation for the rights granted to Level 3 under this Agreement with respect to the limited access right of way (I-295 and RI-146), Level 3 shall pay the State (1) rent (“Fixed Rent”) as described in Exhibit “D” and (2) in-kind compensation (the “In-kind Compensation”) as described in Exhibits “E,” “F” and “G.” The State may not charge or seek to collect any additional or separate compensation, in any form, from Level 3 for the occupation and use of the Easement Areas. Any and all payments made to the State, whether in form of Fixed Rent or In-kind Compensation, as set forth in Exhibits “C,” “D,” “E,” “F” and “G” shall be without offset to the State, excepting only any credits against Fixed Rent as set forth in Paragraph 9 of Exhibit “E.”

R. Neither party shall be in default under this Agreement if and to the extent that any failure or delay in such party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; fiber, cable, conduit or other material failures; shortages or unavailability or other delay in delivery not resulting from the respective party's failure to timely place orders therefor; lack of or delay in transportation; government codes, ordinances, laws, rules, regulations or restrictions; war or civil disorder; commercial circumstances beyond the reasonable control of the parties; or any other cause beyond the reasonable control of such party. The party claiming relief under this Section S. shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event.

S. This Agreement, including all the Exhibits attached hereto, contains the entire agreement between the parties, superceding all prior agreements or proposals, except as specifically incorporated herein.

T. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and when taken together shall constitute one instrument.

U. No determination by any court, governmental body or otherwise that any provision of the Easement Agreement and related documentation is invalid or unenforceable in any one instance shall affect the validity or enforceability of (a) any other such provisions, or (b) such provision in any other instance. Each such provision shall be valid and enforceable to the fullest extent allowed by law, and shall be construed wherever possible as being consistent with applicable law.

V. Upon the filing of a petition by or against Level 3 under the Bankruptcy Code or the occurrence of a “bankruptcy” as hereinafter defined, Level 3, as debtor and as debtor in possession, and any trustee who may be appointed, agree:

1. To perform each and every obligation of Level 3 under this Agreement until such time as this Agreement is either rejected or assumed by order of the United States Bankruptcy Court.

2. To pay monthly in advance on the first day of each month as reasonable compensation for use and occupancy of the Easement Areas an amount equal to the monthly compensation set forth in Exhibit “D.”
3. To reject or assume this Agreement within ninety (90) days of the filing of such petition under the Bankruptcy Code.
4. To give the State at least fifteen (15) days prior written notice of any proceeding relating to any assumption of this Agreement.

In the event Level 3 fails to perform the obligations set forth in the paragraph above, and the United States Bankruptcy Court does not permit the State to terminate this Agreement, then the State Equipment shall remain intact, undisturbed, in place, functioning and in full operation and shall continue to be the property of the State, but only to the extent such State Equipment is located in the Easement Areas. With respect to State Equipment located on non-State property, the State’s indefeasible right of use shall not be otherwise impaired and Level 3, or its successors or assigns, shall use reasonable commercial efforts to assign to the State or otherwise provide the State or its agents, if possible, direct access to the State Equipment, including the Johnston Fiber Connection, so that the State can maintain, repair and inspect such connection.

Nothing contained in this Section shall be deemed in any manner to limit the State’s rights and remedies under the Bankruptcy Code, as presently existing or as may hereafter be amended. In the event that the Bankruptcy Code is interpreted or amended during the Term of this Agreement to so permit, or is superseded by an act so permitting, the following additional acts shall be deemed a default under this Agreement; (i) if Level 3 is adjudicated insolvent by the United States Bankruptcy Court, or (ii) if a petition is filed by or against Level 3 under the Bankruptcy Code and such petition is not vacated within ninety (90) days. The State reserves any and all rights and remedies provided herein or at law.

No default of this Agreement by Level 3, either prior to or subsequent to the filing of any such petition, shall be deemed to have been waived unless expressly done so in writing by the State. Neither Level 3’s interest in this Agreement, in the Easement Areas or pursuant to the Easement issued hereunder shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided by the Bankruptcy Code, Title 11 U.S.C. (the “Bankruptcy Code”) or any amendment or modification thereof.

Level 3’s “bankruptcy” means (i) the application by Level 3 for, or its consent to, the appointment of a receiver, trustee or liquidator of Level 3 for all or a substantial part of its assets, (ii) the filing of a voluntary petition in bankruptcy or the admission in writing by Level 3 of its inability to pay its debts as they become due, (iii) the making by Level 3 of an assignment for the benefit of its creditors, (iv) the filing of a petition or an answer seeking a reorganization or an arrangement with its creditors or an attempt to take advantage of any insolvency law, (v) the filing of an answer admitting the material allegations of a petition filed against Level 3 in any bankruptcy, reorganization or insolvency proceeding, (vi) the entering of an order, judgment or decree by any court of competent jurisdiction adjudicating Level 3 a bankrupt or an insolvent,

approving a petition seeking such a reorganization, or appointing a receiver, trustee or liquidator of Level 3 for all or a substantial part of its assets, or (vii) the commencing of any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment, receivership or similar law, and the continuation of such order, judgment, decree or proceeding unstayed for any period of sixty (60) consecutive days after the expiration of any stay thereof.

W. See Exhibit "I" for Guaranty.

X. This Easement Agreement is subject to the State receiving approval from the Federal Highway Administration and Section 106 Review of the National Historical Preservation Act of 1966.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed this ____ day of _____, 2000 (the "Effective Date").

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS
DEPARTMENT OF TRANSPORTATION

By: _____
William D. Ankner, Ph.D.
Director

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Providence on this ____ day of _____, 2000, before me personally appeared William D. Ankner, Ph.D., to me known and known by me to be the Director of the Rhode Island Department of Transportation and the party for and on behalf of the State of Rhode Island and Providence Plantations who executed the foregoing instrument, and he acknowledged said instrument by him so executed to be his free act and deed individually and in his said capacity and the free act and deed of the State of Rhode Island and Providence Plantations.

NOTARY PUBLIC
My commission expires: _____

LEVEL 3 COMMUNICATIONS, INC

By: _____

Its: _____

STATE OF COLORADO
COUNTY OF BOULDER

In Broomfield on this ___ day of _____, 2000, before me personally appeared _____, known by me to be the person executing the foregoing instrument for and on behalf of Level 3 Communications, LLC and he acknowledged said instrument by him so executed to be the free act and deed individually and in his said capacity and the free act and deed of Level 3 Communications, LLC.

NOTARY PUBLIC
My commission expires: _____

RHODE ISLAND STATE PROPERTIES COMMITTEE

Before the Rhode Island State Properties Committee, the following action was done on the _____ day of _____, A.D., 2000.

Approved as to Form:

Approved as to Substance:

By: _____
Attorney General

By: _____
Director of Administration

By: _____
State Purchasing Agent
Chairman

By: _____
Public Member

Exhibit “A”
(Easement Areas)

As-Built drawings provided by Level 3 shall comply with the NAD 83/91 Horizontal Datum reference. The As-Built drawings shall also be cross-referenced to GPS horizontal references. Level 3 shall also deliver the As-Built project drawings in a native Microstation CADD format.

Level 3 shall provide twenty (20) hard copies of all As-Built drawings and all other information required for State ROW construction permits.

[attach As-built drawings here]

Exhibit "B"

(Easement Areas where the Facilities are located)

1. Segment C.1: (description of route)
2. Segment C.2:
3. Segment C.3:

[attach map(s) here]

Exhibit "C"
(One-time Easement Payment)

1. Level 3 shall provide the State a payment of ONE MILLION FIVE HUNDRED THOUSAND AND 00/100 (\$1,500,000.00) DOLLARS upon the State's final approval of this Agreement and Level 3's receipt of all corresponding construction permits required by the State, so as to enable Level 3 to begin immediate construction of the Facilities on all parts of the route set forth in Exhibit "B" (collectively "Permits") (the "Easement Payment"). The Easement Payment shall be made in two (2) installments: (a) SEVEN HUNDRED FIFTY THOUSAND AND 00/100 (\$750,000.00) DOLLARS (the "First Installment"); and (b) SEVEN HUNDRED FIFTY THOUSAND AND 00/100 (\$750,000.00) DOLLARS (the "Second Installment"). The First Installment shall be made upon Level 3's receipt of the Permits and a notice to proceed (the "Notice to Proceed") with construction on Segments C.1 and C.2 as set forth in Exhibit "B," which notice, with respect to Segment C.1 shall be issued no later than June 23, 2000, and with respect to Segment C.2, shall be issued no later than July 24, 2000. The Second Installment shall be made at the same time as the First Installment. The Second Installment shall be placed in an interest bearing escrow account with an escrow agent under terms agreed to by the parties with said interest to be payable to the State. Once Level 3 receives its Permits and a Notice to Proceed with construction on Segment C.3 as set forth in Exhibit "B," (which Notice shall be issued no later than August 14, 2000,) the Second Installment shall be transferred to the State. The State shall allow construction on Segments C.1 and C.3 utilizing "red-line" revisions to existing State drawings or base maps, with Level 3 providing "as-built" drawings ("As-builts") following completion of the construction of the Facilities.

2. The Easement Payment shall be delivered, subject to Paragraph 1 of this Exhibit "C," within thirty (30) days of receipt of written notice from the State in lawful money of the United States. The Easement Payment shall be made by either (a) mailing or delivering to the State a certified bank check made payable to the order of General Treasurer, State of Rhode Island, in such amount drawn on a commercial bank with offices in the continental United States, and shall be deemed timely made if received by the State on or before the due date thereof, provided that if such check is not paid and honored upon presentation thereof, duly endorsed, such check shall not constitute payment, or (b) by wire transfer of immediately available Federal funds on or before the due date thereof in accordance with wiring instructions provided to Level 3 by the State.

3. The State shall apply the Easement Payment in a competitively neutral, non-discriminatory manner against all other providers of telecommunications services. In regards to other providers of telecommunications services, the State may allocate the Easement Payment in any manner it deems appropriate.

4. Both parties concur that, for the sole purposes of this Agreement, the State may unilaterally and in its sole discretion, apply any portion of the one-time Easement Payment received by the State as compensation for any or all portions of the State's right of way, as the State sees fit.

Exhibit “D”
(Fixed Rent)

With respect to the limited access interstate right of way (I-295 and RI-146), Level 3 shall pay the State as Fixed Rent for the rights granted under this Agreement:

1. Subject only to Paragraph 9 of Exhibit “E,” Level 3 shall make the following annual recurring Fixed Rent payments per constructed route mile for each 1 1/4 inch diameter conduit for limited access right of way (I-295 and RI-146), commencing with Conduit No. 3, at the time the respective conduit becomes “Operational.” For purposes of this Agreement, a conduit becomes Operational when within a fiber optic cable one (1) or more strands of fiber within such cable is in use by Level 3, has been sold or leased by Level 3 to a third party or a conduit or conduit space is sold or leased by Level 3 to a third party and such third party installs a cable in such conduits(s) and one (1) or more strands of fiber within such cable are in use.

<u>Conduit No.</u>	<u>Annual Recurring Fixed Rent Payment Per Mile</u>	
	Minimum	Maximum
Conduit 1		\$0.00
Conduit 2		\$0.00
Conduit 3	\$1,000.00	\$1,800.00
Conduits 4-6	\$500.00	\$1,000.00
Conduits 7-9	\$500.00	\$1,250.00
Conduits 10-27	\$500.00	\$1,500.00

The annual recurring Fixed Rent payment schedule shall be increased at the end of each year of the Term by three percent (3%) (compounded annually) for the first twenty (20) years of the Term. Thereafter, the annual recurring Fixed Rent payment schedule shall be increased annually based on the Consumer Price Index.

Once a cable becomes Operational in Conduits Nos. 3-27, Level 3 will pay the corresponding minimum recurring payment for such cable while Operational, until such time as Level 3 has enough fibers in an Operational conduit at a rate of FORTY-TWO AND 00/100 (\$42.00) DOLLARS per fiber per mile to exceed such minimum recurring Fixed Rent payment per mile. Once Level 3 has exceeded such minimum recurring Fixed Rent payment per mile, Level 3 shall pay FORTY-TWO AND 00/100 (\$42.00) DOLLARS per fiber, per mile until such time as Level 3 reaches the maximum recurring Fixed Rent payment per mile. Once Level 3 reaches the maximum recurring Fixed Rent, Level 3 shall pay the maximum recurring Fixed Rent payment per mile, as herein described. Level 3 shall pay no more than the maximum recurring Fixed Rent payment per mile.

The State shall not require Level 3 to pay Fixed Rent for any more than twenty-seven (27) conduits.

2. Each year during the Term, and any Renewal Term, if applicable, on the annual anniversary date of the Effective Date of this Agreement, Level 3 shall identify to the State all Operational conduits and the number of fibers in such conduits in writing. Included with such information shall be Level 3's total annual recurring Fixed Rent payment for the preceding year. Fixed Rent for any partial year shall be calculated on a pro rata basis. Such payment shall be made in lawful money of the United States by either (a) mailing or delivering to the State a certified bank check made payable to the order of General Treasurer, State of Rhode Island, in such amount drawn on a commercial bank with offices in the continental United States, and shall be deemed timely made if received by the State on or before the due date thereof, provided that if such check is not paid and honored upon presentation thereof, duly endorsed, such check shall not constitute payment or (b) by wire transfer of immediately available Federal funds on or before the due date thereof in accordance with wiring instructions provided by the State.

3. All Fixed Rent payments shall be delivered to the State of Rhode Island and Providence Plantations, Department of Transportation, Real Estate Section c/o Administrator or designee Two Capitol Hill, Providence, RI 02903-1124.

4. No later than December 31 and June 30 of each year during the Term, Level 3 shall deliver a reasonably detailed report to the State describing the number of Operational conduits in the Facilities.

[remainder of page intentionally left blank]

Exhibit "E"

(In-kind Compensation)

1. Level 3 shall convey to the State all right, title and interest in two (2), 1 1/4 inch diameter Schedule 40 polyvinyl chloride (PVC) conduits or SDR11 HDPE installed conduits along the route set forth in Exhibit "B." One (1) of the conduits shall be vacant and the second (2nd) shall be conveyed with a twenty-four (24) fiber, single mode cable, which will be installed and tested according to the procedures specified in Paragraph 3 of this Exhibit "E." The State conduits and fibers described herein are hereinafter referred to collectively as the "State Conduits and State Fibers." The State Conduits and State Fibers shall terminate in the State Access Points, as defined in paragraph 4 of this Exhibit "E."

2. Only the State Fibers are to be utilized exclusively by the State and the parties listed below exclusively in the carriage of official or administrative traffic of (a) the State and its successors and assigns, (b) the United States of America, (c) the State of Rhode Island and Providence Plantations, (d) any public or private educational institution, including, without limitation, any state university or public school, (e) any charitable organization, not-for-profit corporation, county or local government located or organized within the State of Rhode Island and Providence Plantations, and/or (f) any political subdivision, agency or instrumentality of (i) the United States of America, (ii) the State of Rhode Island and Providence Plantations, or (iii) any county or local government located or organized within the State of Rhode Island and Providence Plantations, and for no other purpose. Any fibers not provided by Level 3 may be utilized by the State in its sole discretion. With the exception of the restriction set forth above, the two (2) conduits provided by Level 3 may be utilized by the State in its sole discretion.

3. All of the splices for the State Fibers shall be performed with an industry standard fusion splicing machine. Splices will be tested, at Level 3's cost and expense, with an Optical Time Domain Reflectometer ("OTDR") from only one direction. After Level 3 has installed the State's Fibers, bi-directional testing shall be performed. Once the State's fibers have been installed and spliced, loss measurements at 1550 nm shall be recorded on the Fibers using an industry-accepted laser source and a power meter. During installation, fifty (50) feet of continuous cable containing the State Fibers shall be coiled within the State Access Points.

4. Level 3 shall convey to the State all right, title and interest in conduit drops, encompassing separate installed manholes, handholes or splice manholes (a) approximately 3,600 to 3,800 feet apart, but in any event at the same locations that Level 3 installs its access points along the route set forth in Exhibit "B," and (b) at each interchange along the I-295 and RI-146 as set forth in Exhibit "G" (the "State Access Points"). The State Access Points shall be provided to the State at Level 3's sole cost and expense.

5. The State Conduits and State Fibers and State Access Points shall be delivered to the State no earlier than the completion of the Facilities, but in no event later than December 31, 2001.

6. Level 3 shall install and convey to the State (1) a drop point adjacent to the RI State Police Lincoln barracks located on RI-146, and (2) a drop point adjacent to the RI State Police barracks located in Chepachet, RI (the "State Drop Points"). The State Drop Points shall be installed in substantially the same manner as the State Access Points set forth in Paragraph 4 of this Exhibit "E," and shall be provided by Level 3 at its sole cost and expense. Such State Drop Points shall be either in the State's right of way as set forth in Exhibit "B" or on State owned property and the conduit construction to the State Drop Points, if any, must not require the approval of any third party. In the event that the installation of and any conduit connection to the State Drop Points requires Level 3 to obtain the approval of any third party, Level 3 need not, in its sole discretion, install the State Drop Points or make such conduit connections. During the Term and any Renewal, as the case may be, Level 3 shall retain title to and ownership of the Facilities, except for any State Equipment located on State property which, at all times, shall be in the title of and owned by the State. Level 3 shall have the right to pledge or encumber its title and ownership and the rights granted to Level 3 hereunder, provided, however, that (a) Level 3 may not pledge, encumber, voluntarily cause a lien to be placed upon, or otherwise act or fail to act with regard to any portion of the Facilities, if such pledge, encumbrance, lien, or action or failure to act would be inconsistent with, or in any way conflict or have the potential for conflict with, the State's right, title and interest in and to the State Equipment, or the State's rights-of-way; and (b) any such pledge, encumbrance, or lien shall be effective only to the extent that it grants rights that are: (i) consistent with this Agreement; and (ii) subordinate to the State's right, title and interest in and to the State rights-of-way, the State Equipment, and Level 3's obligations to the State under this Agreement, including, but not limited to, the State's right to receive from Level 3 compensation and maintenance of the State Equipment as provided for herein. The State shall have the right to file and record this Agreement or a memorandum of agreement, in a mutually acceptable format, to evidence and secure the State's ownership interest and indefeasible right of use (hereinafter referred to as "IRU") to the State Equipment for recordation in the State of Rhode Island.

Subject to the provisions of this Agreement, the State may lease or otherwise grant subordinate interests in the State Equipment wherever located. Any lease, pledge, encumbrance or grant not in conformance with this subsection shall be null and void.

At the expiration of this Agreement, Level 3 shall have one hundred eighty (180) days to either abandon in place or remove the Facilities, other than the State Equipment, from the Easement Areas. After such one hundred eighty (180) day period, title to and ownership of the portions of the Facilities that remain in the Easement Areas shall automatically vest in the State, and Level 3 shall have no further obligation to maintain, relocate or remove same.

7. In addition to the State Drop Points described in Paragraph 6 of this Exhibit "E," Level 3 shall install and convey to the State an additional State Drop Point in a location in the State's right of way at or near the intersection of Smith Street (Route 44) and West Park Street to facilitate conduit connectivity to the Administration Building Complex set forth in Exhibit "B," described in Exhibit "H."

8. Level 3 will, no earlier than three (3) months following completion of the facilities, but in no event later than December 20, 2001, upon receipt of written notice from the State, but in no

event prior to Level 3's completion of construction of the Facilities, purchase, deliver and convey to the State a twenty-four (24) fiber, single mode cable, for the purpose of connecting the State Drop Point set forth in Paragraph 7 of this Exhibit "E" to the Traffic Operations Center (the "TOC") located in the Rhode Island Department of Transportation Building ("RI DOT"), Two Capitol Hill, Providence, RI. The length of such cable shall be sufficient to connect only the State Drop Point described in Paragraph 7 above to RI DOT. If requested, Level 3 shall assist the State, at the State's sole cost and expense, and upon receipt of written notice from the State, with engineering, installing and commencing the operation of such connection to the TOC. Level 3 shall assist the State with such engineering and installation no earlier than the completion of the Facilities, but in no event later than December 31, 2001.

9. Level 3 shall make an aerial connection for the State utilizing twenty-four (24) single mode fibers from a State Access Point located in the State's right of way as set forth in Exhibit "B," along a route to be determined by Level 3, with review and concurrence from the State, to a fiber distribution panel within the computer station building located on State property at 1670 Hartford Ave., Johnston, RI. as set forth in Exhibit "F" (the "Johnston Fiber Connection"). Level 3 shall provide the Johnston Fiber Connection by either obtaining a pole attachment agreement from an existing utility company with available pole attachment space and installing said twenty-four single mode fiber cable, OR, Level 3 will obtain the use of said 24 single mode fibers from a qualified provider of aerial dark fibers. In the event that the property on which the computer station building in Johnston exists is not State owned property and if, in order to make the Johnston Fiber Optic Connection, consent of a third party is required, Level 3 need not, at its sole discretion, make such connection. Such Johnston Fiber Connection fibers shall be conveyed by Level 3 to the State and shall be tested following installation in accordance with Paragraph 3 of this Exhibit "E." All construction, installation and testing costs and expenses incurred in connection with making the Johnston Fiber Connections shall be the responsibility of Level 3, and a report by an independent agent to be retained by Level 3 verifying the costs and expenses of the Johnston Fiber Connection will be submitted to the State at Level 3's expense, except that Level 3 shall receive a credit in the amount of fifty percent (50%) of such costs and expenses which shall be applied against recurring annual Fixed Rent obligations. Such fifty percent (50%) shall not exceed TWO HUNDRED THOUSAND AND 00/100 DOLLARS (\$200,000.00). Such credit shall be applied to Level 3's next required recurring annual Fixed Rent payment as set forth in Paragraphs 1 and 2 of Exhibit "D." In addition, Level 3 shall obtain and maintain, at its sole cost and expense, any necessary pole attachment authorizations to facilitate the Johnston Fiber Connection. Level 3 shall convey to the State, where possible, all rights, title, and interest it obtains in any necessary pole attachment authorizations

10. The State Conduit Drops and the Johnston Fiber Connection shall be delivered to the State no earlier than three (3) months following the completion of the Facilities, but in no event later than December 31, 2001.

11. With respect to the connection to the TOC and the Johnston Fiber Connection described in Paragraphs 8 and 9, respectively, of this Exhibit "E," Level 3 shall have no liability or responsibility to the State, and the State assumes the risk with respect to Level 3's connection to any State equipment, if any, which is defective, inoperable or performs in an otherwise unsatisfactory manner whether due to the installation, engineering, operation or otherwise,

whether directly or indirectly. In this regard, the State waives all claims, suits, actions, causes of action, judgments, obligations, fines, penalties, damages and costs of every kind, nature and description (collectively "Claims") against Level 3, its agents, employees, contractors or subcontractors, subtenants, permittees or licensees (the "Level 3 Parties") and shall indemnify and hold the Level 3 Parties harmless relating to the connection to any State equipment for (a) any violation of any legal requirements by the State and its agents, employees, contractors or subcontractors, subtenants, permittees or licensees (the "State Parties") and/or the Level 3 Parties, (b) any accident, damages and injuries (including death) to persons or property occurring on the State's rights of way which occurs as a result of or is claimed to have resulted from any act or omission on the part of any of the State Parties or (c) any negligence, willful misconduct or bad faith on the part of the State Parties; except that the foregoing shall not include indemnity for Claims arising out of or relating to the gross negligence or intentional misconduct of the Level 3 Parties. The provisions of the preceding indemnity shall survive the expiration or termination of this Agreement.

12. Level 3 only shall provide routine maintenance (surveillance and inspection of the State Conduits and State Fibers and the Johnston Fiber Connection) at no cost to the State, except that the State shall be responsible, at its sole cost and expense, for routine maintenance, whether in whole or in part, of the State Access Points and Drops Points and the fiber connection from the State Access Point set forth in Exhibit "B" to the TOC. Level 3 only shall provide emergency maintenance of the State Conduits and State Fibers (repair of any unanticipated infrastructure cut of failure) at no cost to the State. Level 3 shall restore service to the State's Conduits and State Fibers and the Johnston Fiber Connection within a commercially reasonable amount of time. The State shall be responsible, at its sole cost and expense, for emergency maintenance, whether in whole or in part, of the State Access Points, Drop Points and fiber connection to the TOC described in the first sentence of this Paragraph 12. In the event that any non-State Fibers located in State Conduits require maintenance that calls for access to the Facilities that cannot be obtained through the State Access and Drop Points, Level 3 shall repair such fibers under the terms of this Agreement, provided the cost and expense of all repairs including, without limitation, any splicing, shall be the sole responsibility of the State. The costs and expenses associated with such repairs shall be no more than Level 3 would charge to any other customer for the same work.

[remainder of page intentionally left blank]

Exhibit "F"

(Johnston Fiber Connection)

[attach description and drawing here]

Exhibit "G"

(State Access Points along I-295 and RI-146)

1. (description of location)
- 2.
- 3.
4. (contd.)

[attach map here]

Exhibit "H"

(Additional State Drop Point)

(Description of location of additional State Drop Point)

[attach map detailing location]

EXHIBIT "I"

GUARANTY

This GUARANTY, dated as of _____, 2000, made by LEVEL 3 COMMUNICATIONS ("Guarantor"), in favor of the STATE OF RHODE ISLAND acting by and through the Rhode Island Department of Transportation ("State").

Recital

WHEREAS, Level 3 Communications, a Delaware Limited Liability Company ("Level 3") and the State entered into that certain Easement Agreement ("Agreement") dated as of _____, 2000.

Agreement

NOW, THEREFORE, as a material inducement to the State to enter into the Agreement with Level 3 and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the State and Guarantor hereby agree as follows:

1. **Guaranty.** In order to secure performance of Level 3's obligation to provide the State with the State Equipment and in order to secure performance of Level 3's obligation to maintain the same and pay compensation to the State, the Guarantor hereby acknowledges receipt of the Agreement, and Guarantor hereby unconditionally and irrevocably guaranties to the State the full and punctual payment and performance of the obligations by Level 3 in accordance with the terms and provisions of the Agreement, including the payment of court costs and reasonable attorneys' fees, incurred by the State in collecting payment or enforcing this Guaranty, (the payment and performance obligations are referred to as the "Obligations").
2. **Unconditional Obligations.** Guarantor understands and agrees that this Guaranty is direct, immediate, absolute, continuing and unconditional, and is a guaranty of full performance and payment and not merely of collection. If Level 3 shall fail to pay or perform any of the Obligations, Guarantor shall pay or perform, forthwith upon demand, to the State or to a State-designated agent, any and all such Obligations or amounts which are due and owing from Level 3 to the State under the terms and conditions of the Agreement.
3. **Guarantor's Waivers.** To the extent permitted by applicable law, Guarantor waives:
 - (a) notice of the breach by Level 3 of any provision of the Agreement;

- (b) notice that Level 3 has taken or omitted to take any action under the Agreement or any other instrument relating thereto or relating to any Obligation;
- (c) notice of acceptance of this Guaranty;
- (d) demand, presentation for payment and notice of demand, nonpayment or nonperformance;
- (e) the right to require the State to proceed against Level 3 or pursue any other right or remedy available to the State; and
- (f) any defense by reason of bankruptcy, reorganization, discharge by the filing of bankruptcy or discharge in bankruptcy of Level 3;

Guarantor further agrees that the Guaranty will not be discharged and shall remain in full force and effect until full satisfaction of all Obligations of Level 3 under the Agreement has been obtained.

1. Consent. Guarantor understands and consents that from time to time, and without further notice to or consent of Guarantor, the State may take any or all of the following actions without releasing, discharging or in any way affecting the Obligations of Guarantor under this Guaranty:
 - (a) any modification or amendment of or supplement to the Agreement as agreed between the State and Level 3; and
 - (b) any exercise or refrain from exercising any right or remedy of the State under the Agreement.
2. Limitations. Notwithstanding the foregoing or any other provision of this Guaranty:
 - (a) The Guarantor's Obligations hereunder shall be excused, reduced or released to the extent that Level 3's Obligations under the Agreement are excused, reduced or released, whether pursuant to the terms and conditions of the Agreement or by the operation of law; and
 - (b) Without limiting the generality of the foregoing, the Guarantor shall be entitled to all defenses, set-offs, recoupments and deductions available to Level 3 under the Agreement.
3. Term. This Guaranty and all guarantees, covenants and agreements of the Guarantor contained herein shall terminate and be discharged at such time as the Agreement expires or is terminated according to the terms and

conditions of such Agreement, provided that the Obligations of the Guarantor contained herein shall survive the termination of this Guaranty only with respect to any previous undischarged Obligations of Level 3 pursuant to the terms and conditions of the Agreement and still unsettled, or when the Obligations of Level 3 pursuant to the terms and conditions of the Agreement have been fully discharged, as the case may be.

4. Notices. All written notices under this Guaranty shall be hand delivered, sent by registered or certified U.S. mail, postage prepaid, or by commercial overnight delivery service, or transmitted by facsimile, and shall be deemed served or delivered to Guarantor when received at the address set forth after the signature line below, upon confirmation of sending when sent by fax, on the day after being sent when sent by overnight delivery service, or three (3) days after deposit in the mail when sent by U.S. mail.
5. Severability. In case any provision of this Guaranty shall be invalid, illegal or unenforceable, such provision shall be severable from the rest of this Guaranty and the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
6. Applicable Law. This Guaranty and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of Rhode Island. In the event of any litigation with respect to this Guaranty or any instrument or document executed and delivered in connection herewith, the trial shall be conducted by a judge only without a jury.
7. Entire Agreement. This Guaranty constitutes the entire agreement and contains all of the understandings and agreements of whatsoever kind and nature existing between the Guarantor and the State with respect to the subject matter hereof and the rights, interests, understandings, agreements and obligations of the Guarantor and the State relating thereto, and supersedes all prior written or oral agreements, commitments, representations, communications and understandings between Guarantor and the State.
8. Amendment. No amendment, modification or alteration of this Guaranty shall be effective unless in writing and signed by the parties hereto.
9. Successors and Assigns. This Guaranty shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties hereto.
10. Recordation. The State shall have the right to record this Guaranty to evidence the Guarantor's Obligations set forth herein.

IN WITNESS WHEREOF, this Guaranty has been executed as of the date first above written.

GUARANTOR:

LEVEL 3 COMMUNICATIONS, LLC.

By: _____

Title: _____

Guarantor's Address:

Attention: General Counsel
1025 Eldorado Boulevard
Broomfield, CO 80021

ATTESTATION:

By: _____

Title: _____

STATE OF COLORADO
COUNTY OF _____

I hereby certify that, before me, the subscriber, a Notary Public in and for the aforesaid State and County, personally appeared _____, who acknowledged himself to be the _____ of Level 3 Communications, Inc., a Delaware corporation ("Company"), and that he, as such person being authorized so to do executed the foregoing deed on behalf of Level 3 for the purposes therein contained by signing the name of Level 3 by himself.

AS WITNESS MY HAND AND NOTARIAL SEAL, this _____ day of _____ in the year 2000.

_____(Seal)

Notary Public

My commission expires: