

AT&T SOUTHEAST

WHOLESALE DIGITAL SUBSCRIBER LINE TRANSPORT

GENERALLY AVAILABLE TERMS AND CONDITIONS

Version 7.0

EFFECTIVE 03/25/2008

Confidential Information

Not for use or disclosure outside of AT&T, AT&T affiliates and Wholesale DSL Customers

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WHOLESALE DIGITAL SUBSCRIBER LINE (DSL) TRANSPORT
SECTION 1 - DEFINITION OF TERMS AND ABBREVIATIONS**

SECTION 1 - DEFINITION OF TERMS AND ABBREVIATIONS

The following are definitions of generally used terms.

- 1.1. **ATM** – Asynchronous Transfer Mode - a connection oriented technology, in which a logical connection is established between the two endpoints before the actual data exchange begins.
- 1.2. **AT&T Southeast** – BellSouth Telecommunications, Inc d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina and AT&T Tennessee.
- 1.3. **BBG** – Broadband Gateway – an AT&T Southeast network of DSLAMs using an ATM based aggregation network.
- 1.4. **Customer** – Any person, firm, partnership, corporation or other entity who subscribes to Service under an arrangement which incorporates, in whole or in part, these Terms and Conditions.
- 1.5. **Destination** – the location of termination of a PPP session, as used in the context of PPP.
- 1.6. **DSLAM** – Digital Subscriber Line Access Multiplexer
- 1.7. **End User** – An individual, association, corporation, government agency or entity that subscribes to the Service as a purchaser from the Customer and does not resell the Service to others or use the Service as an input to provide an information Service to others.
- 1.8. **EUA** – End User Aggregation - AT&T Southeast technique for collecting and delivering many End User Sessions to Customer at one or a few locations.
- 1.9. **LATA** – Local Access and Transport Area
- 1.10. **L2TP** – Layer 2 Tunneling Protocol - as defined by Internet Engineering Task Force (IETF) RFC 2661
- 1.11. **Logical Connection** – Provides end-to-end information transfer capability from one port to another.
- 1.12. **MSATMS** - Managed Shared Asynchronous Transfer Mode Service – an AT&T Southeast special access service providing for the switching of fixed length ATM cells within end-to-end symmetrical, duplex Permanent Virtual Circuits (PVCs), using ATM switching systems. MSATMS includes the ATM port, loop and transport.
- 1.13. **NID** – Network Interface Device – the point of demarcation between AT&T Southeast's phone line and End User inside wiring
- 1.14. **PVC** - Permanent Virtual Circuit –Software defined logical paths established between two or more points (point to point or point to multi-point). All cells, in all sessions between two end points, follow the same route.

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- 1.15. **PPP** – Point to Point Protocol - as defined by Internet Engineering Task Force (IETF) RFC 1661
- 1.16. **PPPoE** – Point to Point Protocol over Ethernet - as defined by Internet Engineering Task Force (IETF) RFC 2516
- 1.17. **Service(s)** – Wholesale offering of DSL Transport services under these Terms and Conditions
- 1.18. **Session** – the element created between a successful start and end of PPP activity, as used in the context of PPP.
- 1.19. **VCI** – Virtual Channel Identifier
- 1.20. **VPI** – Virtual Path Identifier
- 1.21. **WBBG** – Wholesale Broadband Gateway – an AT&T Southeast network of DSLAMS using an Internet Protocol based aggregation network
- 1.22. **XAATMS** - Exchange Access Asynchronous Transfer Mode Service – an AT&T Southeast special access service providing for the switching of fixed length Asynchronous Transfer Mode (ATM) cells within end-to-end symmetrical, duplex Permanent Virtual Circuits (PVCs).

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SECTION 2 – GENERAL PROVISIONS**

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2.1 Scope.

2.1.1 These Terms and Conditions (“Terms and Conditions”) govern the provision of Service(s) by AT&T Southeast. The Terms and Conditions consist of Section 1 - Definition of Terms and Abbreviations, Section 2 – General Provisions, Section 3 – Wholesale DSL Transport Service and Section 4 - Rate Elements and Service Conditions. Except as set forth above, a Customer wishing to purchase Services pursuant to the Terms and Conditions must have on file with AT&T Southeast an Acknowledgement of Terms and Conditions signed by a duly authorized representative of the Customer, wherein the Customer agrees to be bound by these Terms and Conditions for Services ordered hereunder. (As used herein, the term “Party” may be used to refer to AT&T Southeast or the Customer, and “Parties” may be used to refer to AT&T Southeast and the Customer.)

2.1.2 These Terms and Conditions will be in effect from the date of receipt by AT&T Southeast of an executed Acknowledgement of Terms and Conditions by Customer.

2.2 Termination; Refusal of New Service.

2.2.1 AT&T Southeast may terminate the Customer’s participation in the Terms and Conditions if the Customer: (i) breaches any material term, condition, or obligation of the Terms and Conditions and fails to cure such breach within seven (7) days after written notice of such breach; or (ii) becomes the subject of a voluntary or involuntary bankruptcy, insolvency, reorganization, or liquidation proceeding, makes an assignment for the benefit of creditors, or admits in writing its inability to pay debts when due. (Subsections (i) and (ii) may be referred to collectively herein as an “Event of Default.”)

2.2.2 Upon an Event of Default, AT&T Southeast may, in its sole discretion, and in lieu of termination, elect to refuse orders for new Service and/or refuse to complete pending orders for Service until such time as the Event of Default is cured. Such election to refuse orders for Service shall not be a waiver of AT&T Southeast’s right to terminate under Section 2.2.1, above. In the event AT&T Southeast elects to refuse orders for Service, and thereafter desires to terminate under Section 2.2.1, AT&T Southeast shall send written notice to the Customer of its intent to terminate, and if the Event of Default continues, AT&T Southeast may terminate the Customer’s participation in the Terms and Conditions on or after five (5) days from the date of such notice.

2.2.3 The Customer may terminate its participation in the Terms and Conditions at any time, with or without cause, by providing five (5) days written notice of its intent to terminate.

2.2.4 Upon termination of the Customer’s participation in the Terms and Conditions, AT&T Southeast will disable the Customer’s ability to order Services; will disconnect all Services ordered hereunder; and all applicable charges, including termination charges, shall immediately become due.

2.3 Payments.

2.3.1 The rates and charges payable by the Customer for the Service shall be as set forth in Section 4. AT&T Southeast will bill the Customer monthly for Service. Payment, including amounts disputed pursuant to Section 2.10, *infra*, is due thirty (30) days after the bill or invoice date. If any payment due hereunder is not received within the date stated on the bill or invoice, AT&T Southeast may assess a late payment charge of 1% per month.

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2.4 Disclaimer of Liability; Limitation of Liability.

2.4.1 AT&T Southeast's liability, if any, for its willful misconduct is not limited by the Terms and Conditions. With respect to any other claim or suit by the Customer, or by any others, for damages associated with the installation, provision, preemption, termination, maintenance, repair or restoration of Service, AT&T Southeast's liability shall not exceed an amount equal to the proportionate charge for the Service for the period during which the Service was affected.

2.4.2 AT&T Southeast shall not be liable for any act or omission of the Customer.

2.4.3 EXCEPT FOR THE CUSTOMER'S INDEMNIFICATION OBLIGATIONS, BELOW, NEITHER THE CUSTOMER NOR AT&T SOUTHEAST SHALL HAVE ANY LIABILITY TO THE OTHER FOR LOST PROFITS OR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES UNDER THE TERMS AND CONDITIONS, REGARDLESS OF WHETHER SUCH PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

2.4.4 In the event an arbitration panel or court should hold that the limitations of liabilities as set forth in the Terms and Conditions, or any portions thereof, are unenforceable for any reason, or that any of the Customer's remedies under these Terms and Conditions fail of their essential purpose, the Customer expressly agrees that under no circumstance shall AT&T Southeast's total liability to the Customer or any party claiming by, through or under the Customer for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, including negligence, in the aggregate, exceed the amount of charges paid or to be paid by the Customer for use of the Service during the period in which the Customer purchased Service under the Terms and Conditions.

2.5 Limitation and Disclaimer of Warranties.

2.5.1 NEITHER AT&T SOUTHEAST NOR ANY OF ITS UNDERLYING SERVICE PROVIDERS, LICENSORS, EMPLOYEES, OR AGENTS WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES AT&T SOUTHEAST OR ANY OF ITS UNDERLYING SERVICE PROVIDERS, LICENSORS, EMPLOYEES, OR AGENTS MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE SERVICE. UNLESS EXPRESSLY STATED TO THE CONTRARY HEREIN, THE SERVICE IS PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, OTHER THAN THOSE WARRANTIES (IF ANY) WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION UNDER THE LAWS APPLICABLE TO THE TERMS AND CONDITIONS, ALL SUCH WARRANTIES BEING EXPRESSLY DISCLAIMED.

2.6 Indemnification.

2.6.1 Provided that AT&T Southeast is promptly notified in writing of any action brought against the Customer based on a claim that the Service infringes a United States patent, copyright, trademark, or other intellectual property right, AT&T Southeast will indemnify the Customer for all its directly related and reasonably incurred expenses, including reasonable attorneys fees, defend that action at its expense and will pay any and all fees, costs or damages that may be finally awarded in that action and/or a settlement resulting from it (provided that the Customer shall permit AT&T Southeast to have sole control over the defense or settlement of such action; the Customer shall not make any compromise, admission of liability or settlement or take any other action impairing the defense of such claim without AT&T

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Southeast's prior written approval; and the Customer shall cooperate with AT&T Southeast in all reasonable ways to facilitate the settlement or defense of any claim). If a final injunction is obtained against the Customer prohibiting usage of the Service by reason of infringement of a United States patent, copyright, trademark, or other intellectual property right or if in AT&T Southeast's opinion the Service is likely to become subject to a valid and enforceable claim of infringement, AT&T Southeast will, at its option, either: (1) at its expense procure the right for the Customer to continue using the Service; (2) modify the Service so that it is non-infringing; (3) return the price paid for the Service; or (4) direct the Customer to cease using the Service. In the latter event, the Service shall terminate immediately.

- 2.6.2** The Customer will indemnify and save harmless AT&T Southeast from and against all loss, liability, damage, and expense, including all reasonable attorney fees, due to claims for infringement of patents, copyright, trademark, or other intellectual property rights arising from (1) the Customer or the Customer's end user or any other third party combining or using the Service in connection with equipment, software, data, processes, or facilities furnished by the Customer, the Customer's end user, or other third party; (2) the Customer, the Customer's end user or other third party's use of the Service based on specifications supplied by or specific instructions furnished by the Customer, the Customer's end user, or other third party; (3) alterations or modifications to the Service by the Customer, the Customer's end user, or other third party; (4) use of the Service not in compliance with AT&T Southeast's specifications or requirements; and (5) use of the Service without the most current release or version of equipment, software, data, processes, or facilities associated with the Service. The Customer will indemnify and save harmless AT&T Southeast from and against all loss, liability, damage, and expense, including all reasonable attorney fees, due to any other claims or causes of action by third parties of any nature whatsoever, arising from the use of, or in connection with, the Service or otherwise relating to or arising out of use of the Service by the Customer, an authorized user of the Customer, including any end user of the Customer, or any other third party. The Customer shall have no obligation to indemnify AT&T Southeast for any claim that the Service infringes a United States patent, copyright, trademark, or other intellectual property right.
- 2.6.3** This section states the entire liability of AT&T Southeast, and the Customer's sole remedy, with respect to any infringement or alleged infringement of any intellectual property rights or proprietary rights.

2.7 Modifications to Terms and Conditions.

AT&T Southeast may modify the Terms and Conditions, including the prices for the Service, and may withdraw, discontinue or revise any or all other aspects of the Service. All such changes shall become effective upon posting of the revised Terms and Conditions at: http://wholesale.att.com/products_and_services/access/dsl/index.html provided, however, AT&T Southeast shall provide a minimum of fifteen (15) days notice of such modification prior to the date such modification is to be effective, unless AT&T Southeast determines an immediate change is necessary in order to protect the security of its network or the service, IN WHICH EVENT AT&T SOUTHEAST WILL MODIFY THE SERVICE IMMEDIATELY, WITHOUT NOTICE. When giving notice of a modification, AT&T Southeast shall provide such notice via customer bulletin electronically posted to AT&T Southeast's website: https://www.bellsouth.com/broadband/dsl_solutions/members

2.8 Confidentiality

- 2.8.1** "Confidential Information" consists of the following: all information disclosed by one party or its agent or representative (the "Disclosing Party") to the other party or its agent or representative (the "Receiving Party") in connection with the Terms and Conditions , to the

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extent that (a) for information disclosed in written, graphic or other tangible form, it is designated by appropriate markings to be confidential or proprietary or (b) for information disclosed orally, it is both identified as proprietary or confidential at the time of disclosure and summarized in a writing so marked within 15 business days following the oral disclosure. Notwithstanding the foregoing, all written or oral pricing and contract proposals exchanged between the parties shall be Confidential Information, whether or not so designated. Confidential Information is the property of the Disclosing Party and shall be returned to the Disclosing Party upon request. Information that (i) is independently developed by the Receiving Party, (ii) is lawfully received by the Receiving Party free of any obligation to keep it confidential, or (iii) becomes generally available to the public other than by breach of the Terms and Conditions, shall not be Confidential Information.

- 2.8.2** A Receiving Party shall hold all Confidential Information in confidence from the time of disclosure until at least 3 years following its disclosure (except with respect to Software, which shall be held in confidence indefinitely). During that period, the Receiving Party: (a) shall use such Confidential Information only for the purposes of performing pursuant to these Terms and Conditions and using the Services; (b) shall reproduce such Confidential Information only to the extent necessary for such purposes; (c) shall restrict disclosure of such Confidential Information to employees that have a need to know for such purposes; (d) shall advise those employees of the obligations of the Terms and Conditions; (e) shall not disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in this Agreement; and (f) shall use at least the same degree of care (in no event less than reasonable care) as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information.

2.9 Use of Marks; No License Grant.

- 2.9.1** The Customer may, in response to a direct end user inquiry, advise end users that a portion of the service the Customer furnishes to its end users is provided by AT&T Southeast; provided, however, the Customer shall not represent that AT&T Southeast jointly participates in the Customer's services. AT&T Southeast's service marks, trademarks and logos are owned by AT&T Intellectual Property II, L.P. d.b.a. AT&T Intellectual Property, and may not be used by the Customer. The Customer acknowledges that it is separate and distinct from AT&T Southeast and that it provides a separate and distinct DSL service and agrees that the Customer may not, expressly or impliedly, state, advertise or market that it is, or offers the same DSL service as AT&T Southeast or engage in any other activity that may result in a likelihood of confusion between its own service and AT&T Southeast's DSL service.
- 2.9.2** No license is granted by AT&T Southeast to the Customer under any copyright, trademark, patent or other intellectual property right in the Service, or any materials, processes or technology related thereto.

2.10 Bill Disputes.

The Customer shall submit a documented written claim to support each specific disputed amount no later than ninety (90) days from the invoice date. Upon receipt of the Customer's documented bill dispute, AT&T Southeast shall work with the Customer to resolve the dispute in a timely manner. If the dispute is resolved in favor of the Customer, interest equivalent to the late payment charge set forth in Section 2.3, above, shall be calculated from the date of the overpayment to the resolution date.

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2.11 Deposits.

- 2.11.1** AT&T Southeast may require the Customer with a history of late payments to AT&T Southeast or without established credit to make a deposit prior to or at any time after the provision of Service to be held by AT&T Southeast as a guarantee of the payment of and charges. AT&T Southeast reserves the right to require an initial or an additional deposit from the Customer if the Customer's credit decreases from when the Service was established.
- 2.11.2** AT&T Southeast will provide written notice to a Customer of a deposit requirement. The Customer will be required to make payment of such deposit prior to the provision of new Service in those cases where the Customer has not established credit with AT&T Southeast, or otherwise within ten (10) business days of such notice for Customers with existing Services.
- 2.11.3** The deposit amount shall be calculated on the basis of the actual or estimated charges for the Service for a two month period. The fact that a deposit has been made shall not relieve the Customer from complying with its obligation to make prompt payment hereunder. At such time as the provision of the Service to the Customer is terminated, the amount of the deposit will be credited to the Customer's account and any remaining balance shall be refunded, or in the alternative, if there remains an unpaid balance for Service, AT&T Southeast may apply all or a portion of the deposit to such balance.
- 2.11.4** A deposit will be refunded or credited to the Customer's account when the Customer has established credit or, in any event, after the Customer has established a one-year prompt payment record at any time prior to the termination of the provision of the Service to the Customer. In the case of a cash deposit, for the period the deposit is held by AT&T Southeast, the Customer will receive simple interest at the rate of 1% per month (.000329 per day) or 12% annually. The rate will be calculated from the date the Customer's deposit is received by AT&T Southeast up to and including the date such deposit is credited to the Customer's account or the date the deposit is refunded by AT&T Southeast.

2.12 Changes and Substitutions.

AT&T Southeast may, where reasonably required in the operation of its business, substitute, change or rearrange any facilities used in providing Service under the Terms and Conditions, or change minimum protection criteria, operating or maintenance characteristics of facilities or operations and procedures. AT&T Southeast shall not be responsible if any such substitution, change or rearrangement renders any Customer furnished services obsolete or requires modification or alteration thereof or otherwise affects their use or performance. If such substitution, change or rearrangement materially affects the operating characteristics of the facility, AT&T Southeast will provide reasonable notification to the Customer and reasonable time will be allowed for any redesign and implementation required by the change in operating characteristics.

2.13 Taxes, Universal Service Fund, and Other Fees.

- 2.13.1** For purposes of this Section, the term "Tax" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights-of-way, whether designated as franchise fees or otherwise), which are imposed, or sought to be imposed, on or with respect to the Services furnished hereunder or measured by the charges or payments therefore.

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- 2.13.2** Except as otherwise provided in this Section, AT&T Southeast shall separately state on each applicable invoice, and the Customer shall pay, all applicable Taxes.
- 2.13.3** AT&T Southeast shall not invoice the Customer for a Tax if, and to the extent that, (i) the Customer furnishes AT&T Southeast with a properly executed certificate of exemption or direct pay permit and satisfies any other requirements under applicable law; and, if in AT&T Southeast's judgment such Tax is considered by the taxing authority to apply to some or all of the Services furnished hereunder or (ii) the Customer furnishes AT&T Southeast with a ruling or similar documentation from the taxing authority stating that such Tax does not apply to some or all of the Services furnished hereunder.
- 2.13.4** The Customer shall protect and indemnify AT&T Southeast from and against the assessment or collection by a taxing authority of any Tax not invoiced by AT&T Southeast, provided that AT&T Southeast permits the Customer to contest the assessment or collection of such Tax or, if required by applicable law and requested by the Customer, contests such assessment or collection on behalf of the Customer but at the Customer's expense.
- 2.13.5** AT&T Southeast shall permit the Customer to contest any Tax paid by such Customer, either by assigning to the Customer its right to claim a refund of such Tax or, if required by applicable law and requested by the Customer, filing and pursuing a claim for refund on behalf of the Customer but at the Customer's expense.
- 2.13.6** In any contest of a Tax by AT&T Southeast or the Customer, the other party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest; provided, however that the reasonable costs of providing such assistance shall be reimbursed by the requesting party.
- 2.13.7** To the extent AT&T Southeast pays into the universal service fund for Services purchased by the Customer, the Customer shall reimburse AT&T Southeast for all such universal service fund charges paid.
- 2.13.8** Notwithstanding any provision of this Agreement to the contrary, any administrative, judicial, or other proceeding concerning the application or amount of any Tax shall be maintained in accordance with the provisions of this Section and any applicable federal, state or local law governing the resolution of such disputed Tax. Under no circumstances shall a dispute by the Customer relating to the application or basis of any tax be considered a disputed amount under this agreement; and except as expressly provided in this section, the Customer shall not be relieved of paying any Tax billed by the Company.

2.14 Resolution of Disputes.

- 2.14.1** Except for a breach of the obligations set forth in Section 2.6, entitled "Indemnification," Section 2.9, entitled "Use of Marks, No License Grant", or a collection action for nonpayment brought by AT&T Southeast and without limiting either party's right to seek appropriate injunctive relief, any controversy, claim or dispute arising out of or relating to the Terms and Conditions for the breach, termination, enforcement, interpretation or validity thereof ("Disputed Matter"), whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory, shall be resolved by final and binding arbitration governed by the Federal Arbitration Act, 9 USC §§1-16. (However, disputes that meet the small claims court requirements in the state in which the Services are provided may be resolved in small claims court, if both parties concur in the use of that court.)
- 2.14.2** In the event of any Disputed Matter, AT&T Southeast and the Customer shall submit the matter to mediation within thirty (30) days of one Party receiving from the other Party a

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written request to mediate. The Parties may choose any institutional or informal means to mediate a Disputed Matter prior to seeking arbitration.

- 2.14.3** In the event the Parties cannot resolve the matter by mediation, any ensuing arbitration of a Disputed Matter conducted pursuant to the Terms and Conditions shall be administered by the International Institute for Conflict Prevention and Resolution (“The Institute”; f/k/a the CPR Institute for Dispute Resolution and the Center for Public Resources) pursuant to its then current Rules for Non-Administered Arbitration (“The Rules.”)
- 2.14.4** In the event the Parties agree that the Disputed Matter involves a sum at issue of less than \$1 million, the arbitration will be submitted to one arbitrator to be selected by The Institute in accordance with The Rules. If one Party or both Parties reasonably consider the Disputed Matter to involve a sum at issue in excess of \$1 million, the arbitration shall be conducted by three arbitrators, of whom each Party shall designate one in accordance with the “screened” appointment procedure provided in The Rules.
- 2.14.5** The parties have the right to be represented by counsel. The arbitrator(s) shall be bound by and strictly enforce the Terms and Conditions, and may not limit, expand or otherwise modify the Terms and Conditions in conducting the arbitration and making any award. The arbitrator(s) shall also be bound by the substantive law of the State of Georgia, without giving effect to its choice of law principles. Any arbitration will be conducted in Atlanta, Georgia. Arbitrations under the Terms and Conditions shall be kept confidential.
- 2.14.6** Disputes under the Terms and Conditions may not be (1) resolved on a class-wide basis, (2) joined with another lawsuit, or (3) joined in an arbitration with a dispute of any other entity. The arbitrator(s) may not award, and the Parties waive any claims for awards for punitive, exemplary or similar damages, or attorney’s fees. The arbitrators are not empowered to award damages in excess of compensatory damages. The arbitrator(s) shall be bound by and apply any and all other limitations of liability or disclaimers of liability contained in any section of the Terms and Conditions, which are hereby incorporated in this Section 2.14.
- 2.14.7** Each Party must pay its own expenses to participate in the arbitration, including attorney’s fees and expenses related to the presentation of evidence, witnesses and document production.
- 2.14.8** Unless both Parties agree to an extension of time, any hearing of a Disputed Matter shall be completed no later than 180 days after the date of the initial pre-hearing conference required by The Rules. The arbitration award shall be issued no later than thirty (30) days after the completion of the hearing. Such award shall be final when deemed final in accordance with The Rules. The award shall state the reasons supporting the award. The motion for entry of judgment on the award may be filed in any court of competent jurisdiction.

2.15 Non-Waiver.

No delay or failure by either Party to exercise any right under the Terms and Conditions and no partial exercise of any right under the Terms and Conditions shall constitute a waiver of that right or any other right.

2.16 Notices.

- 2.16.1** Unless otherwise stated, notices, authorizations, and requests required or desired to be given or made in connection with the Terms and Conditions shall be in writing and delivered by, certified or registered mail (return receipt requested), express air courier (charges

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prepaid) or hand delivery, and addressed as follows (or to such other address as the Party to receive the notice or request so designates by notice to the other):

If to AT&T Southeast, one copy being directed to the attention of the Legal Department and the second to Wholesale DSL Marketing as follows:

AT&T Legal Department:
ATTN: Broadband and Internet Services Attorney
175 Houston Street
Room 4-B-80
San Antonio, TX 78205

AT&T Broadband Services
ATTN: Product Manager - Wholesale DSL
Floor/Suite 9-F-03
500 McCullough Ave
San Antonio, TX 78215-2104

If to the Customer, notice shall be to the location designated in the Customer's Acknowledgement of Terms and Conditions, or if no such location is designated, to the Customer's billing location. In addition, if the Customer supplies an email address on its Acknowledgement of Terms and Conditions, AT&T Southeast may provide notice via email.

2.16.2 If a notice is given by either Party by certified or registered mail, it will be deemed received by the other Party on the third business day following the date on which it is deposited for mailing. If a notice is given by either Party by air express courier, it will be deemed received by the other Party on the next business day following the date on which it is provided to the air express courier. If a notice is given by hand-delivery, it will be deemed received by the other Party upon such delivery.

2.17 Force Majeure.

No Party shall be responsible for any delay or failure in delivery or performance of any of its duties hereunder due to acts of God, acts or omissions of any regulated telephone network or any other occurrence commonly known as force majeure, including, but not limited to, war, terrorist acts, riots, embargoes, hurricane or other natural disasters, strikes, work stoppage, work slowdown, or other concerted acts of workers (whether of AT&T Southeast or others), casualties or accidents, or any other causes or circumstances whether of a similar or dissimilar nature to the foregoing, which prevent or hinder the delivery of the Service. AT&T Southeast may delay performance of its obligation to provide the Service for so long as such occurrence or occurrences affect AT&T Southeast's ability to provide the Service, and in such event AT&T Southeast shall have no liability to the Customer for failure to provide the Service.

2.18 Regulatory Mandates.

The Customer expressly recognizes that AT&T Southeast is regulated by the Federal Communications Commission ("FCC") and state public utility commissions. The FCC has authorized AT&T Southeast to offer the Service via a private carriage arrangement. In the event such authority ceases, AT&T Southeast may terminate the Terms and Conditions effective with the cessation of such authority. In addition, the Terms and Conditions may be subject to such other changes or modifications as any such regulatory body may from time to time direct in the exercise of its jurisdiction.

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2.19 Assignments.

2.19.1 The Customer shall not assign or transfer its rights, duties or obligations hereunder without the prior written consent of AT&T Southeast.

2.19.2 Any assignment or transfer shall provide that the assignee or transferee assumes all outstanding Customer obligations under this Agreement, including indebtedness for Services, the unexpired portion of minimum terms, any termination liability or any minimum quantity purchases applicable to the Services. Assignee or transferee shall also be responsible for any applicable charges associated with any change of name or service details on billing and service records for the Service.

2.19.3 Any assignment or transfer of Services does not relieve or discharge the Customer from remaining jointly and severally liable with the assignee or transferee for any obligations existing at the time of the assignment or transfer.

2.20 Limitation of Actions.

Except for billing disputes brought pursuant to Section 2.10 above, no action, regardless of form, arising out of these Terms and Conditions may be brought by either AT&T Southeast or the Customer more than one year after the cause of action has arisen.

2.21 Entire Agreement.

The Terms and Conditions set forth the entire agreement between the Customer and AT&T Southeast regarding any Service provided pursuant to the Terms and Conditions, and supersedes any prior written or verbal proposals, agreements, letters of intent, understandings or other discussions respecting the same. AT&T Southeast will not be bound by any provision contained in any order, request for service, confirmation, correspondence or other communication from the Customer that is at variance with, in addition to, or conflicts with any provision of the Terms and Conditions, unless such variance, addition or conflict is specifically identified in a written agreement signed by the Customer and an authorized representative of AT&T Southeast. No agent, employee, or representative of AT&T Southeast has any authority to bind AT&T Southeast to any affirmation, representation, or warranty unless the same is specifically set forth in the Terms and Conditions or other written agreement as provided above.

2.22 Severability.

2.22.1 If any provision of the Terms and Conditions conflicts with the law under which the Terms and Conditions are to be construed or if any such provision is held invalid by a tribunal with jurisdiction over the Parties, such provision shall be deemed inoperative to the extent it is deemed invalid, but the validity of the remaining portions of provisions shall not be affected thereby so long as the Parties' respective rights and obligations in the aggregate hereunder would not be materially affected thereby taken as a whole.

2.23. Survival.

The following Sections will survive termination or expiration of this Agreement: Section 2.3, Payments; Section 2.4, Disclaimer of Liability; Limitation of Liability; Section 2.5, Limitation and Disclaimer of Warranties; Section 2.6, Indemnification; Section 2.8, Confidentiality; Section 2.9, Use of Marks; No License Grant; Section 2.10, Bill Disputes; Section 2.11.3, Deposits, Section 2.13, Taxes, Universal Service Fund and Other Fees; Section 2.14, Resolution of Disputes; Section 2.15, Non-waiver; Section 2.16, Notices; Section 2.17,

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Force Majeure; Section 2.19, Assignments; Section 2.20, Limitation of Actions; Section 2.21, Entire Agreement; Section 2.22, Severability; and this Section 2.23.

2.24. No Third Party Beneficiaries.

Nothing in this Agreement is intended to confer benefits, rights or remedies unto any person or entity other than the Parties and their permitted successors and assigns.

2.25. Compliance with Laws.

Each Party shall comply with all prevailing laws, rules and regulations and obtain all necessary approvals, consents and permits required by the applicable agencies of the government of the jurisdictions that apply to its activities or obligations under the Terms and Conditions.

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SECTION 3 - WHOLESALE DSL TRANSPORT SERVICE

3.1 Service Description

The Service is provided between the Customer's designated End User premises and the Customer's EUA network connection. It utilizes asymmetrical DSL technology over the high frequency portion of a DSL line. A DSL line is the physical facility between AT&T Southeast's DSLAM (or remote terminal where a remote terminal has been installed by AT&T Southeast) and the NID located at the End User premises ("DSL Line"). The Service requires an in-service, AT&T Southeast provided retail End User premises exchange line facility ("In-Service Exchange Line Facility"). An In-Service Exchange Line Facility shall mean the serving Central Office line equipment and all the plant facilities up to and including the AT&T Southeast provided NID. AT&T Southeast retains ownership of the DSL Line. The Service is not available over unbundled network elements ("UNEs").

3.1.1 The Service is furnished where suitable facilities are available in AT&T Southeast's franchise territories in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee (the "Territory"). Service availability shall be as determined by AT&T Southeast's loop qualification system.

3.1.2 "Downstream" speeds represent connection speeds measured in kilobits per second ("Kbps") or megabits per second ("Mbps"), from AT&T Southeast's DSLAM (or remote terminal where a remote terminal has been installed by AT&T Southeast) to the NID. "Upstream" speeds represent connection speeds from the NID to AT&T Southeast's DSLAM (or remote terminal). These speeds are up to speeds based upon a maximum DSL connection speed between the DSLAM (or remote terminal) and the NID. Actual speeds may vary and are not guaranteed as many factors affect speed. AT&T Southeast makes no representation or warranty regarding the Downstream or Upstream speeds the customer may actually experience.

3.1.3 The Service is a session based service. PPP Sessions are delivered by AT&T Southeast between the End User location and the Customer's End User Aggregation network connection. The authentication, authorization and accounting activities required for Sessions are the responsibility of the Customer.

3.1.4 To transport the Sessions, AT&T Southeast and Customer shall use L2TP tunneling protocol and Internet Protocol ("IP") routing.

3.1.5 PPP Sessions require PPPoE protocol.

3.1.6 Multiple simultaneous Sessions and Destinations are available, depending upon the Product purchased, as shown in the Products defined in Section 3.1.9. Each Session and Destination combination has a charge, as set forth in Section 4.1.1 of these Terms and Conditions. A minimum of one Session and one Destination is required for each Product.

3.1.7 AT&T Southeast will route Customer's Sessions based upon Domain Groups. A Domain Group identifies a single or group of Domain Name(s) that are routed to the same point for a Customer. A Domain Name is a unique name registered by Customer with ICANN ("Internet Corporation for Assigned Names and Numbers"). Any given Domain Name can exist in only one Domain Group.

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3.1.8 AT&T Southeast will provide the Services in the form of the following products (the “Product”), at the rates set forth in Section 4. AT&T Southeast may change product names without notice.

Product	Downstream Data Speed	Upstream Data Speed	Max # of Sessions	Max # of Destinations
Session Based DSL	Up to 1.5 Mbps	Up to 256 Kbps	1	1
BBG 1.5m x 256k	Up to 1.5 Mbps	Up to 256 Kbps	2	3
BBG 3.0m x 384k	Up to 3.0 Mbps	Up to 384 Kbps	2	3
Bus 384k x 384k	384 Kbps to 448 Kbps	384 Kbps to 448 Kbps	2	3
Bus 768k x 512k	768 Kbps to 1.0 Mbps	512 Kbps to 768 Kbps	2	3
Bus 1.5m x 512k	1.5 Mbps to 1.8 Mbps	512 Kbps to 768 Kbps	2	3
Bus 2.0m x 640k	2.0 Mbps to 4.0 Mbps	640 Kbps to 896 Kbps	2	3
Bus 4.0mx 640k	4.0 Mbps to 6.0 Mbps	640 Kbps to 896 Kbps	2	3

(bps=bits per second)

3.1.9 Use of Service

3.1.9.1 Customer and its End Users may use the Service to access the Internet, access a private Customer network, run applications of their choice; and attach any devices or equipment of their choice, subject to the provisions of the sub-sections below.

3.1.9.2 The characteristics and methods of operation of any circuits, facilities, devices or equipment provided by Customer or any other third party and used in connection with or otherwise associated with the Service shall not interfere with or impair any other service provided by AT&T Southeast, its affiliated companies, or any carrier, including a competitive local exchange carrier, that is using AT&T Southeast’s network; cause damage to AT&T Southeast facilities; impair the privacy of any communications carried over AT&T Southeast facilities; or create hazards to the public, employees of AT&T Southeast, its affiliated companies, or any carrier, including a competitive local exchange carrier, that is using AT&T Southeast’s network.

3.1.9.3 The Service shall not be used for any illegal or unlawful purpose or in any manner that violates any provision of this agreement. AT&T Southeast reserves the right to immediately disconnect the Service, with or without notice to Customer, at a location where AT&T Southeast becomes aware that the Service is being used for an unlawful purpose.

3.1.9.4 Excessive use of bandwidth is not permitted. The Service is designed to handle traffic that is variable in nature. The data rates, actual throughput and latency of all Services are affected by excessive use of bandwidth. Applications such as file sharing, peer-to-peer traffic, and video streaming can result in degradation of services being provided by AT&T Southeast and third parties as well as loss of quality of service experienced by the end users of AT&T Southeast and third parties. AT&T Southeast will monitor its network for excessive use. AT&T Southeast reserves the right to immediately disconnect Service, upon notice to

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NSP, at any location that AT&T Southeast determines is adversely affecting AT&T Southeast's network.

- 3.1.9.5 In the event that AT&T Southeast determines the Service is being used in such a manner as to invade the privacy or cause harm to third parties by such means as propagation of a virus or worm, hacking, spamming, or threat of violence. AT&T Southeast reserves the right to immediately disconnect Service, upon notice to Customer, at the location where the Service is being used in such manner.
- 3.1.9.6 The Service is not subject to resale. End User products that use or incorporate the Service must be sold, supported, and billed by Customer.

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3.2 End User Aggregation and Access Connection

- 3.2.1** EUA is used to collect and organize End User Sessions. Simultaneous End User Sessions will be regionally grouped and directed to the Customer over AT&T Southeast facilities such that many Sessions in a particular Region (as defined in 3.2.3) are delivered to Customer in one or more streams of information, organized by Domain Group. The delivery point is called the EUA Access Location.
- 3.2.2** AT&T Southeast may implement multiple methods or networks of EUA. At present, AT&T Southeast has two networks for EUA – called BBG and WBBG. AT&T Southeast may add new networks and/or service delivery methods for EUA, or rearrange the existing EUA.
- 3.2.3** A Region is defined as each LATA in which AT&T Southeast provides the Service. There are 38 LATAs and thus 38 Regions.
- 3.2.4** AT&T Southeast will deliver the Services via a logical connection to an NSP designated EUA Access Location for each EUA network.
- 3.2.5** Customer shall establish an ATM based EUA access connection (“Access Connection”) for each Region in which Customer takes delivery of the Services. Access Connections may be any type of transport listed below. These connections are purchased by Customer pursuant to other terms and conditions or BellSouth’s FCC No. 1 Tariff (“Tariff”). All Access Connections into a given Region must be of equal type and capacity.

Access Connection - Type of Transport	Approximate Capacity
ATM DS1	1.5 Mbps
ATM DS3	45 Mbps
ATM OC3	150 Mbps
ATM OC12	600 Mbps

Bonding of connections to form higher capacity bandwidth is not available for EUA. Fractional (sub-rate) bandwidth from a connection is not available for EUA.

- 3.2.6** The Access Connection(s) shall be either an AT&T Southeast XAATMS or MSATMS service (or other such ATM service as AT&T Southeast may authorize), and shall terminate on an AT&T Southeast port on the respective ATM network.
- 3.2.7** Each Access Connection shall be identified as either a Dedicated EUA Access or a Shared EUA Access. Dedicated EUA Access shall mean that the ATM connection is used exclusively for the delivery of the Service. Shared EUA Access shall mean that the ATM connection is used for delivery of the Service and for other appropriate ATM services the Customer may arrange.
- 3.2.8** The charges for connecting each Access Connection are set forth in Section 4.
- 3.2.9** Customer shall assign a unique and dedicated PVC on each Access Connection for use as the logical connection to each EUA network. Customer shall ensure that L2TP tunneling protocol and IP protocol shall be implemented in accordance with designs determined by AT&T Southeast. Each EUA network may differ in their specific detailed implementation of the L2TP tunneling protocol and/or IP protocol.
- 3.2.10** The network and EUA on which any aspect of the Service will be delivered will be the sole determination of AT&T Southeast. Customer shall not be permitted to pre-assign or request a Service from any particular EUA network in a Region.

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3.2.11 Customer shall not share an Access Connection with another Customer for purposes of EUA without prior written permission from AT&T Southeast.

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3.3 Service Ordering, Provisioning and Testing

- 3.3.1** The Customer shall order the Service via AT&T Southeast's Service Order Entry Gateway or other AT&T Southeast designated ordering system ("SOEG"). The Customer shall provide all information necessary for AT&T Southeast to provide and bill for the Service, including, but not limited to:
- a. Customer's name and address(es)
 - b. Customer's billing name and address (when different from Customer name and address)
 - c. Customer contact name(s) and telephone number(s) for the following provisioning activities: order negotiation, order confirmation, interactive design, installation and billing.
 - d. Customer electronic mail address
 - e. Type of request (New order, Change Order, etc)
 - f. Product requested
 - g. Customer DGN information
 - h. End User VPI and VCI (between End User equipment and DSLAM only)
 - i. End User Destination(s) and Number of Sessions per Line, where more than one of each is part of the order.
 - j. End-user's premises address
 - k. Requested Due Date
 - l. Requested Connection data rate (Product)
 - m. End User Telephone Number
- 3.3.2** Requests for Administrative or Service Rearrangement changes are made through SOEG.
- 3.3.3** Customer's access to SOEG is enabled with a user name and password. Access locations are via specific Internet URL addresses, to be provided by AT&T Southeast to Customer.
- 3.3.4** An order can be placed either by a human oriented Web form-based to SOEG or by multiple orders via a computer interface to SOEG.
- 3.3.5** Single and multiple orders will be accepted on a first-come, first-served, basis among all AT&T Southeast customers using the Service. First come, first served denotes a procedure followed when the first request received will be the first request processed. Each new order or re-arrangement constitutes one request.
- 3.3.6** Completion of orders will be subject to AT&T Southeast's ability to process the requests by the provided due date. Should AT&T Southeast be unable to meet the anticipated due date for all rearrangements scheduled for a particular date, due to resource issues or circumstances beyond its control, due dates for future requests will be adjusted to accommodate earlier dated request(s).
- 3.3.7** Customer may request a modification of its order at any time prior to the due date. AT&T Southeast will make every effort to accommodate the requested modification when it is able to do so with the normal work force assigned to complete such a modification within normal business hours, without charge. Customer requested modifications that cannot be completed prior to the due date will be completed as if for new service.
- 3.3.8** In the event Customer cancels an order for DSL on or after the installation due date, Customer shall be obligated to pay AT&T Southeast an order cancellation charge in an amount equivalent to the Termination Liability Charge (TLC) plus all non-recurring charges for the applicable service as set forth herein. Cancellation charges will not apply when Customer cancels an order prior to the installation due date, when Customer cannot

Confidential Information

Not for use or disclosure outside of AT&T, AT&T affiliates and Wholesale DSL Customers

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synchronize the terminal equipment with the Service or when AT&T Southeast misses a due date by more than 30 days due to circumstances over which it has direct control.

- 3.3.9** To the extent AT&T Southeast makes an ordering system available to Customer for testing, the use of such ordering system shall be subject to these Terms and Conditions.
- 3.3.10** AT&T Southeast has the right to test and adjust the Service and all associated functions at its discretion. Such tests and adjustments shall be completed within a reasonable time. No credit will be allowed for any interruptions during such tests and adjustments.
- 3.3.11** AT&T Southeast will terminate, without notice, any Service in place on an In Service Exchange Line Facility if the telephone service to the In Service Exchange Line Facility is terminated for any reason. It shall be the responsibility of Customer to re-order the necessary Service if and when the End User obtains a new In Service Exchange Line Facility or re-establishes service to the terminated In Service Exchange Line Facility.

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3.4 Responsibilities of Parties in Providing and Using the Service

- 3.4.1** The responsibility of AT&T Southeast shall be limited to the providing and maintaining the Service, generally between the End User premises NID and Customer's designated EUA location, in a manner proper for the furnishing of such Service. AT&T Southeast will qualify the exchange line facility to determine the suitability of the existing, in-service facility, for the Service. The Service shall have only one point of termination per End User premises. Any additional termination points beyond such point of termination are the sole responsibility of Customer.
- 3.4.2** AT&T Southeast shall not be responsible for installation, operation, or maintenance of any terminal equipment or communications system provided by a Customer or their End User. Where such equipment or system is connected to AT&T Southeast facilities, the responsibility of AT&T Southeast shall be limited to furnishing the Service in accordance with these Terms and Conditions. AT&T Southeast shall not be responsible for damage to a terminal or computer equipment or communications system provided by a Customer or its End User caused by AT&T Southeast testing.
- 3.4.3** AT&T Southeast shall not be responsible to a Customer or its End User if changes in any AT&T Southeast facilities, operations, or procedures utilized in the furnishing of the Service render any facilities or equipment provided by the Customer or its End User obsolete, or require modification or alteration of such equipment or system, or otherwise affects its use or performance. It is expressly declared that In-Service Exchange Line Facilities are in a continually decreasing supply and that AT&T Southeast does not hold itself in a position to warrant their availability. Should AT&T Southeast initiated changes occur that render an In-Service Exchange Line Facility incapable of transporting the Service, AT&T Southeast will not be required to continue the Service, and the Customer will not be liable for any termination liability charges.
- 3.4.4** AT&T Southeast undertakes to maintain and repair the facilities that it uses to provide the Service. Neither the Customer nor its End User may rearrange, disconnect, remove or attempt to repair any equipment installed by AT&T Southeast, without prior written consent of AT&T Southeast.
- 3.4.5** The Customer shall be responsible for installation and/or testing of its End Users' premises equipment and/or facilities to ensure that such End User premises equipment or facilities operate properly when connected to the Service.
- 3.4.6** It shall be the responsibility of the Customer and/or its End User to ensure the continuing compatibility of Customer Premises Equipment ("CPE") at the End-User premises. The Customer and/or its End User shall be responsible for any expenses incurred for required changes to the Customer's and/or its End User's equipment or facilities in order to make such equipment or facilities compatible with the Service
- 3.4.7** If requested by AT&T Southeast, the Customer must produce a letter of authorization from an End User requesting that the Customer obtain a high speed data connection to the End User's premises using the Services provided by the Terms and Conditions. When two or more Customers request AT&T Southeast to provide the Service, and designate the same End User premises served by the same exchange line facility as the Customer designated location, the Service will be provided to the Customer that provides AT&T Southeast with a written letter of authorization from the End User selecting that Customer as the End User's service provider. AT&T Southeast will honor the most current letter of authorization executed by the Customer's End User.

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- 3.4.8** Customer shall provide all technical support to Customer's End Users. In no event will AT&T Southeast accept any technical support or trouble call from any End User of the Customer. Customer shall be responsible for providing all other customer support to its End Users, and all marketing, billing, ordering and repair services to its End Users.
- 3.4.9** AT&T Southeast will provide reasonable technical support to Customer in troubleshooting the Service being provided by AT&T Southeast. Customer will be provided with contact methods and procedures for such support. Customer shall provide and use normal first level troubleshooting procedures with the End User before engaging AT&T Southeast technical support.
- 3.4.10** Customer acknowledges that the Service, and associated AT&T Southeast and Customer facilities utilize complex technology. Customer accepts complete responsibility for the designing, configuring, operating and troubleshooting of any Customer equipment at End User locations or Customer network locations. AT&T Southeast does not endorse any particular equipment for these purposes.
- 3.4.11** Customer shall at all times be the Customer of record with respect to all Services purchased hereunder and shall be responsible for payment to AT&T Southeast.

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SECTION 4 – RATE ELEMENTS AND SERVICE CONDITIONS**

SECTION 4 – RATE ELEMENTS AND SERVICE CONDITIONS

4.1 Rate Elements and Service Conditions

In providing the Service, AT&T Southeast will charge the following rate elements, as applicable. There are two (2) categories of rates and charges: Nonrecurring charges and Monthly recurring charges. Nonrecurring charges are one-time charges that apply for specific work activity (i.e., installation of a Service). Monthly recurring charges are the rates applied each month for the Service. All charges to Customer will be rendered by standard AT&T Southeast billing systems.

4.1.1 Product Charges– a monthly charge and a non-recurring charge for each of the Products and Sessions/Destinations in service as set forth below.

4.1.1.1 – Product charges								
Product	Non recurring	Monthly	USOC	# of Sess	# of Dest	Monthly Sess/Dest	Sess/Dest USOC	Monthly Total
Session Based DSL	\$40.00	\$22.40	ADFQ1	1 (only)	1 (only)	\$0.60	ADFSA	\$23.00
BBG 1.5m x 256k	\$60.00	\$33.00	ADF11	1	1	\$0.60	ADFSA	\$33.60
				Up to 2	Up to 3	See Table 4.1.1.2		\$33.00 + Table 4.1.1.2
BBG 3m x 384k	\$40.00	\$31.40	ADF91	1	1	\$0.60	ADFSA	\$32.00
				Up to 2	Up to 3	See Table 4.1.1.2		\$31.40 + Table 4.1.1.2
Bus 384k x 384k	\$100.00	\$60.00	ADF21	1	1	\$3.00	ADFSG	\$63.00
				Up to 2	Up to 3	See Table 4.1.1.3		\$80.00 + Table 4.1.1.3
Bus 768k x 512k	\$150.00	\$85.00	ADF61	1	1	\$3.00	ADFSG	\$88.00
				Up to 2	Up to 3	See Table 4.1.1.3		\$85.00 + Table 4.1.1.3
Bus 1.5m x 512k	\$150.00	\$115.00	ADF31	1	1	\$3.00	ADFSG	\$118.00
				Up to 2	Up to 3	See Table 4.1.1.3		\$115.00 + Table 4.1.1.3
Bus 2.0m x 640k	\$150.00	\$250.00	ADF41	1	1	\$3.00	ADFSG	\$253.00
				Up to 2	Up to 3	See Table 4.1.1.3		\$250.00 + Table 4.1.1.3
Bus 4.0m x 640k	\$150.00	\$325.00	ADF51	1	1	\$3.00	ADFSG	\$328.00
				Up to 2	Up to 3	See Table 4.1.1.3		\$325.00 + Table 4.1.1.3

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4.1.1.2 – Session and Destination Charges for BBG Products

# of Sessions	# of Destinations	Monthly Session/Destination Charge - BBG	Session/Destination USOC remove?
1	1	\$0.60	ADFSA
2	1	\$3.50	ADF SB
1	2	\$3.50	ADF SC
2	2	\$6.50	ADF SD
1	3	\$6.50	ADF SE
2	3	\$9.50	ADF SF

4.1.1.3 – Session and Destination Charges for Business Products

# of Sessions	# of Destinations	Monthly Session/Destination Charge - Bus	Session/Destination USOC remove?
1	1	\$3.00	ADF SG
2	1	\$8.00	ADF SH
1	2	\$13.00	ADF SJ
2	2	\$18.00	ADF SK
1	3	\$23.00	ADF SL
2	3	\$28.00	ADF SM

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4.1.2 Charges for connecting EUA to each Access Connection – the following monthly charges and non-recurring charges will apply for each LATA in which Customer chooses to purchase the Service.

Type of Transport	Non-recurring Charge	Shared ATM connection for EUA, each LATA		Dedicated ATM connection for EUA, each LATA	
		Monthly Rate	USOC	Monthly Rate	USOC
ATM DS1	\$600	\$150	ADFAA	\$250	ADFA1
ATM DS3	\$600	\$650	ADFAB	\$1000	ADFA4
ATM OC3	\$600	\$1200	ADFAC	\$1800	ADFA5
ATM OC12	\$600	\$3200	ADFAD	\$4500	ADFA9

4.1.3 Administrative Changes – Administrative Changes will be made without charge(s) to Customer. Administrative changes are as follows:

- a. Change of Customer’s designated End User’s name (that is, the Customer of record does not change, but rather the End User of record changes its name; e.g., JKL Corp. to JKL LLP),
- b. Change of Customer’s designated End User premises address when the change of address is not a result of physical relocation of the End User,
- c. Change in Customer billing data (name, address, contact number, etc.), and
- d. Change in Customer billing account name.

4.1.4 Service Changes

4.1.4.1 Move charge - A move charge applies for each Service moved to an End User's new premises as requested by Customer. This charge is equal to the sum of all the nonrecurring charges applicable for a new installation Service. If Service is available at the End User’s new premises as designated by Customer, no Termination Liability Charge (“TLC”) is applicable when the service orders to install the Service at the End User’s new premises and to disconnect the Service at the End User’s old premises are for the same End User, both orders are related together, and there is no lapse in billing between installation and disconnection of the Service. If the Service is not available at the End User’s new premises as designated by Customer, the move request will be treated as a discontinuance of service at the old premises and Customer will remain responsible for satisfying minimum period obligations. If appropriate, a TLC as specified will apply.

4.1.4.2 Product Changes - Changes of Customer’s existing service from one Product to a different Product will be made with no nonrecurring charges applying to Customer. Similarly, changes of Customer’s Domain Group for an existing End User Service will be made with no nonrecurring charges applying to Customer. In addition, no Termination Liability Charges are applicable to the original Product for such changes.

4.1.5 Minimum Service Periods and Termination Liability Charges – Each Product has a minimum service period as specified below. All Session/Destination Charges have the

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same minimum service period as their corresponding Product. A TLC is applicable on a per Product, per End User basis for any disconnections prior to completion of the appropriate Minimum Service Period set forth below. Where the TLC is stated as “remainder of Minimum Service Period”, the TLC is equal to the number of months of minimum service period, less the number of months of completed service multiplied by the monthly rate applicable for the Product which the Customer ordered.

A TLC does not apply if:

- a. Customer cannot synchronize its terminal equipment with the Service, or
- b. A Product is terminated prior to completion of the appropriate minimum service period as a result of a Customer requested change to a different Product. However, a new minimum service period and new monthly rate appropriate for the new Product will apply.

Product	Minimum Service Period	Termination Liability Charge
Session Based DSL BBG up to 1.5m x 256k	6 months	\$50.00
BBG up to 3m x 384k	6 months	\$100.00
Bus 384k x 384k Bus 768k x 512k Bus 1.5m x 512k Bus 2.0m x 640k Bus 4.0m x 640k	3 months	remainder of Minimum Service Period

4.1.6 Minimum Quantities – Minimum monthly purchase quantities (“Minimum Quantities”) of Products are shown below. The following conditions apply:

- a. All billing accounts that Customer may have with AT&T Southeast for the billing of the Services will be aggregated for purposes of determining quantities within this Section.
- b. Minimum Quantities do not apply during the first 90 days after service is established (“Initial Period”). The 90 day period begins with the establishment of the first Customer billing account. Billing to Customer during the Initial Period will be for the actual number of Products in service multiplied by the appropriate monthly rate.
- c. After the Initial Period, for any month in which Customer does not meet a Minimum Quantity specified, Customer shall pay a charge equal to the difference between the applicable Minimum Quantity and the actual applicable quantity in service, times the Monthly Total from Section 4.1.1.f or the Session Based DSL Product. This minimum charge will be in addition to normal monthly billing for Products actually in service.
- d. For all Products within the Service, the minimum quantity of Sessions and Destinations is one (1) of each.

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Product Group	Minimum Quantity	Product to be used for monthly billing rate
Session Based DSL BBG up to 1.5m x 256k BBG up to 3.0m x 384k Bus 384k x 384k Bus 768k x 512k Bus 1.5m x 512k Bus 2.0m x 640k Bus 4.0m x 640k	25 in the Aggregate	Session Based DSL

4.1.7 Assignment or Transfer of Responsibility Charge -- When a change in Customer billing data (e.g., name, address, contact name) is requested in association with a change in the Customer of record for a Service, transfer of responsibility (“Transfer of Responsibility”) charges as shown below will apply. Charges are applied on a per End User basis.

	Nonrecurring Charge	USOC
Per End User per Product	\$11.00	n/a

4.1.8 Trouble Isolation Charge -- When Customer requests and authorizes AT&T Southeast to dispatch a technician to an End User premises and no trouble is found in AT&T Southeast’s equipment/facilities, or trouble is due to End User or Customer equipment, then Customer will be billed a trouble isolation charge (“Trouble Isolation Charge”). No charge will be applied if trouble is found in AT&T Southeast’s equipment/facilities.

Trouble Isolation Period	First ½ Hour or Fraction Thereof	Each Add'l ½ Hour or Fraction Thereof	USOC
Basic Time, during normally scheduled working hours	\$80.00	\$55.00	MVV
Overtime, outside of normally scheduled working hours.	\$90.00	65.00	MVV
Premium Overtime, outside of normally scheduled working hours.	\$100.00	75.00	MVV

4.1.8.1 Authorization for AT&T Southeast to dispatch a technician will only be accepted from Customer or Customer’s Agent. AT&T Southeast requires full name and telephone number of person authorizing the trouble isolation dispatch. By authorizing the dispatch, Customer accepts the charges identified above.

4.1.8.2 No credit allowance on Service outage will be applicable for the interruption if a Trouble Isolation Charge is applied.

4.1.8.3 The Trouble Isolation Charge applies for the period of time from when AT&T Southeast personnel are dispatched to when the work is completed. When more

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SECTION 4 – RATE ELEMENTS AND SERVICE CONDITIONS**

than one (1) employee is dispatched the sum of the time is used to determine the number of 30 minute increments to be billed. Only one initial increment is to be billed per request. A request resulting in the dispatch of an AT&T Southeast employee at a time not consecutive with the employee's scheduled work period is subject to a minimum charge of three hours.

4.1.9 Service Interruptions – The following provisions govern the provision of billing credits to Customer for interruptions of Service. An Interruption is a loss of Service or a degradation of Service that prevents the Customer's End User from using the Service. An Interruption period begins when Customer first reports an outage of the Service, using procedures established by AT&T Southeast. An Interruption is not a default under the Terms and Conditions.

4.1.9.1 An Interruption of less than 30 minutes shall receive no credit.

4.1.9.2 Interruptions of 30 minutes or more shall be credited at the rate of 1/1440 of the monthly rate for the Product affected for each period of 30 minutes or major fraction thereof that the Interruption occurred.

4.1.9.3 Customer must make a specific request to AT&T Southeast for a credit for an Interruption, by sending the request via email to dsg.osc@att.com. In order for AT&T Southeast to validate the request, it shall contain at a minimum (i) the ticket number issued when first reporting an Interruption, (ii) total number of Service telephone numbers involved in Interruption and (iii) 4 to 5 Service telephone numbers that were affected by the Interruption. Such request must be made within 30 days of the end of the Interruption.

4.1.9.4 A credit will not apply for Interruptions:

- a. Occurring either preceding or during periods of preventive maintenance or software upgrade activities on AT&T Southeast facilities;
- b. Caused by the negligence of the Customer, the Customer's End User or any authorized agent;
- c. Caused by the failure of equipment or systems provided by the Customer or others;
- d. Occurring during any period in which AT&T Southeast is not afforded access to the End User premises where the Service is terminated;
- e. Occurring when the Customer has released the Service to AT&T Southeast for maintenance purposes, to make arrangements for, or the implementation of an order for a change in Service during a time negotiated with the Customer prior to the release of the Service;
- f. Continuing to occur, or repeating to occur because of the failure of the Customer to authorize replacement of any element of special construction. In this case, the period of non-applicability of credit begins on the seventh day after the NSP received AT&T Southeast's written notification of the need for such replacement and ends on the day after receipt by AT&T Southeast of the Customer's written authorization for such replacement;
- g. During periods when the Customer elects not to release the Service for testing and/or repair and continues to use it on an impaired basis;
- h. During periods of temporary discontinuance of Service;
- i. When an Interruption or group of Interruptions, resulting from a common cause, results in a credit amount of less than ten dollars (\$10.00);
- j. Caused due to a commercial power failure; or
- k. Due to labor difficulties, governmental orders, civil commotions, criminal action against AT&T Southeast, acts of God, war or other circumstances beyond AT&T Southeast control