

Generally Available Terms and Conditions ¹

AT&T Southeast DSL

IMPORTANT NOTICE: After November 16, 2005, any of the services set forth herein and obtained by a Network Service Provider (“NSP”) will be subject to the terms, conditions, and provisions set forth in this agreement (“Terms and Conditions”). Use of BellSouth Telecommunications, Inc. d/b/a AT&T Southeast’s (“AT&T Southeast”) ordering system to place an order for wholesale digital subscriber line (“DSL”) transport services during this time period will constitute the NSP’s agreement to be bound by the Terms and Conditions. In the event AT&T Southeast cancels or discontinues certain provisions of the BellSouth Federal Communications Commission (“FCC”) No. 1 tariff (“Tariff”), and prior to such cancellation or discontinuance, NSP was purchasing wholesale DSL transport service for a customer location pursuant to the Tariff, then upon cancellation or discontinuance of the Tariff, DSL installed at such customer location shall be subject to the rates, terms and conditions of these Terms and Conditions. (C)

Preamble. These Terms and Conditions are for the provision by BellSouth Telecommunications, Inc. d/b/a AT&T Southeast of certain wholesale DSL circuits in the franchise territory of AT&T Southeast in the States of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee (collectively known as “AT&T Southeast”). The Terms and Conditions consist of the following documents: Terms of Service; DSL Rates and Charges (Attachment A); Scope of Agreement and Term (Attachment B); and a Glossary of Terms (Attachment C). Except as set forth above, an NSP wishing to purchase DSL from these 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 NSP pursuant to which the NSP agrees to be bound by these Terms and Conditions for services ordered hereunder. (As used herein, the term “NSP” shall refer to the party that submits an executed Acknowledgement of Terms and Conditions to AT&T Southeast, or that is otherwise bound by the Terms and Conditions as set forth above. The term “Party” may be used to refer to AT&T Southeast or NSP, and “Parties” may be used to refer to AT&T Southeast and NSP, collectively.) (C)

Terms of Service

1. General Service Description

The Service is intended as a wholesale digital subscriber line transport offering (“DSL” or “Service(s)”) that is made available to NSPs for provision of high speed data service to their End Users and provides, subject to the Terms and Conditions set forth herein, for the establishment of a point-to-point connection and Virtual Circuit (“VC”) between two NSP designated locations. DSL is primarily intended to provide a connection and VC between an End User premises location designated by the NSP and the NSP’s premises location. Both the End User premises location and the NSP premises location must be in the same Local and Access Transport Area (“LATA”). DSL is furnished where suitable facilities are available as determined by AT&T Southeast. Availability of DSL service types will be as determined by AT&T Southeast’s loop qualification system. (C)

The design, maintenance, and operation of DSL contemplates end-to-end communication consisting of combinations of overlay services purchased from the Tariff; such as AT&T Southeast Exchange Access Asynchronous Transfer Mode Service (“XAATMS”), Managed Shared Asynchronous Transfer Mode Service (“MSATMS”), and/or AT&T Southeast End User Aggregation and other appropriate transport facilities. The Service requires an in-service, AT&T Southeast-provided, compatible 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 Network Interface Device (“NID”). This service is not available over Unbundled Network Elements (“UNEs”).

2. Private Virtual Circuit (“PVC”) Based DSL (Not Available after 06/01/2007)

(C)

(A) Multiple Virtual Circuits (“MVCs”) (simultaneous connections to the same and/or other NSP-designated premises) are available as overlays of a single In-Service Exchange Line Facility when provisioned using AT&T Southeast XAATMS or MSATMS provisioning methods. MVCs are not available with End User Aggregation (“EUA”). When associated with MVC, VCs specified in 2(B)(6)(a) below are available only as Unspecified Bit Rate (“UBR”) Quality of Service (“QoS”). DSL VCs specified in 2(B)(6)(b) are provided with a Constant Bit Rate (“CBR”) QoS. A QoS designation is a parameter that defines the transfer characteristics of an NSP’s VC data-traffic as it is transported through AT&T Southeast’s network.

(B) PVC Based DSL is available in data rate combinations as specifically follows:

| | <u>Downstream Data Rate Range</u> | | | <u>Upstream Data Rate Range</u> | |
|----|-----------------------------------|----------------|---|---------------------------------|----------------|
| | <u>Minimum</u> | <u>Maximum</u> | | <u>Minimum</u> | <u>Maximum</u> |
| 1. | NA | 1.5Mbps | x | NA | 256 Kbps |
| 2. | 768 Kbps | NA | x | 512 Kbps | NA |
| 3. | 1.5 Mbps | 1.8 Mbps | x | 512 Kbps | 768 Kbps |
| 4. | 2.0 Mbps | 4.0 Mbps | x | 640 Kbps | 896 Kbps |
| 5. | 4.0 Mbps | 6.0 Mbps | x | 640 Kbps | 896 Kbps |
| 6. | (a) UBR 384Kbps | NA | x | 384Kbps | NA |
| | (b) CBR 384Kbps | NA | x | 384Kbps | NA |
| 7. | 192 Kbps | 1.0 Mbps | x | 192 Kbps | 768 Kbps |

Provision of DSL also requires provision of an associated VC between an End User premises location designated by the NSP and the NSP location. VC data rate must be less than or equal to the connection data rate. Connection speed, or synchronization rate, is measured by AT&T Southeast between an ADSL Transceiver Unit - Remote (“ATU-R”), located at the NID at the End User premises and an ADSL Transceiver Unit - Central Office (“ATU-C”), located in the AT&T Southeast’s network. AT&T Southeast may utilize any available spectrum on the same exchange line facility not necessary to provide the NSP’s DSL. Actual data rate achieved may be affected by loop length and other factors. The data rate provided by AT&T Southeast may exceed the minimum data rates in Sections 2(B)(2) through (7). The movement of data in a direction away from the End User premises toward its normal Serving Wire Center (“SWC”) is in the upstream direction. The movement of data in a direction toward the End User premises from its normal SWC is in the downstream direction.

(C) Multipoint service is not available.

(D) The terms, conditions, rates and charges specified in these Terms and Conditions are in addition to applicable terms, rates and charges specified in the Tariff for transport services required to work in conjunction with DSL.

(C)

- (E) When provisioned as an overlay of AT&T Southeast XATTMS or MSATMS, the maximum number of VCs per connection is four.
- (F) The term MVC refers to the ability to provision multiple virtual connections simultaneously at an End User location, via an overlay of the same connection. MVC is available at optional data rates specified in Sections 2(B)(2), (3), (4), (5), (6)(a) and (7) preceding.
 - 1. When MVCs are overlaid upon a connection, regardless of the order in which they are disconnected or installed and available for service, a base VC will be assumed for billing and tracking purposes and will be referred to as the First VC.
 - 2. The VC optional data rate specified to BellSouth by the NSP will define the total available bandwidth for all VCs overlaying the same connection. AT&T Southeast is not responsible for authenticating any End User accesses.
- (G) For PVC Based service, the maximum quantities of DSL VCs that can be overlaid upon dedicated transport facilities are:
 - per 1.536 Mbps facility: 2000
 - per 44.210 Mbps facility: 2000
 - per 149.760 Mbps facility: 4000
 - per 599.040 Mbps facility: 16000

3. Session Based DSL

(C)

- (A) Session Based DSL can only be configured as EUA. AT&T Southeast reserves the right to measure, monitor and limit usage of these services to ensure a quality service and identify and restrict excessive use. The designated End User premises location must be served by an existing, in service, AT&T Southeast provided exchange line facility. An In-Service Exchange Line Facility, as referred to in association with Session Based DSL, must be provided in connection with an AT&T Southeast retail local exchange service and is the serving Central Office line equipment and all the plant facilities up to and including the AT&T Southeast-provided NID.
- (B) Session Based DSL uses the facilities used by these services in order to establish a VC between the NSP designated location and the NSP's End User premises location. EUA does not overlay AT&T Southeast XAATMS or MSATMS except as specified below in 3(C)(1).
- (C) Session-Based DSL is available as specifically follows:

| | Downstream Data Rate Range | | Upstream Data Rate Range | |
|----|----------------------------|----------|--------------------------|----------|
| | Minimum | Maximum | Minimum | Maximum |
| 1. | NA | 1.5 Mbps | NA | 256 Kbps |

- (D) Provision of a Session-Based DSL connection also requires provision of an associated VC between an End User premises location designated by NSP and the NSP's location. VC data rate must be less than or equal to the connection data rate. Connection speed, or synchronization rate, is measured by AT&T Southeast between an ATU-R, located at the NID at the End User premises and an ATU-C, located in AT&T Southeast's network. AT&T Southeast may utilize any available spectrum on the same exchange line facility not necessary to provide the NSP's Session-Based DSL. Actual data rate achieved may be affected by loop length and other factors. The data rate provided by AT&T Southeast may exceed the minimum data rates so that the achieved minimum data rate will equal or exceed the minimum data rate specified. I STILL DON'T REALLY UNDERSTAND WHAT THIS MEANS. The movement of data in a direction away from the End User premises,

toward its normal SWC, is in the upstream direction. The movement of data in a direction toward the End User premises from its normal SWC is in the downstream direction.

- (E) Multipoint service is not available.
- (F) Session Based DSL VCs are non-designed and the NSP may not request a design change.
- (G) When DSL service is ordered as an overlay of EUA, the order for DSL service must include an order for no more than one session and no more than one destination.

4. DSL Virtual Circuits provisioned as an overlay of End User Aggregation

(C)

- (A) DSL VCs provisioned as an overlay of EUA are available in data rate combinations as specifically follows:

| | <u>Downstream Data Rate Range</u> | | | <u>Upstream Data Rate Range</u> | |
|----|-----------------------------------|----------------|---|---------------------------------|----------------|
| | <u>Minimum</u> | <u>Maximum</u> | | <u>Minimum</u> | <u>Maximum</u> |
| 1. | NA | 3.0 Mbps | x | NA | 384 Kbps |
| 2. | UBR 384Kbps | NA | x | 384Kbps | NA |

Rates for DSL Virtual Circuits (VCs) provisioned as an overlay of EUA are as set forth in Attachment A, Section A.

5. End User Aggregation

EUA enables delivery of a greater density of data sessions to an NSP via fewer PVCs, resulting in a more favorable Sessions-to-PVC ratio as compared to DSL without EUA. Under these Terms and Conditions, EUA is only available for session-management of DSL VCs specified in Section 3(C)(1). Transport facilities for EUA Arrangement Capacities must be dedicated to the transport of DSL VCs and cannot be utilized for transport of non-EUA VCs. Rates and charges for transport of EUA are detailed in Attachment A. EUA Activation Charges, as specified in Attachment A, require the presence of a previously installed AT&T Southeast XAATMS or MSATMS connection. Destinations and Sessions are only available in conjunction with EUA.

(A) Destinations

1. Destinations refer to the ability of an End User to access single or multiple NSP Domain Groups. NSP is responsible for authenticating any End User access(es) into its network.
 - (a) A Domain Group identifies a single or group of domain name(s) or realms that are routed to the same point, or points, of egress from the EUA network, within a LATA. The name associated with this group is a Domain Group Name. Egress points are associated with EUA arrangement capacities.
 - (b) A Domain Name is a unique name associated with one NSP. Domain Names always have two or more parts, separated by dots, and may appear in only one Domain Group List.
 - (c) A Realm is a unique name associated with one NSP. Realm names are similar in function to Domain Names, but always have one part, without any separation.

- (d) A Domain Group List is a group of unique Domain Names or Realms within a Domain Group that a designated End User may access. One or more Domain Group Lists comprise a Domain Group.
- (e) The maximum number of destinations that can be ordered in conjunction with VCs specified in Section 3(C)(1) is one.
- (f) The EUA network utilizes a load-managing architecture such that each data exchange between the End User and the NSP may exit the EUA network at one of potentially multiple End User designated locations. The NSP may request Per Connection Testing Capability for the End User which allows access to an additional destination for use as a trouble isolation tool. EUA NSPs may take advantage of this capability by requesting per Connection Testing Capability through procedures associated with requests for new EUA. No test capability will be provided in a LATA where the NSP does not subscribe to EUA. Routing of the Per Connection Testing Capability through the EUA network, will be as determined by AT&T Southeast.
- (g) When provisioned as an overlay of EUA, the maximum number of VCs per connection is one.

(B) Sessions Per Line

- 1. Sessions Per Line refers to the ability of an End User to initiate multiple sessions via a single DSL VC. A Session is an active connection between an End User and an NSP. The number of active Sessions is limited to 65 per EUA, Arrangement Capacity of 1.536 Mbps. The number of active Sessions is limited to 2000 per EUA, Arrangement Capacity of 44.210 Mbps. The number of active Sessions is limited to 5000 per EUA, Arrangement Capacity of 149.760 Mbps. The number of active Sessions is limited to 16000 per EUA, Arrangement Capacity of 599.040 Mbps.
- 2. The maximum number of sessions per line that can be ordered in conjunction with VCs specified in Section 3(C)(1) is one.

(C) EUA Network Connections

- 1. Provisioning of End Users over EUA requires the NSP to purchase an EUA Arrangement Capacity or an EUA Activation. An EUA Arrangement Capacity is a dedicated connection to an AT&T Southeast switch designated as an Egress Broadband Gateway ("EBG"). An EUA Arrangement Capacity is available at any of the following speeds:
 - (a) 1.536 Mbps
 - (b) 44.210 Mbps
 - (c) 149.760 Mbps
 - (d) 599.040 Mbps
- 2. EUA Activation is the overlaying of EUA capabilities on an existing XAATMS or MSATMS connection. Provisioning of EUA Activation requires the NSP to purchase an XAATMS or MSATMS connection at one of following speeds:
 - (a) 1.536 Mbps
 - (b) 44.210 Mbps
 - (c) 149.760 Mbps
 - (d) 599.040 Mbps

EUA Activation may only be ordered in conjunction with XAATMS or MSATMS at the same speed of the XAATMS or MSATMS over which the EUA Activation will be provisioned.

6. Maintenance and Updates

In order to maintain the quality of DSL, AT&T Southeast reserves the right to perform preventative maintenance and software updates to its network. Although AT&T Southeast only anticipates maintenance activity to occur, on average, once per quarter, AT&T Southeast reserves the right to perform maintenance activities when AT&T Southeast deems necessary.

7. Ordering

After May 17, 2006, new orders for PVC Based DSL service will not be accepted and all orders for DSL must be configured as an overlay of EUA.

All PVC Based DSL service must be reconfigured as an overlay of EUA prior to November 16, 2006. On November 16, 2006, all PVC Based DSL services will be disconnected.

- (A) The NSP shall order DSL via AT&T Southeast's Electronic Ordering System or other AT&T Southeast designated ordering system. The NSP shall provide all information necessary for AT&T Southeast to provide and bill for the Service, including, but not limited to:
1. NSP's name and address(es)
 2. NSP's billing name and address (when different from NSP name and address)
 3. NSP contact name(s) and telephone number(s) for the following provisioning activities: order negotiation, order confirmation, interactive design, installation and billing
 4. NSP electronic mail address
 5. Type of request
 6. AT&T Southeast XAATMS, MSATMS, or DGN (for EUA) information
 7. Circuit identification of the transport facility between the NSP premises and its designated serving wire center (for ATM only)
 8. Virtual Path Identifier (VPI) and Virtual Channel Identifier (VCI) (for ATM only)
 9. End User VPI and VCI
 10. End User Destination(s) and Number of Sessions Per Line (for EUA only)
 11. End-user's premises address
 12. Requested Due Date
 13. Requested connection data rate
 14. End User Telephone Number
- (B) Special Facilities Routing is not available with DSL.
- (C) A Design Layout Report is not available with DSL. DSL VCs are non-designed and the NSP may not request a design change.
- (D) NSP requests for Administrative changes, Data Rate Combination (Speed) changes and changes to/from Session Based DSL and for Service Rearrangement changes, as discussed below, must be placed via an electronic order. NSPs can access the electronic ordering system with an appropriate logon and password at internet URL address <https://dslorder.wholesale.att.com> (C)
- (E) An NSP must submit its request(s) for Administrative, Service Rearrangement and Data Rate Combination (Speed) Changes utilizing one of the following methods:
1. Single Service Request Form ("SRF") via an electronic order. Using this method, the NSP can request rearrangement of one connection and/or VC from/to a Service arrangement provisioned as either an XAATMS/MSATM or EUA arrangement.
 2. Multiple SRF via an electronic order. Using this method, the NSP may request rearrangement of connections and/or VCs from/to DSL arrangement provisioned as either an XAATMS/MSATM or EUA arrangement. One SRF is required for each VC

rearranged. Should the NSP be unable to submit a SRF via either of the above methods, a request consisting of all information required on the SRF, thereby representing a single SRF, may be sent via email to dsg.osc@att.com. A receipt confirmation, in the form of an email, will be sent to the requesting NSP. Any additional contact specific to that request will be in the form of an email. Connection and/or VC rearrangement requests will be accepted using the Single SRF or Multiple SRF methods. The NSP may access the electronic order, SRF, with an appropriate logon and password at <https://dslorder.wholesale.att.com>. Completion of rearrangements of this type will be limited by AT&T Southeast's ability to process the requests by due date and quantity. 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).

- (F) Single and multiple SRF requests will be accepted on a first-come, first-served, basis among all NSPs, including NSPs that purchase DSL from AT&T Southeast, NSPs under these or other Terms and Conditions, and NSPs purchasing under a Commercial Agreement. First-come, first-served denotes a procedure followed when the first connection and/or VC rearrangement request received will be the first connection and/or VC rearrangement request processed. Each connection and/or VC rearranged will count as one rearrangement. (C)
- (G) The day upon which the NSP has provided a rearrangement request to AT&T Southeast, including complete and accurate information to allow for the processing of the request, by five o'clock P.M., Eastern Time, is the Application Date. Rearrangement requests received after five o'clock P.M. Eastern Time will be processed the next business day, which will be the Application Date. AT&T Southeast will provide a status of the request via the same electronic interface utilized by the NSP for establishment of DSL rearrangement request. The status will include the pending due date.
- (H) NSP requests for rearrangement of their connections and/or VCs to an EUA arrangement must include the number of Destinations and Sessions as specified in Section 5(A) and (B). The NSP must also have both an existing DSL arrangement requiring an XAATMS or MSATM termination and an existing EUA arrangement at the time of the connection and/or VC rearrangement request. (C)
- (I) In the event NSP cancels an order for DSL on or after the installation due date, NSP shall be obligated to pay AT&T Southeast an order cancellation charge in an amount equivalent to the termination liability charge plus all non-recurring charges for the applicable service as set forth in Attachment A. Cancellation charges will not apply when an NSP cancels an order prior to the installation due date, when an NSP cannot synchronize the terminal equipment with the provided DSL service, or when AT&T Southeast misses a due date by more than 30 days due to circumstances within its direct control.

8. Minimum Service Periods (C)

(A) EUA Based DSL

The minimum service period for each EUA Based DSL connection at a data rate as specified in Section 4(A)(1) is 6 months. The minimum service period for each DSL connection at a data rate as specified in Section 4(A)(2) is 3 months.

(B) EUA Destinations and Sessions

The minimum service period for the EUA Destinations and Sessions is one month.

(C) Session-Based DSL

The minimum service period for each Session Based DSL connection at a data rate as specified in Section 3(C)(1) is 6 months.

9. Rate Conditions

(A) Monthly rates and nonrecurring charges for DSL, as set forth in Attachment A of this agreement, do not reflect any applicable rates or charges associated with other services utilized in the provision of the requested service to End Users.

(B) Nonrecurring Charges

Nonrecurring charges are one-time charges that apply for a specific work activity. Nonrecurring charges that apply to services purchased under this agreement are associated with installation of service, moves of service, service rearrangements and termination liability.

1. First and Additional Nonrecurring Charges

Nonrecurring charges apply to each VC installed. When First and Additional nonrecurring charges apply, they are assessed as follows:

(a) MVC nonrecurring charges are identified as Initial, First and Additional, or Subsequent, First and Additional. The Initial Order nonrecurring charge(s) apply when DSL VCs are installed concurrent with the initial request for a DSL MVC arrangement. The Subsequent Order nonrecurring charge(s) is applicable when the VC is installed concurrent with an NSP request for a MVC arrangement that is subsequent to the establishment of the MVC arrangement.

(b) A MVC, "First," nonrecurring charge is applicable to the first DSL VC requested in an Initial or Subsequent MVC arrangement. The Additional nonrecurring charge is applicable to each VC installed coincident with the first VC on an Initial or Subsequent DSL MVC arrangement.

(C) Administrative Changes

Administrative changes will be made without charge(s) to NSP. Such changes require the continued provision and billing of DSL to the same entity (i.e., NSP remains responsible for all outstanding indebtedness for the service). Administrative changes are as follows:

1. Change of NSP's designated End User's name (that is, the NSP of record does not change, but rather the End User of record changes its name; e.g., JKL Corp. to JKL LLP),
2. Change of NSP's designated End User premises address when the change of address is not a result of physical relocation of the End User,
3. Change in billing data (name, address, contact number, etc.), and
4. Change in billing account name.

(D) Data Rate Combination (Speed) Changes and Changes to/from PVC Based DSL to/from Session Based DSL

Changes of NSP's existing service to/from PVC Based DSL at one data rate combination to/from PVC Based DSL at a different data rate combination or to/from Session Based DSL will be made with no nonrecurring charges applying to NSP. In addition, no Termination Liability Charges ("TLCs") are applicable to such changes.

(E) Service Rearrangement Changes

A Service Rearrangement Change is a routing change to an existing (installed) service that does not result in a change in physical location of the point of termination at the NSP's designated End User premises location. There is no charge for such rearrangements.

(F) Transfer of Responsibility

When a change in billing data (e.g., name, address, contact name) is requested in association with a change in the NSP of record, Transfer of Responsibility charges will apply. Charges are applied on a per connection basis.

(G) Move Charge

A move charge applies for each DSL connection moved to an End User's new premises as designated by the NSP. This charge is equal to the sum of all the nonrecurring charges applicable for a new installation of DSL. If DSL is available at the End User's new premises as designated by the NSP, no TLC is applicable when the service orders to install DSL connection at the End User's new premises and disconnect DSL connection 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 DSL connection. If DSL is not available at the End User's new premises as designated by NSP, the move request will be treated as a discontinuance of service at the old premises and NSP will remain responsible for satisfying minimum period obligations. If appropriate, a TLC as specified in (H) following will apply.

(H) Termination Liability Charge

A Termination Liability Charge (previously defined as "TLC") is applicable on a per End User basis for any disconnections prior to completion of the appropriate minimum service period set forth in Section 7 preceding.

1. For 4(A)1, the TLCs are set forth in Attachment A, Section H. For 4(A)(2), the TLC is equal to the number of minimum service period months, less the number of months completed service, multiplied by the appropriate connection monthly rate for the data rate option to which the NSP subscribed.
2. A TLC does not apply if:
 - (a) The NSP cannot synchronize its terminal equipment with AT&T Southeast's DSL equipment ;
 - (b) The NSP disconnects a connection from an arrangement provisioned as either XAATMS/MSATMS or End User Aggregation for the purpose of rearranging the connection to either XAATMS/MSATMS or End User Aggregation, with no lapse in billing.
 - (c) A connection is disconnected prior to completion of the appropriate minimum service period as a result of an NSP requested change to a different data rate

combination. However, a new minimum service period and new recurring rates appropriate for the new data rate will apply.

- (d) The NSP changes existing service to/from DSL at one data rate combination to/from DSL at a different data rate combination or to/from Session Based DSL.
 - (e) A TLC for facilities utilized in the transport of only PVC Based AT&T Southeast DSL service Connection shall not be applicable if the customer terminates/disconnects such transport prior to November 16, 2006.
3. A TLC for facilities used in the transport of only DSL connection will not be applicable if the NSP terminates or disconnects the transport service prior to the expiration of the minimum service period associated with the transport service as a result of the rearrangement of all connections overlaying that transport service to another DSL transport configuration.
 4. An NSP request to discontinue the End User Aggregation arrangement will result in disconnection of service for all End Users served by that arrangement. Disconnection of an End User Aggregation arrangement will also result in application of any applicable termination charges for all associated elements of the affected DSL.

(I) Per Connection Testing Capability

Per Connection Testing Capability is provided at no additional nonrecurring charge whether requested concurrent with the initial request for EUA or subsequent to the initial request.

(J) Maintenance of Service

The NSP will be responsible for payment of Maintenance of Service charges as described below and at rates specified in Attachment A.

1. When an NSP reports a trouble to AT&T Southeast for clearance and no trouble is found in the AT&T Southeast's facilities, the NSP shall be responsible for payment of a Maintenance of Service charge. Failure of AT&T Southeast personnel to find trouble in AT&T Southeast facilities will result in no charge if the trouble is actually in those facilities, but not discovered at the time. No credit allowance will be applicable for the interruption involved if the Maintenance of Service charge applies.
2. No credit allowance will be applicable for the interruption involved if Maintenance of Service charges apply.
3. The NSP shall be responsible for payment of Maintenance of Service charges when AT&T Southeast dispatches personnel and the trouble is in equipment or communications systems provided by other than AT&T Southeast.
4. The Maintenance of Service charge applies for the period of time from when AT&T Southeast personnel are dispatched to when the work is completed. When more than one 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.

(K) When a Credit Allowance Applies

For DSL VCs, no credit shall be allowed for an interruption of less than 30 minutes. However, the NSP will be credited for an interruption of 30 minutes or more at the rate of

1/1440 of the monthly recurring rate for the VC for each period of 30 minutes or major fraction thereof that the interruption continues. This credit is not automatic and will occur only at the NSP's request.

1. Service outage credit must be requested within thirty days of the service outage occurrence in order to be provided.
2. A credit allowance will not apply for service outages under the following conditions:
 - (a) Interruptions caused by the negligence of the NSP, the NSP's End User or the NSP End User's authorized agent.
 - (b) Interruptions of a service due to the failure of equipment or systems provided by the NSP or others.
 - (c) Interruptions of a service during any period in which AT&T Southeast is not afforded access to the premises where the service is terminated.
 - (d) Interruptions of a service when the NSP has released that service to AT&T Southeast for maintenance purposes, to make rearrangements, or for the implementation of an order for a change in the service during the time that was negotiated with the NSP prior to the release of that service.
 - (e) Interruptions of a service which continue because of the failure of the NSP to authorize replacement of any element of special construction. The period for which no credit allowance is made begins on the seventh day after the NSP receives AT&T Southeast's written notification of the need for such replacement and ends on the day after receipt by AT&T Southeast of NSP's written authorization for such replacement.
 - (f) Periods when the NSP elects not to release the service for testing and/or repair and continues to use it on an impaired basis.
 - (g) Periods of temporary discontinuance.
 - (h) An interruption or a group of interruptions, resulting from a common cause, for amounts less than one dollar.
 - (i) Interruptions of a service due to commercial power failure.
 - (j) Interruptions of a service 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's control.
 - (k) When UNEs or combinations of UNEs are commingled with Access Services.
 - (l) Interruptions of service preceding and/or during periods of preventative maintenance/software upgrade activities

(L) Minimum Quantities

The minimum quantity of DSL connections specified in Sections 4(A)1 and in 3(C)1 is twenty-five (25) less the quantity of DSL connections in service specified in 4(A)2.

1. For NSP selected connection data rates specified in Sections 4(A)1 and 3(B)1, the NSP will be allowed an initial period of 90 days, beginning with establishment of the first billing account, to attain a combined quantity of connections (WHY

CAPITALIZED?) at data rates specified in Sections 4(A)1 and 3(C)1 that is equal to or greater than the minimum number of connections as specified above on billing accounts across the region. During this initial 90-day period, the NSP will be billed an amount equal to the number of connections on their billing accounts across the region multiplied by the appropriate connection monthly recurring rate. Upon completion of the 90-day period, a monthly review will be conducted of quantities of connections specified in Sections 4(A)1 and 3(C)1 that are associated with each NSP's billing accounts across the region. Each month, an NSP account not meeting the minimum quantity of connections specified above shall pay a charge in an amount equal to the difference between the minimum quantity of connections as specified in above and the NSP's combined quantity of connections at data rates specified in Sections 4(A)1 through 2 and 3(C)1, multiplied by the rate in Section 3(C)1. This charge is in addition to the normal monthly rates equal to the number of connections actually attained on their billing accounts across the region, multiplied by the appropriate connection monthly recurring rate.

2. While the number of Destinations and Sessions Per Line may be changed upon NSP request, the minimum number of Destinations and Sessions Per Line, on a per End User basis, is one Destination and one Session Per Line. There is no charge for changing Destinations and Sessions Per Line.

(M) Transition

1. To the extent authorized by the FCC, AT&T Southeast shall waive TLC that would otherwise be incurred in connection with the transition of any DSL circuit from the Tariff to this Agreement.
2. In the event AT&T Southeast cancels or discontinues the Tariff relating to DSL, and prior to such cancellation or discontinuance, NSP was purchasing DSL service for a customer location pursuant to the Tariff, then upon cancellation or discontinuance of the Tariff, DSL installed at such customer location shall be subject to the rates, terms and conditions of these Terms and Conditions.

10. Responsibilities of AT&T Southeast

(A) The responsibility of AT&T Southeast shall be limited to the furnishing and maintenance of DSL, generally between the End User premises NID and NSP's designated XAATMS or MSATMS 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 DSL.

1. AT&T Southeast shall not be responsible for installation, operation, or maintenance of any terminal equipment or communications system provided by an NSP 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 DSL in accordance with the terms and conditions as set forth in the Terms and Conditions. AT&T Southeast shall not be responsible for:
 - (a) the transmission of signals generated by such equipment or system, or for the quality of, or defects in, such transmission, or
 - (b) the reception of signal by such equipment or systems, or
 - (c) damage to a terminal or computer equipment or communications system provided by an NSP or its End User due to testing.

2. AT&T Southeast shall not be responsible to an NSP or its End User if changes in any AT&T Southeast facilities, operations, or procedures utilized in the furnishing of DSL render any facilities or equipment provided by the NSP 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 metallic 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 the exchange line facility incapable of transporting DSL, AT&T Southeast will not be required to continue DSL, and the NSP will not be liable for any TLCs.
3. AT&T Southeast undertakes to maintain and repair the facilities, which it furnishes. Neither the NSP 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.

11. Responsibilities of the NSP

- (A) When two or more DSL NSPs request AT&T Southeast to provide DSL, and designate the same End User premises served by the same exchange line facility as an NSP designated location, DSL will be provided to the DSL service provider that provides AT&T Southeast with a written letter of authorization from the End User selecting that DSL service provider as the End User's service provider. AT&T Southeast will honor the most current letter of authorization executed by the NSP's End User.
- (B) The NSP is responsible for installation and/or testing of its End Users' premises equipment and/or facilities to ensure that when connected to DSL, such End User premises equipment or facilities operate properly.
 1. The NSP shall or arrange for the End User to cooperatively test with AT&T Southeast as may be necessary.
 2. It shall be the responsibility of the NSP and/or its End User to ensure the continuing compatibility of NSP Premises Equipment ("CPE") at the End-User premises. The NSP and/or its End User shall be responsible for any expenses incurred for required changes to the NSP's and/or its End User's equipment or facilities in order to make such equipment or facilities compatible with DSL.
 3. If requested by AT&T Southeast, the NSP must produce a letter of authorization from an End User requesting that the NSP obtain a high speed data connection to the End User's premises using DSL provided by AT&T Southeast.
- (C) NSPs requesting a rearrangement of Service, such as from VC from or to an arrangement provisioned as either XAATMS/MSATM or EUA, shall submit to AT&T Southeast sufficient information to enable AT&T Southeast to complete the rearrangement.

Attachment A DSL RATES AND CHARGES

A. DSL Data Rate Combinations

| | <u>Downstream Data Rate Range</u> | | <u>Upstream Data Rate Range</u> | <u>Nonrecurring Charge</u> | <u>Monthly Rate</u> | <u>USOC</u> |
|----|-----------------------------------|---|---------------------------------|----------------------------|---------------------|-------------|
| 1. | Up to 3.0 Mbps | x | Up to 384 Kbps | 40.00 | 31.40 | ADF91 |
| 2. | 384 Kbps UBR | x | 384 Kbps | 150.00 | 80.00 | ADF21 |

(C)

B. End User Aggregation (EUA) Arrangement Capacities – Dedicated Connection to an EUA Switch

| | <u>Transport Capacity</u> | <u>Nonrecurring Charge</u> | <u>Monthly Rate</u> | <u>USOC</u> |
|----|---------------------------|----------------------------|---------------------|-------------|
| 1. | Per 1.536 Mbps | \$ 600.00 | \$ 250.00 | ADFA1 |
| 2. | Per 44.210 Mbps | 600.00 | 1,000.00 | ADFA4 |
| 3. | Per 149.760 Mbps | 600.00 | 1,800.00 | ADFA5 |
| 4. | Per 599.040 Mbps | 600.00 | 4,500.00 | ADFA9 |

C. EUA Activation Charge over an Existing ATM

| | <u>Transport Capacity</u> | <u>Nonrecurring Charge</u> | <u>Monthly Rate</u> | <u>USOC</u> |
|----|---------------------------|----------------------------|---------------------|-------------|
| 1. | Per 1.536 Mbps | \$ 600.00 | \$ 150.00 | ADFAA |
| 2. | Per 44.210 Mbps | 600.00 | 650.00 | ADFAB |
| 3. | Per 149.760 Mbps | 600.00 | 1,200.00 | ADFAC |
| 4. | Per 599.040 Mbps | 600.00 | 3,200.00 | ADFAD |

D. Destinations and Sessions for 4(A)1.

| | <u># Destinations</u> | <u>#Sessions</u> | <u>Monthly Rate</u> | <u>USOC</u> |
|----|-----------------------|------------------|---------------------|-------------|
| 1. | 1 | 1 | \$.60 | ADFSA |
| 2. | 1 | 2 | 3.50 | ADFSB |
| 3. | 2 | 1 | 3.50 | ADFSC |
| 4. | 2 | 2 | 6.50 | ADFSD |
| 5. | 3 | 1 | 6.50 | ADFSE |
| 6. | 3 | 2 | 9.50 | ADFSE |

Destinations and Sessions for 4(A) 2.

| | <u># Destinations</u> | <u>#Sessions</u> | <u>Monthly Rate</u> | <u>USOC</u> |
|-----|-----------------------|------------------|---------------------|-------------|
| 7. | 1 | 1 | \$ 3.00 | ADFSG |
| 8. | 1 | 2 | 8.00 | ADFSH |
| 9. | 2 | 1 | 13.00 | ADFSJ |
| 10. | 2 | 2 | 18.00 | ADFSK |
| 11. | 3 | 1 | 23.00 | ADFSL |
| 12. | 3 | 2 | 28.00 | ADFSM |

Destinations and Sessions for 3(C)1..

| | <u># Destinations</u> | <u>#Sessions</u> | <u>Monthly Rate</u> | <u>USOC</u> |
|----|-----------------------|------------------|---------------------|-------------|
| 1. | 1 | 1 | \$.60 | ADFSA |

E. Session Based DSL

| | <u>Downstream Data Rate Range</u> | | <u>Upstream Data Rate Range</u> | <u>Nonrecurring Charge</u> | <u>Monthly Rate</u> | <u>USOC</u> |
|----|-----------------------------------|---|---------------------------------|----------------------------|---------------------|-------------|
| 1. | Up to 1.5 Mbps | x | Up to 256 Kbps | \$ 40.00 | \$ 22.40 | ADFQ1 |

F. Maintenance of Service Charges

| | <u>Maintenance of Service Periods</u> | <u>First ½ Hour or Fraction Thereof</u> | <u>Each Add'l ½ Hour or Fraction Thereof</u> | <u>USOC</u> |
|----|--|---|--|-------------|
| 1. | Basic Time, during normally scheduled working hours | \$80.00 | \$55.00 | MVV |
| 2. | Overtime, outside of normally scheduled working hours. | \$90.00 | 65.00 | MVV |
| 3. | Premium Overtime, outside of normally scheduled working hours. | \$100.00 | 75.00 | MVV |

G. Termination Liability Charges

| | <u>Downstream Data Rate Range</u> | | <u>Upstream Data Rate Range</u> | <u>Termination Liability Charge</u> |
|----|-----------------------------------|---|---------------------------------|-------------------------------------|
| 1. | Up to 1.5 Mbps | x | Up to 256 Kbps | \$ 50.00 |
| 2. | At Least 768 Kbps | x | At least 512 Kbps | 200.00 |

TLCs for speeds not shown above apply as set forth in 8(H)1.

H. Transfer of Responsibility Charges

| | <u>Application</u> | <u>Nonrecurring Charge</u> | | <u>USOC</u> |
|----|--------------------|----------------------------|--|-------------|
| 1. | Per Connection | \$11.00 | | NA |
| | | | | |

Attachment B

Scope of Agreement and Term

1. Scope and Term.

(T)

The Terms and Conditions will be in effect from the date of NSP's submission to AT&T Southeast of an executed Acknowledgement of Terms and Conditions acknowledging NSP's agreement to be bound by the Terms and Conditions for the Services provided. However, in the event AT&T Southeast cancels or discontinues certain provisions of the Tariff, and prior to such cancellation or discontinuance, NSP was purchasing wholesale DSL transport service for a customer location pursuant to the Tariff, then upon cancellation or discontinuance of the Tariff, DSL installed at such customer location shall be subject to the rates, terms and conditions of these Terms and Conditions.

2. Termination; Refusal of New Service.

(a) AT&T Southeast may terminate NSP's participation in the Terms and Conditions if NSP: (i) breaches any material term, condition, or obligation of these Terms and Conditions and fails to cure such breach within thirty (30) 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.")

(b) 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(a), above. In the event AT&T Southeast elects to refuse orders for Service, and thereafter desires to terminate under Section 2(a), AT&T Southeast shall send written notice to NSP of its intent to terminate, and if the Event of Default continues, AT&T Southeast may terminate NSP's participation in the Terms and Conditions on or after fifteen (15) days from the date of such notice.

(c) NSP 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.

(d) Upon termination of an NSP's participation in the Terms and Conditions, AT&T Southeast will disable NSP's ability to order Services; will disconnect all Services ordered hereunder; and all applicable charges, including TLCs, shall become due.

3. Payments.

The rates and charges payable by NSP for the Service shall be as set forth in Attachment A. AT&T Southeast will bill NSP monthly for Service. Payment, including amounts disputed pursuant to Section 13, 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.

4. Transport Services.

NSP shall be responsible for obtaining pursuant to BellSouth's tariffs all necessary transport elements required for use with the Service. The tariff rates, terms and conditions shall govern such purchases.

5. Disclaimer of Liability; Limitation of Liability.

(a) AT&T Southeast's liability, if any, for its willful misconduct is not limited by these Terms and Conditions. With respect to any other claim or suit by NSP, 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.

(b) AT&T Southeast shall not be liable for any act or omission of NSP, nor shall AT&T Southeast hold liable NSP for AT&T Southeast's own act or omission.

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

(d) 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 NSP's remedies under the Terms and Conditions fail of their essential purpose, NSP expressly agrees that under no circumstance shall AT&T Southeast's total liability to NSP or any party claiming by, through or under NSP 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 NSP for use of the Service during the period in which NSP purchased Service under the Terms and Conditions.

6. Limitation and Disclaimer of Warranties.

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 THESE TERMS AND CONDITIONS, ALL SUCH WARRANTIES BEING EXPRESSLY DISCLAIMED.

7. Indemnification.

(C)

(a) Provided that AT&T Southeast is promptly notified in writing of any action brought against NSP based solely on a claim that the Service infringes a United States patent, copyright, trademark, or other intellectual property right, AT&T Southeast will indemnify NSP for all of 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 against NSP and/or a settlement resulting from it (provided that NSP shall permit AT&T Southeast to have sole control over the defense or settlement of such action; NSP shall not make any compromise, admission of liability or settlement or take any other action impairing the defense of such claim without AT&T Southeast's prior written approval; and NSP 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 NSP 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 NSP 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 NSP to cease using the Service. In the latter event, the Service shall terminate immediately.

(b) NSP will indemnify and save harmless AT&T Southeast from and against all loss, liability, damage, and expense, including all reasonable counsel fees, due to claims for infringement of patents, copyright, trademark, or other intellectual property rights arising from (1) NSP or NSP's end user or any other third party combining or using the Service in connection with equipment, software, data,

processes, or facilities furnished by NSP, NSP's end user, or other third party; (2) NSP, NSP's end user or other third party's use of the Service based on specifications supplied by or specific instructions furnished by NSP, NSP's end user, or other third party; (3) alterations or modifications to the Service by NSP, NSP'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. NSP will indemnify and save harmless AT&T Southeast from and against all loss, liability, damage, and expense, including all reasonable counsel 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 NSP, an authorized user of NSP, including any End User of NSP, or any other third party. NSP 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.

(c) This section states the entire liability of AT&T Southeast, and NSP's sole remedy, with respect to any infringement or alleged infringement of any intellectual property rights or proprietary rights.

8. Modifications to Terms and Conditions.

AT&T Southeast may modify these 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; 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 an NSP bulletin electronically posted to the AT&T Southeast website typically used for NSP notifications. Terms and Conditions are posted on http://wholesale.att.com/products_and_services/access/dsl/index.html.

9. Use of Service.

(a) NSP and its end users may use the Service to access their choice of legal Internet content; run applications of their choice; and attach any devices or equipment of their choice, subject to the provisions of Sections 11(b), (c), (d) and (e), below.

(b) The characteristics and methods of operation of any circuits, facilities, devices or equipment provided by NSP 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 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 any of them or the public.

(c) The Service shall not be used for any illegal or unlawful purpose. AT&T Southeast reserves the right to immediately disconnect Service, with or without notice to NSP, at a location where AT&T Southeast becomes aware that the Service is being used for an unlawful purpose.

(d) 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. Excessive use of bandwidth shall be determined on the basis of the percentage of bandwidth on the Service used at a particular location, upstream or downstream, over a period of time. AT&T Southeast reserves the right to immediately disconnect Service, upon notice to NSP, at any location that AT&T Southeast determines is adversely affecting AT&T Southeast's network. (C)

(e) In the event 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 NSP, at the location where the Service is being used in such manner.

(f) The Service is not subject to resale. End User products that use or incorporate the Service must be sold, supported, and billed by NSP.

10. Confidentiality

(C)

(a) Definition - "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 this Agreement regarding the telecommunications needs of NSP and/or the telecommunications offerings of AT&T Southeast, to the 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. This Agreement is Confidential Information as to which each party is both a Disclosing Party and a Receiving Party. 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 this Agreement, shall not be Confidential Information.

(b) Confidentiality Obligations - 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 this Agreement and using the Session Based 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 this Agreement; (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.

11. Use of Marks; No License Grant.

(C)

(a) NSP may, in response to a direct end user inquiry, advise end users that a portion of the service NSP furnishes to its end users is provided by AT&T Southeast; provided, however, NSP shall not represent that AT&T Southeast jointly participates in NSP's services. AT&T Company names, logos, services, service marks and trademarks are owned by AT&T Intellectual Property I, L.P. and AT&T Intellectual Property II, L.P. and may not be used by NSP. NSP acknowledges that it is separate and distinct from AT&T Southeast and that it provides a separate and distinct service and agrees that NSP may not, expressly or impliedly, state, advertise or market that it is, or offers the same 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 service.

(b) No license is granted by AT&T Southeast to NSP under any copyright, trademark, patent or other intellectual property right in the Service, or any materials, processes or technology related thereto.

12. Bill Disputes.

NSP shall submit a documented written claim in support of each specific disputed amount no later than ninety (90) days from the invoice date. Upon receipt of NSP's documented bill dispute, AT&T

Southeast shall work with NSP to resolve the dispute in a timely manner. If the dispute is resolved in favor of NSP, interest equivalent to the late payment charge set forth in Section 3, above, shall be calculated from the date of the overpayment to the resolution date provided, however, that if NSP submits the dispute more than ninety (90) days after the date NSP paid the bill and said dispute is resolved in favor of NSP, interest shall be calculated from the dispute date to the resolution date.

13. Deposits.

(a) AT&T Southeast may require an NSP 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 rates and charges. AT&T Southeast reserves the right to require an initial or an additional deposit of the NSP if the NSP's credit decreases from when the Service was established.

(b) AT&T Southeast will provide written notice to such NSP of such deposit requirement. NSP will be required to make payment of such deposit prior to the provision of new Service in those cases where the NSP has not established credit with AT&T Southeast, or otherwise within ten (10) business days of such notice for NSPs with existing Services.

(c) The deposit amount shall be calculated on the basis of the actual or estimated rates and charges for the Service for a two month period. The fact that a deposit has been made shall not relieve the NSP from complying with its obligation to make prompt payment hereunder. At such time as the provision of the Service to the NSP is terminated, the amount of the deposit will be credited to the NSP 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.

(d) Such a deposit will be refunded or credited to the NSP's account when the NSP has established credit or, in any event, after NSP has established a one-year prompt payment record at any time prior to the termination of the provision of the Service to the NSP. In the case of a cash deposit, for the period the deposit is held by AT&T Southeast, the NSP 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 NSP's deposit is received by AT&T Southeast up to and including the date such deposit is credited to the NSP's account or the date the deposit is refunded by AT&T Southeast.

14. Ordering.

(a) NSP shall place an electronic (Internet or "web-based" interface) order utilizing an AT&T Southeast specified order and response system ("Ordering System") to request Service be provisioned to an NSP designated end user premises. AT&T Southeast shall provide an identification and password for access to the Ordering System when NSP provides to AT&T Southeast all information requested by AT&T Southeast for provision and billing of the Service.

(b) AT&T Southeast may make the Ordering System available to NSP for testing of new services that are in production mode. Use of the Ordering System for such testing shall be subject to these Terms and Conditions.

(c) NSP 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.

15. Billing Options.

(a) NSP may select as the primary billing medium either a standard billing option (standard paper bill or CD-ROM) or billing data tape. Billing data tape format is available in the four options below. NSP may select one of these options as the primary billing medium at no charge and will also receive an abbreviated paper bill for bill payment purposes at no charge.

1. CONNECT: Direct - This option provides an electronic transmission of NSP's bill in billing data tape and requires NSP to have a dedicated circuit from NSP's premises to a AT&T Southeast data center.
2. CD-ROM - This option provides the delivery of NSP's in billing data tape format via a physical medium, i.e., CD-ROM.
3. Cartridge Tape - This option provides the delivery of NSP's bill in billing data tape format via a physical medium, i.e., Cartridge Tape. When NSP elects to receive additional copies of its bill on cartridge tape, only one copy of the cartridge tape will be provided. AT&T Southeast does not require NSP to return previously supplied tapes.
4. Internet Mailbox - This option provides the delivery of NSP's bill in billing data tape format to an Internet-based, secure mailbox from which NSPs may download their bill.

(b) Rates and charges for additional copies of the NSP's bill are as follows:

| <u>Billing Option</u> | <u>Rate</u> |
|---|-------------|
| Standard Billing Options | |
| Paper Bill – per paper page | \$.25 |
| CD ROM – Per CD ROM | \$60.00 |
| Billing Data Tape (BDT) Options | |
| (a) Connect: Direct – per record transmitted | \$.000932 |
| (b) CD ROM – Per CD ROM | \$60.00 |
| (c) Cartridge Tape | |
| 1) per tape | \$51.84 |
| 2) per record | \$.0018 |
| (d) Internet Mailbox - per mailbox, per month | \$40.00 |

(c) Unless otherwise specified by NSP, standard paper bills, cartridge tape and/or CD ROM will be sent via U.S. Mail service. However, at NSP's request, NSP or NSP's representative may pick up the paper bills, CD ROM or cartridge tape at a location designated by AT&T Southeast.

16. Installation; Maintenance; Availability for Testing.

(a) AT&T Southeast will install Service to that point where provision is made for termination of AT&T Southeast's outside distribution network facilities. 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 NSP.

(b) AT&T Southeast shall maintain the Service. NSP or any third party shall not be permitted to move, rearrange, disconnect, remove or attempt to repair any facilities provided by AT&T Southeast other than by connection or disconnection to any interface means used, except with the written consent of AT&T Southeast.

(c) The Service shall be available to AT&T Southeast at times mutually agreed upon to permit AT&T Southeast to make tests and adjustments appropriate for maintaining the Service in satisfactory operating condition. Such tests and adjustments shall be completed within a reasonable time. No credit will be allowed for any interruptions involved during such tests and adjustments.

17. 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 these 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 NSP 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 NSP and reasonable time will be allowed for any redesign and implementation required by the change in operating characteristics.

18. Taxes, Universal Service Fund, and Other Fees.

(a) For purposes of this section, the term "Tax" or "Taxes" 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.

(b) Except as otherwise provided in this section, AT&T Southeast shall separately state on each applicable invoice, and the NSP shall pay, all applicable Taxes.

(c) AT&T Southeast shall not invoice NSP for a Tax if, and to the extent that, (i) the NSP 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, (ii) the NSP 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.

(d) The NSP 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 NSP to contest the assessment or collection of such Tax or, if required by applicable law and if requested by the NSP, contests such assessment or collection on behalf of the NSP but at the NSP's expense.

(e) AT&T Southeast shall permit the NSP to contest any Tax paid by such NSP, either by assigning to the NSP its right to claim a refund of such Tax or, if required by applicable law and requested by the NSP, filing and pursuing a claim for refund on behalf of the NSP but at the NSP's expense.

(f) In any contest of a Tax by AT&T Southeast or the NSP, 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.

(g) To the extent AT&T Southeast pays into the universal service fund for Services purchased by NSP, NSP shall reimburse AT&T Southeast for all such universal service fund charges paid.

(h) 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; and under no circumstances shall either Party have the right to bring a dispute related to the application or amount of any Tax before a regulatory authority.

19. Resolution of Disputes.

(a) Except for a breach of the obligations set forth in Section 7, entitled "Indemnification," Section 10, 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 these 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.)

(b) In the event of any Disputed Matter, the AT&T Southeast and NSP shall submit the matter to mediation within thirty (30) days of one Party receiving from the other Party a written request to mediate. The Parties may choose any institutional or informal means to mediate a Disputed Matter.

(c) In the event the Parties cannot resolve the matter by mediation, any ensuing arbitration of a Disputed Matter conducted pursuant to these 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").

(d) 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.

(e) The parties have the right to be represented by counsel. The arbitrator(s) shall be bound by and strictly enforce the terms of these Terms and Conditions, and may not limit, expand or otherwise modify the terms of these 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 these Terms and Conditions shall be kept confidential.

(f) Disputes under these 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 these Terms and Conditions, which are hereby incorporated in this Section 18.

(g) Subject to applicable substantive law that may provide otherwise, 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.

(h) 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.

20. Non-Waiver.

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

21. Notices.

Unless otherwise stated, notices, authorizations, and requests required or desired to be given or made in connection with these Terms and Conditions shall be in writing, given by certified or registered mail (return receipt requested), express air courier (charges 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
4th Floor
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 NSP, notice shall be to the location designated in NSP's Acknowledgement of Terms and Conditions, or if no such location is designated, to NSP's billing location. In addition, if NSP supplies an email address on its Acknowledgement of Terms and Conditions, AT&T Southeast may provide notice via email.

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.

22. 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 such AT&T Southeast shall have no liability to NSP for failure to provide the Service.

23. Regulatory Mandates.

NSP expressly recognizes that AT&T Southeast is a communications common carrier licensed and 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 these Terms and Conditions effective with the cessation of such authority. In addition, these 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.

24. Assignments.

NSP shall not assign its rights, duties or obligations hereunder without the prior written consent of AT&T Southeast; provided, however, that NSP shall not be obligated to obtain AT&T Southeast's consent to any assignment to an affiliate or subsidiary of NSP, or any entity with which NSP is under common control. Any attempt by NSP to assign or transfer any of the rights, duties, or obligations of NSP with respect to the Service where AT&T Southeast's consent is required but not obtained shall be void, and no assignment or transfer shall release NSP from any of its obligations with respect to the Service. AT&T Southeast shall not assign its rights, duties or obligations hereunder without the prior written consent of NSP; provided, however, that AT&T Southeast shall not be obligated to obtain NSP's consent to any assignment to an affiliate or subsidiary of AT&T Southeast, or any entity with which AT&T Southeast is under common control.

25. Limitation of Actions.

No action, regardless of form, arising out of these Terms and Conditions may be brought by either AT&T Southeast or NSP more than two years after the cause of action has arisen.

26. Entire Agreement.

The Terms and Conditions set forth the entire agreement between NSP and AT&T Southeast respecting any Service ordered hereunder, 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 NSP that is at variance with, in addition to, or conflicts with any provision of these Terms and Conditions, unless such variance, addition or conflict is specifically identified in a written agreement signed by NSP 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 these Terms and Conditions or other written agreement as provided above.

27. Severability.

If any provision of the Terms and Conditions conflicts with the law under which the Terms and Conditions is to be construed or if any such provision is held invalid by a court 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. Notwithstanding the foregoing, to the extent any such provision held invalid may be made enforceable by limiting or restating the provision to reflect as nearly as possible the original intentions of the Parties, then such provision shall be deemed so limited or restated. The remainder of the Terms and Conditions shall remain in full force and effect.

28. Survival.

The following Sections will survive termination or expiration of this Agreement: Section 3, Payments; Section 5, Disclaimer of Liability; Limitation of Liability; Section 6, Limitation and Disclaimer of Warranties; Section 7, Indemnification; Section 10, Confidentiality; Section 11, Use of Marks; No License Grant; Section 12, Bill Disputes; Section 13(c), Deposits; Section 18, Taxes; Section 19,

(C)

Resolution of Disputes; Section 20, Non-waiver; Section 21, Notices; Section 22, Force Majeure; Section 24, Assignments; Section 25, Limitation of Actions; Section 26, Entire Agreement; Section 27, Severability; and this Section 28.

Attachment C

Glossary of Terms

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| ATM | Asynchronous Transfer Mode |
| ATU-C | ADSL Transceiver Unit – Central |
| ATU-R | ADSL Transceiver Unit – Remote |
| CBR | Constant Bit Rate |
| CPE | Customer Premises Equipment |
| DGL | Domain Group List |
| DGN | Domain Group Name |
| EBG | Egress Broadband Gateway |
| EUA | End User Aggregation |
| LATA | Local Access and Transport Area |
| MSATMS | Managed Shared Asynchronous Transfer Mode Service |
| MVC | Multiple Virtual Circuits |
| NID | Network Interface Device |
| NSP | Network Service Provider |
| QoS | Quality of Service |
| SRF | Service Request Form |
| SWC | Serving Wire Center |
| TLC | Termination Liability Charge |
| UBR | Unspecified Bit Rate |
| UNE | Unbundled Network Element |
| VC | Virtual Circuit |
| VCi | Virtual Channel Identifier |
| VPI | Virtual Path Identifier |
| XAATMS | Exchange Access Asynchronous Transfer Mode Service |