

Agreement Between BellSouth Telecommunications, Inc. and Access Point, Inc. Regarding The Sale of BellSouth Telecommunications Services to Access Point, Inc. For The Purposes of Resale

THIS AGREEMENT is by and between **BellSouth Telecommunications, Inc.**, (“BellSouth or Company”), a Georgia corporation, and Access Point, Inc. (“Access Point”), a North Carolina corporation, and shall be deemed effective as of December 2, 1997.

WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, Access Point is or seeks to become an alternative local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, Access Point desires to resell BellSouth’s telecommunications services; and

WHEREAS, BellSouth has agreed to provide such services to Access Point for resale purposes and pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the mutual premises and promises contained herein, BellSouth and Access Point do hereby agree as follows:

I. Term of the Agreement

- A.** The term of this Agreement shall be two years beginning December 2, 1997 and shall apply to all of BellSouth’s serving territory as of January 1, 1997 in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee;
- B.** This Agreement shall be automatically renewed for two additional one year periods unless either party indicates its intent not to renew the Agreement. Notice of such intent must be provided, in writing, to the other party no later than 60 days prior to the end of the then-existing contract period. The terms of this Agreement shall remain in effect after the term of the existing agreement has expired and while a new agreement is being negotiated.

The rates pursuant by which Access Point is to purchase services from BellSouth for resale shall be at a discount rate off of the retail rate for the telecommunications service. The discount rates shall be as set forth in Exhibit A, attached hereto and incorporated herein by this reference. Such discount shall reflect the costs avoided by BellSouth when selling a service for wholesale purposes.

II. Definition of Terms

- A.** **CUSTOMER OF RECORD** means the entity responsible for placing application for service; requesting additions, rearrangements, maintenance or discontinuance of service; payment in full of charges incurred such as non-recurring, monthly recurring, toll, directory assistance, etc.

- B.** DEPOSIT means assurance provided by a customer in the form of cash, surety bond or bank letter of credit to be held by the Company.
- C.** END USER means the ultimate user of the telecommunications services.
- D.** END USER CUSTOMER LOCATION means the physical location of the premises where an end user makes use of the telecommunications services.
- E.** NEW SERVICES means functions, features or capabilities that are not currently offered by BellSouth. This includes packaging of existing services or combining a new function, feature or capability with an existing service.
- F.** OTHER LOCAL EXCHANGE COMPANY (OLEC) means a telephone company certificated by the public service commissions of the Company's franchised area to provide local exchange service within the Company's franchised area.
- G.** RESALE means an activity wherein a certificated OLEC, such as Access Point subscribes to the telecommunications services of the Company and then reoffers those telecommunications services to the public (with or without "adding value").
- H.** RESALE SERVICE AREA means the area, as defined in a public service commission approved certificate of operation, within which an OLEC, such as Access Point, may offer resold local exchange telecommunications service.

III. General Provisions

- A.** Access Point may resell the tariffed local exchange and toll telecommunications services of BellSouth contained in the General Subscriber Service Tariff and Private Line Service Tariff subject to the terms, and conditions specifically set forth herein. Notwithstanding the foregoing, the exclusions and limitations on services available for resale will be as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

BellSouth shall make available telecommunications services for resale at the rates set forth in Exhibit A to this agreement and subject to the exclusions and limitations set forth in Exhibit B to this agreement. It does not however waive its rights to appeal or otherwise challenge any decision regarding resale that resulted in the discount rates contained in Exhibit A or the exclusions and limitations contained in Exhibit B. BellSouth reserves the right to pursue any and all legal and/or equitable remedies, including appeals of any decisions. If such appeals or challenges result in changes in the discount rates or exclusions and limitations, the parties agree that appropriate modifications to this Agreement will be made promptly to make its terms consistent with the outcome of the appeal.

- B.** Access Point may purchase resale services from BellSouth for their own use in operating their business. The resale discount will apply to those services under the following conditions:
 - 1. Access Point must resell services to other end users.
 - 2. Access Point must order services through resale interfaces, i. e., the LCSC and/or appropriate Resale Account Teams.

3. Access Point cannot be an alternative local exchange telecommunications company for the single purpose of selling to themselves.
- C. The provision of services by the Company to Access Point does not constitute a joint undertaking for the furnishing of any service.
 - D. Access Point will be the customer of record for all services purchased from BellSouth. Except as specified herein, the Company will take orders from, bill and expect payment from Access Point for all services.
 - E. Access Point will be the Company's single point of contact for all services purchased pursuant to this Agreement. The Company shall have no contact with the end user except to the extent provided for herein.
 - F. The Company will continue to bill the end user for any services that the end user specifies it wishes to receive directly from the Company.
 - G. The Company maintains the right to serve directly any end user within the service area of Access Point. The Company will continue to directly market its own telecommunications products and services and in doing so may establish independent relationships with end users of Access Point.
 - H. Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.
 - I. Current telephone numbers may normally be retained by the end user. However, telephone numbers are the property of the Company and are assigned to the service furnished. Access Point has no property right to the telephone number or any other call number designation associated with services furnished by the Company, and no right to the continuance of service through any particular central office. The Company reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever the Company deems it necessary to do so in the conduct of its business.
 - J. The Company may provide any service or facility for which a charge is not established herein, as long as it is offered on the same terms to Access Point.
 - K. Service is furnished subject to the condition that it will not be used for any unlawful purpose.
 - L. Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.
 - M. The Company can refuse service when it has grounds to believe that service will be used in violation of the law.
 - N. The Company accepts no responsibility to any person for any unlawful act committed by Access Point or its end users as part of providing service to Access Point for purposes of resale or otherwise.
 - O. The Company will cooperate fully with law enforcement agencies with subpoenas and court orders for assistance with the Company's customers. Law enforcement agency subpoenas and court orders regarding end users of Access Point will be directed to Access Point. The Company will bill Access Point for implementing any requests by law enforcement agencies regarding Access Point end users.
 - P. The characteristics and methods of operation of any circuits, facilities or equipment provided by any person or entity other than the Company shall not:
 1. Interfere with or impair service over any facilities of the Company, its affiliates, or its connecting and concurring carriers involved in its service;

2. Cause damage to their plant;
 3. Impair the privacy of any communications; or
 4. Create hazards to any employees or the public.
- Q.** Access Point assumes the responsibility of notifying the Company regarding less than standard operations with respect to services provided by Access Point.
- R.** Facilities and/or equipment utilized by BellSouth to provide service to Access Point remain the property of BellSouth.
- S.** White page directory listings will be provided in accordance with regulations set forth in Section A6 of the General Subscriber Service Tariff and will be available for resale.
- T.** BellSouth will provide customer record information to Access Point provided Access Point has the appropriate Letter(s) of Authorization. BellSouth may provide customer record information via one of the following methods: US mail, fax, or by electronic interface. BellSouth will provide customer record information via US mail or fax on an interim basis only.
1. Access Point agrees to compensate BellSouth for all BellSouth incurred expenditures associated with providing such information to Access Point. Access Point will adopt and adhere to the BellSouth guidelines associated with each method of providing customer record information.
 2. All costs incurred by BellSouth to develop and implement operational interfaces shall be recovered from Access Point who utilize the services.
- U.** BellSouth will provide certain selected messaging services to Access Point for resale of messaging service without the wholesale discount.
- V.** BellSouth's Inside Wire Maintenance Plans may be made available for resale at rates, terms and conditions as set forth by BellSouth and without the wholesale discount.
- W.** All costs incurred by BellSouth for providing services to Access Point that are not covered in the BellSouth tariffs shall be recovered from the Access Point(s) who utilize those services.

IV. BellSouth's Provision of Services to Access Point

- A.** Access Point agrees that its resale of BellSouth services shall be as follows:
1. The resale of telecommunications services shall be limited to users and uses conforming to the class of service restrictions.
 2. To the extent Access Point is a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines, Access Point shall not jointly market its interLATA services with the telecommunications services purchased from BellSouth pursuant to this Agreement in any of the states covered under this Agreement. For the purposes of this subsection, to jointly market means any advertisement, marketing effort or billing in which the telecommunications services purchased from BellSouth for purposes of resale to customers and interLATA services offered by Access Point are packaged, tied, bundled, discounted or offered together in any way to the end

user. Such efforts include, but are not limited to, sales referrals, resale arrangements, sales agencies or billing agreements. This subsection shall be void and of no effect for a particular state covered under this Agreement as of February 8, 1999 or on the date BellSouth is authorized to offer interLATA services in that state, whichever is earlier.

3. Hotel and Hospital PBX service are the only telecommunications services available for resale to Hotel/Motel and Hospital end users, respectively. Similarly, Access Line Service for Customer Provided Coin Telephones is the only local service available for resale to Independent Payphone Provider (IPP) customers. Shared Tenant Service customers can only be sold those telecommunications services available in the Company's A23 Shared Tenant Service Tariff.
 4. Access Point is prohibited from furnishing both flat and measured rate service on the same business premises to the same subscribers (end users) as stated in A2 of the Company's Tariff except for backup service as indicated in the applicable state tariff Section A3.
 5. If telephone service is established and it is subsequently determined that the class of service restriction has been violated, Access Point will be notified and billing for that service will be immediately changed to the appropriate class of service. Service charges for changes between class of service, back billing, and interest as described in this subsection shall apply at the Company's sole discretion. Interest at a rate as set forth in Section A2 of the General Subscriber Service Tariff and Section B2 of the Private Line Service Tariff for the applicable state, compounded daily for the number of days from the back billing date to and including the date that Access Point actually makes the payment to the Company may be assessed.
 6. The Company reserves the right to periodically audit services purchased by Access Point to establish authenticity of use. Such audit shall not occur more than once in a calendar year. Access Point shall make any and all records and data available to the Company or the Company's auditors on a reasonable basis. The Company shall bear the cost of said audit.
- B.** Resold services can only be used in the same manner as specified in the Company's Tariff. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual end user of the Company in the appropriate section of the Company's Tariffs. Specific tariff features, e.g. a usage allowance per month, shall not be aggregated across multiple resold services. Resold services cannot be used to aggregate traffic from more than one end user customer except as specified in Section A23. of the Company's Tariff referring to Shared Tenant Service.
- C.** Access Point may resell services only within the specific resale service area as defined in its certificate.
- D.** Telephone numbers transmitted via any resold service feature are intended solely for the use of the end user of the feature. Resale of this information is prohibited.
- E.** No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. Access Point is strictly prohibited from any use, including but not limited to sales, marketing or advertising, of any BellSouth name or trademark.

V. Maintenance of Services

- A.** Access Point will adopt and adhere to the standards contained in the applicable BellSouth Work Center Interface Agreement regarding maintenance and installation of service.
- B.** Services resold under the Company's Tariffs and facilities and equipment provided by the Company shall be maintained by the Company.

- C. Access Point or its end users may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by the Company, other than by connection or disconnection to any interface means used, except with the written consent of the Company.
- D. Access Point accepts responsibility to notify the Company of situations that arise that may result in a service problem.
- E. Access Point will be the Company's single point of contact for all repair calls on behalf of Access Point's end users. The parties agree to provide one another with toll-free contact numbers for such purposes.
- F. Access Point will contact the appropriate repair centers in accordance with procedures established by the Company.
- G. For all repair requests, Access Point accepts responsibility for adhering to the Company's prescreening guidelines prior to referring the trouble to the Company.
- H. The Company will bill Access Point for handling troubles that are found not to be in the Company's network pursuant to its standard time and material charges. The standard time and material charges will be no more than what BellSouth charges to its retail customers for the same services.
- I. The Company reserves the right to contact Access Point's customers, if deemed necessary, for maintenance purposes.

VI. Establishment of Service

- A. After receiving certification as a local exchange company from the appropriate regulatory agency, Access Point will provide the appropriate Company service center the necessary documentation to enable the Company to establish a master account for Access Point. Such documentation shall include the Application for Master Account, proof of authority to provide telecommunications services, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable. When necessary deposit requirements are met, the Company will begin taking orders for the resale of service.
- B. Service orders will be in a standard format designated by the Company.
- C. When notification is received from Access Point that a current customer of the Company will subscribe to Access Point's service, standard service order intervals for the appropriate class of service will apply.
- D. The Company will not require end user confirmation prior to establishing service for Access Point's end user customer. Access Point must, however, be able to demonstrate end user authorization upon request.
- E. Access Point will be the single point of contact with the Company for all subsequent ordering activity resulting in additions or changes to resold services except that the Company will accept a request directly from the end user for conversion of the end user's service from Access Point to the Company or will accept a request from another OLEC for conversion of the end user's service from Access Point to the other LEC. The Company will notify Access Point that such a request has been processed.
- F. If the Company determines that an unauthorized change in local service to Access Point has occurred, the Company will reestablish service with the appropriate local service provider and will assess Access Point as the OLEC initiating the unauthorized change, the unauthorized change charge described in F.C.C.

Tariff No. 1, Section 13. Appropriate nonrecurring charges, as set forth in Section A4. of the General Subscriber Service Tariff, will also be assessed to Access Point. These charges can be adjusted if Access Point provides satisfactory proof of authorization.

- G.** In order to safeguard its interest, the Company reserves the right to secure the account with a suitable form of security deposit, unless satisfactory credit has already been established.
1. Such security deposit shall take the form of an irrevocable Letter of Credit or other forms of security acceptable to the Company. Any such security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service.
 2. If a security deposit is required, such security deposit shall be made prior to the inauguration of service.
 3. Such security deposit may not exceed two months' estimated billing.
 4. The fact that a security deposit has been made in no way relieves Access Point from complying with the Company's regulations as to advance payments and the prompt payment of bills on presentation nor does it constitute a waiver or modification of the regular practices of the Company providing for the discontinuance of service for non-payment of any sums due the Company.
 5. The Company reserves the right to increase the security deposit requirements when, in its sole judgment, circumstances so warrant and/or gross monthly billing has increased beyond the level initially used to determine the security deposit.
 6. In the event that Access Point defaults on its account, service to Access Point will be terminated and any security deposits held will be applied to its account.
 7. In the case of a cash deposit, interest at a rate as set forth in the appropriate BellSouth tariff shall be paid to Access Point during the continuance of the security deposit. Interest on a security deposit shall accrue annually and, if requested, shall be annually credited to Access Point by the accrual date.

VII. Payment And Billing Arrangements

- A.** When the initial service is ordered by Access Point, the Company will establish an accounts receivable master account for Access Point.
- B.** The Company shall bill Access Point on a current basis all applicable charges and credits.
- C.** Payment of all charges will be the responsibility of Access Point. Access Point shall make payment to the Company for all services billed. The Company is not responsible for payments not received by Access Point from Access Point's customer. The Company will not become involved in billing disputes that may arise between Access Point and its customer. Payments made to the Company as payment on account will be credited to an accounts receivable master account and not to an end user's account.
- D.** The Company will render bills each month on established bill days for each of Access Point's accounts.
- E.** The Company will bill Access Point, in advance, charges for all services to be provided during the ensuing billing period except charges associated with service usage, which charges will be billed in

arrears. Charges will be calculated on an individual end user account level, including, if applicable, any charges for usage or usage allowances. BellSouth will also bill all charges, including but not limited to 911 and E911 charges, telecommunications relay charges, and franchise fees, to Access Point.

- F.** The payment will be due by the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by the Company.
 - 1. If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment penalty, as set forth in I. following, shall apply.
- G.** Upon proof of tax exempt certification from Access Point, the total amount billed to Access Point will not include any taxes due from the end user. Access Point will be solely responsible for the computation, tracking, reporting and payment of all federal, state and/or local jurisdiction taxes associated with the services resold to the end user.
- H.** As the customer of record, Access Point will be responsible for, and remit to the Company, all charges applicable to its resold services for emergency services (E911 and 911) and Telecommunications Relay Service (TRS) as well as any other charges of a similar nature.
- I.** If any portion of the payment is received by the Company after the payment due date as set forth preceding, or if any portion of the payment is received by the Company in funds that are not immediately available to the Company, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the payment due date times a late factor. The late factor shall be as set forth in Section A2 of the General Subscriber Service Tariff and Section B2 of the Private Line Service Tariff.
- J.** Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to, the Company. No additional charges are to be assessed to Access Point.
- K.** The Company will not perform billing and collection services for Access Point as a result of the execution of this Agreement. All requests for billing services should be referred to the appropriate entity or operational group within the Company.
- L.** Pursuant to 47 CFR Section 51.617, the Company will bill Access Point end user common line charges identical to the end user common line charges the Company bills its end users.
- M.** In general, the Company will not become involved in disputes between Access Point and Access Point's end user customers over resold services. If a dispute does arise that cannot be settled without the involvement of the Company, Access Point shall contact the designated Service Center for resolution. The Company will make every effort to assist in the resolution of the dispute and will work with Access Point to resolve the matter in as timely a manner as possible. Access Point may be required to submit documentation to substantiate the claim.

VIII. Discontinuance of Service

A. The procedures for discontinuing service to an end user are as follows:

1. Where possible, the Company will deny service to Access Point's end user on behalf of, and at the request of, Access Point. Upon restoration of the end user's service, restoral charges will apply and will be the responsibility of Access Point.
2. At the request of Access Point, the Company will disconnect a Access Point end user customer.
3. All requests by Access Point for denial or disconnection of an end user for nonpayment must be in writing.
4. Access Point will be made solely responsible for notifying the end user of the proposed disconnection of the service.
5. The Company will continue to process calls made to the Annoyance Call Center and will advise Access Point when it is determined that annoyance calls are originated from one of their end user's locations. The Company shall be indemnified, defended and held harmless by Access Point and/or the end user against any claim, loss or damage arising from providing this information to Access Point. It is the responsibility of Access Point to take the corrective action necessary with its customers who make annoying calls. Failure to do so will result in the Company's disconnecting the end user's service.

B. The procedures for discontinuing service to Access Point are as follows:

1. The Company reserves the right to suspend or terminate service for nonpayment or in the event of prohibited, unlawful or improper use of the facilities or service, abuse of the facilities, or any other violation or noncompliance by Access Point of the rules and regulations of the Company's Tariffs.
2. If payment of account is not received by the bill day in the month after the original bill day, the Company may provide written notice to Access Point, that additional applications for service will be refused and that any pending orders for service will not be completed if payment is not received by the fifteenth day following the date of the notice. If the Company does not refuse additional applications for service on the date specified in the notice, and Access Point's noncompliance continues, nothing contained herein shall preclude the Company's right to refuse additional applications for service without further notice.
3. If payment of account is not received, or arrangements made, by the bill day in the second consecutive month, the account will be considered in default and will be subject to denial or disconnection, or both.
4. If Access Point fails to comply with the provisions of this Agreement, including any payments to be made by it on the dates and times herein specified, the Company may, on thirty days written notice to the person designated by Access Point to receive notices of noncompliance, discontinue the provision of existing services to Access Point at any time thereafter. In the case of such discontinuance, all billed charges, as well as applicable termination charges, shall become due. If the Company does not discontinue the provision of the services involved on the date specified in the thirty days notice, and Access Point's noncompliance continues, nothing contained herein shall preclude the Company's right to discontinue the provision of the services to Access Point without further notice.
5. If payment is not received or arrangements made for payment by the date given in the written notification, Access Point's services will be discontinued. Upon discontinuance of service on a Access Point's account, service to Access Point's end users will be denied. The Company will also

reestablish service at the request of the end user or Access Point upon payment of the appropriate connection fee and subject to the Company's normal application procedures. Access Point is solely responsible for notifying the end user of the proposed disconnection of the service.

6. If within fifteen days after an end user's service has been denied no contact has been made in reference to restoring service, the end user's service will be disconnected.

IX. Liability

- A. The liability of the Company for damages arising out of mistakes, omissions, interruptions, preemptions, delays errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing service or other facilities and not caused by the negligence of Access Point, or of the Company in failing to maintain proper standards of maintenance and operation and to exercise reasonable supervision shall in no event exceed an amount equivalent to the proportionate charge to Access Point for the period of service during which such mistake, omission, interruption, preemption, delay, error or defect in transmission or defect or failure in facilities occur. The Company shall not be liable for damage arising out of mistakes, omission, interruptions, preemptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by customer-provided equipment (except where a contributing cause is the malfunctioning of a Company-provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to a proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, preemption, delay, error, defect in transmission or injury occurs), or (2) not prevented by customer-provided equipment but which would have been prevented had Company-provided equipment been used.
- B. The Company shall be indemnified and saved harmless by Access Point against any and all claims, actions, causes of action, damages, liabilities, or demands (including the costs, expenses and reasonable attorneys' fees, on account thereof) of whatever kind or nature that may be made by any third party as a result of the Company's furnishing of service to Access Point.
- C. The Company shall be indemnified, defended and held harmless by Access Point and/or the end user against any claim, loss or damage arising from the use of services offered for resale involving:
 1. Claims for libel, slander, invasion of privacy or infringement of copyright arising from Access Point's or end user's own communications.
 2. Claims for patent infringement arising from acts combining or using Company services in connection with facilities or equipment furnished by the end user or Access Point.
 3. All other claims arising out of an act or omission of Access Point or its end user in the course of using services.
- D. Access Point accepts responsibility for providing access for maintenance purposes of any service resold under the provisions of this Tariff. The Company shall not be responsible for any failure on the part of Access Point with respect to any end user of Access Point.

X. Treatment of Proprietary and Confidential Information

- A. Both parties agree that it may be necessary to provide each other during the term of this Agreement with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data and like information (hereinafter collectively referred to as "Information"). Both parties agree that all Information shall either be in writing or other tangible format and clearly marked with a confidential, private or proprietary legend, or, when the Information is communicated orally, it shall also be communicated that the Information is confidential, private or proprietary. The Information will be returned to the owner within a reasonable time. Both parties agree that the Information shall not be copied or reproduced in any form. Both parties agree to receive such Information and not disclose such Information. Both parties agree to protect the Information received from distribution, disclosure or dissemination to anyone except employees of the parties with a need to know such Information and which employees agree to be bound by the terms of this Section. Both parties will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information.
- B. Notwithstanding the foregoing, both parties agree that there will be no obligation to protect any portion of the Information that is either: 1) made publicly available by the owner of the Information or lawfully disclosed by a nonparty to this Agreement; 2) lawfully obtained from any source other than the owner of the Information; or 3) previously known to the receiving party without an obligation to keep it confidential.

XI. Resolution of Disputes

Except as otherwise stated in this Agreement, the parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the parties will petition the applicable state Public Service Commission for a resolution of the dispute. However, each party reserves any rights it may have to seek judicial review of any ruling made by that Public Service Commission concerning this Agreement.

XII. Limitation of Use

The parties agree that this Agreement shall not be proffered by either party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other party in that jurisdiction or for any other purpose.

XIII. Waivers

Any failure by either party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

XIV. Governing Law

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles.

XV. Arm's Length Negotiations

This Agreement was executed after arm's length negotiations between the undersigned parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all parties.

XVI. Notices

- A. Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person or given by postage prepaid mail, address to:

BellSouth Telecommunications, Inc.

Access Point, Inc.

CLEC Account Team

3535 Colonnade Parkway
Room E4E1
Birmingham, AL 35243

or at such other address as the intended recipient previously shall have designated by written notice to the other party.

- B.** Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails.

XVII. Amendments

This Agreement may be amended at any time upon written agreement of both parties.

XVIII. Entire Agreement

This Agreement sets forth the entire understanding and supersedes prior agreements between the parties relating to the subject matter contained herein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the party to be bound thereby.

BellSouth Telecommunications, Inc.

Access Point, Inc.

BY: _____
Signature

BY: _____
Signature

NAME: **Jerry Hendrix**
Printed Name

NAME: _____
Printed Name

TITLE: **Director**

TITLE: _____

DATE: _____

DATE: _____

EXHIBIT "A"

APPLICABLE DISCOUNTS

The telecommunications services available for purchase by Access Point for the purposes of resale to Access Point end users shall be available at the following discount off of the retail rate.

<u>STATE</u>	<u>RESIDENCE</u>	<u>BUSINESS</u>
ALABAMA	17%	17%
FLORIDA	21.83%	16.81%
GEORGIA	20.3%	17.3%
KENTUCKY	16.79%	15.54%
LOUISIANA*	20.72%	20.72%
MISSISSIPPI	15.75%	15.75%
NORTH CAROLINA	21.5%	17.6%
SOUTH CAROLINA	14.8%	14.8%
TENNESSEE**	16%	16%

* Effective as of the Commission's Order in Louisiana Docket No. U-22020 dated November 12, 1996.

** The Wholesale Discount is set as a percentage off the tariffed rates. If OLEC provides its own operator services and directory services, the discount shall be 21.56%. These rates are effective as of the Tennessee Regulatory Authority's Order in Tennessee Docket No. 90-01331 dated January 17, 1997.

EXHIBIT B

Type of Service		AL		FL		GA		KY		LA	
		Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1	Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2	Contract Service Arrangements	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Note 5	Note 5
3	Promotions - > 90 Days	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4	Promotions - < 90 Days	Yes	No	Yes	No	Yes	No	No	No	Yes	No
5	Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes
6	911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
7	N11 Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
8	AdWatch SM (See Note 8)	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
9	MemoryCall [®]	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
10	Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
11	Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
12	Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Type of Service		MS		NC		SC		TN	
		Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1	Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2	Contract Service Arrangements	Note 5	Note 5	Note 6	Note 6	Yes	No	Yes	Yes
3	Promotions - > 90 Days	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 3
4	Promotions - < 90 Days	Yes	No	No	No	Yes	No	No	No
5	Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 4
6	911/E911 Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
7	N11 Services	No	No	No	No	Yes	Yes	Yes	Yes
8	AdWatch SM (See Note 8)	Yes	No	Yes	No	Yes	No	Yes	No
9	MemoryCall [®]	Yes	No	Yes	No	Yes	No	Yes	No
10	Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No
11	Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No
12	Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

Additional Comments:

- 1 **Grandfathered services** can be resold only to existing subscribers of the grandfathered service.
- 2 Where available for resale, **promotions** will be made available only to end users who would have qualified for the promotion had it been provided by BellSouth directly.
- 3 In Tennessee, long-term **promotions** (offered for more than ninety (90) days) may be obtained at one of the following rates:
 - (a) the stated tariff rate, less the wholesale discount;
 - (b) the promotional rate (the promotional rate offered by BellSouth will not be discounted further by the wholesale discount rate)
- 4 **Lifeline/Link Up** services may be offered only to those subscribers who meet the criteria that BellSouth currently applies to subscribers of these services. In Tennessee, Access Point shall purchase BellSouth's Message Rate Service at the stated tariff rate, less the wholesale discount. Access Point must further discount the wholesale Message Rate Service to LifeLine customers with a discount which is no less than the minimum discount that BellSouth now provides. Access Point is responsible for recovering the Subscriber Line Charge from the National Exchange Carriers Association interstate toll settlement pool just as BellSouth does today. The maximum rate that Access Point may charge for LifeLine Service shall be capped at the flat retail rate offered by BellSouth.
- 5 In Louisiana and Mississippi, all **Contract Service Arrangements** entered into by BellSouth or terminating after the effective date of the Commission Order will be subject to resale without the wholesale discount. All CSAs which are in place as of the effective date of the Commission order will not be eligible for resale.
- 6 In North Carolina, **Contract Service Arrangements** entered into by BellSouth before April 15, 1997, shall be subject to resale at no discount, while BellSouth CSAs entered into after that date shall be subject to resale with the discount.
- 7 Some of BellSouth's local exchange and toll telecommunications services are not available in certain central offices and areas.
- 8 AdWatchSM is tariffed as BellSouth[®] AIN Virtual Number Call Detail Service

EXHIBIT B

Page 2 of 2

- 6 In North Carolina, **Contract Service Arrangements** entered into by BellSouth before 4/15/97, shall be subject to resale at no discount, while BellSouth CSAs entered into after that date shall be subject to resale with the discount.
- 7 Some of BellSouth's local exchange and toll telecommunications services are not available in certain central offices and areas.
- 8 AdWatchSM is tariffed as BellSouth[®] AIN Virtual Number Call Detail Service
- 9 In Alabama, **Contract Service Arrangements** entered into prior to 2/6/97 are not available for resale. CSAs entered into between 2/6/97 and 5/13/97 are available for resale without a discount to the same client to whom the CSA is applicable. CSAs entered into effective 5/14/97 and later are available for resale with a discount to the same client to whom the CSA is applicable.
- 10 Exclusions for **N11/911/E911** are also applicable to equipment associated with the service

Postnet	Date	# of Pages
Fax No. R7673	12-3	7
To	Hugh Petty	
Fax#		
From	Larry Daniel	
Phone#	404 982-7274	

AGREEMENT

In consideration of the mutual promises contained herein, BellSouth Advertising & Publishing Corporation, a Georgia corporation ("BAPCO") and Access Point, Inc., a North Carolina corporation ("CARRIER") agree as follows:

1. RECITALS. BAPCO is the publisher of alphabetical (or White Pages) and classified (or Yellow Pages) directories for certain communities in the southeastern region of the U.S (the "Directories"). CARRIER provides, or intends to provide, local exchange telephone service in communities in which BAPCO publishes Directories. BAPCO and CARRIER hereby establish the terms by which BAPCO will include listings of CARRIER subscribers in such Directories and by which BAPCO will provide such Directories to CARRIER subscribers.

2. CARRIER OBLIGATIONS. CARRIER agrees as follows:

(a) CARRIER shall provide to BAPCO, or its designee, at CARRIER's expense and at no charge, listing information concerning its subscribers (designating any who do not desire published listings), consisting of customer name, address, telephone number and all other information reasonably requested by BAPCO as set forth on Exhibit A in a mutually acceptable format for use by BAPCO or its affiliates in publishing Directories of whatever type and format and for other derivative purposes. Such subscriber listing information shall be provided in the format and on the schedule set forth in said Exhibit, or as otherwise mutually agreed between the parties from time to time.

(b) CARRIER shall also provide directory delivery information to BAPCO as set forth in Exhibit A for all subscribers.

(c) CARRIER shall advise BAPCO promptly of any directory-related inquiries, requests or complaints which it may receive from CARRIER subscribers and shall provide reasonable cooperation to BAPCO in response to or resolution of the same.

(d) CARRIER shall respond promptly regarding corrections or queries raised by BAPCO to process listing changes requested by subscribers.

3. BAPCO OBLIGATIONS. BAPCO agrees as follows:

(a) BAPCO shall include one standard listing for each CARRIER subscriber per hunting group in BAPCO's appropriate local alphabetical Directory as published periodically by BAPCO unless nonlisted or nonpublished status is designated by subscribers. Such listings shall be interfiled with the listings of other local exchange telephone company subscribers and otherwise published in the manner of such other

listings according to BAPCO's generally applicable publishing policies and standards. BAPCO shall provide a process whereby CARRIER is afforded a reasonable opportunity to review and correct its subscribers' alphabetical listings in advance of publication.

(b) Provided CARRIER establishes appropriate resale arrangements with BellSouth Telecommunications, Inc. ("BellSouth"), BAPCO shall publish additional listings, foreign listings and other alphabetical Directory listings offered by BellSouth, for CARRIER subscribers upon their request consistent with BAPCO's generally applicable policies in BAPCO's alphabetical Directories.

(c) BAPCO will distribute its regularly published alphabetical and classified Directories to local CARRIER subscribers at no charge to CARRIER or CARRIER's subscribers in accordance with BAPCO's prevailing practices, including delivery following Directory publication and upon establishment of new CARRIER service, if a current Directory for that geographic area has not previously been provided. Such deliveries may include separate advertising materials accompanying the Directories.

(d) BAPCO will include CARRIER information in the customer guide pages of its alphabetical Directories for communities where CARRIER provides local exchange telephone service at the time of publication in accordance with BAPCO's prevailing standards for the same. CARRIER will provide information requested by BAPCO for such purpose on a timely basis.

(e) BAPCO shall make available at no charge to CARRIER or its subscribers one listing for CARRIER business customers per hunting group in one appropriate heading in BAPCO's appropriate local classified directory as published periodically by BAPCO. Such listings shall be published according to BAPCO's generally applicable publishing policies and standards.

(f) BAPCO agrees to solicit, accept and publish directory advertising from business subscribers for CARRIER in communities for which BAPCO publishes classified Directories in the same manner and upon substantially the same terms as it solicits, accepts and publishes advertising from advertisers who are not CARRIER subscribers.

(g) BAPCO will not provide information obtained from CARRIER concerning its subscribers to other local exchange telephone service providers without CARRIER approval, except as may be required in relation to publishing of Directories or as may be permitted by CARRIER for directory assistance or other purposes.

(h) BAPCO and CARRIER acknowledge that mutual cooperation will be required to successfully serve the needs of their common customers and therefore agree to use reasonable efforts to provide such cooperation to achieve the highest quality of service for both parties' customers.

4. PUBLISHING POLICIES. BAPCO shall maintain full authority over its publishing schedules, policies, standards, and practices and over the scope and publishing schedules of its Directories. BAPCO shall periodically provide CARRIER with changes by BAPCO in the same which in BAPCO's judgment affect CARRIER's conduct in BAPCO's publishing of listings for CARRIER's subscribers. Such policy updates shall include, without limitation, the subjects described in Exhibit B.

5. LIABILITY AND INDEMNITY.

(a) BAPCO's liability to CARRIER for any errors or omissions in directories or for any default otherwise arising hereunder shall be limited to One Dollar (\$1) for errors or omissions in any subscriber listing in any directory published by BAPCO.

(b) Each party agrees to defend, indemnify and hold harmless the other from all damages, claims, suits, losses or expenses, including without limitation costs and attorneys fees, to the extent of such party's relative fault, arising out of or resulting from any error, omission or act of such party hereunder. CARRIER agrees to limit its liability and that of BAPCO by contract with CARRIER's subscribers or by tariff to no more than the cost of service for any errors or omissions in any listings published hereunder for CARRIER subscribers. Each party shall notify in writing the other promptly of any claimed error or omission affecting this paragraph and of any claim or suit arising hereunder or relating to this Agreement and shall provide reasonable and timely cooperation in its resolution of the same. Without waiver of any rights hereunder, the indemnified party may at its expense undertake its own defense in any such claim or suit.

6. TERM. This Agreement shall be effective on the date of the last signature hereto for a term of four (4) years and shall relate to Directories published by BAPCO during such period. Thereafter, it shall continue in effect unless terminated by either party upon sixty days prior written notice.

7. ASSIGNMENT. This Agreement shall be binding upon any successors or assigns of the parties during its Term.

8. RELATIONSHIP OF THE PARTIES. This Agreement does not create any joint venture, partnership or employment relationship between the parties or their employees, and the relationship between the parties shall be that of an independent contractor. There shall be no intended third party beneficiaries to this Agreement.

9. NONDISCLOSURE.

(a) During the term of this Agreement it may be necessary for the parties to provide each other with certain information ("Information") considered to be private or proprietary. The recipient shall protect such Information from distribution, disclosure or dissemination to anyone except its employees or contractors with a need to know such Information in conjunction herewith, except as otherwise authorized in writing. All such Information shall be in writing or other tangible form and clearly marked with a

confidential or proprietary legend. Information conveyed orally shall be designated as proprietary or confidential at the time of such oral conveyance and shall be reduced to writing within forty-five (45) days.

(b) The parties will not have an obligation to protect any portion of Information which: (1) is made publicly available lawfully by a nonparty to this Agreement; (2) is lawfully obtained from any source other than the providing party; (3) is previously known without an obligation to keep it confidential; (4) is released by the providing party in writing; or (5) commencing two (2) years after the termination date of this Agreement if such Information is not a trade secret under applicable law.

(c) Each party will make copies of the Information only as necessary for its use under the terms hereof, and each such copy will be marked with the same proprietary notices as appear on the originals. Each party agrees to use the Information solely in support of this Agreement and for no other purpose.

10. FORCE MAJEURE. Neither party shall be responsible to the other for any delay or failure to perform hereunder to the extent caused by fire, flood, explosion, war, strike, riot, embargo, governmental requirements, civic or military authority, act of God, or other similar cause beyond its reasonable control. Each party shall use best efforts to notify the other promptly of any such delay or failure and shall provide reasonable cooperation to ameliorate the effects thereof.

11. PUBLICITY. Neither party shall disclose the terms of this Agreement nor use the trade names or trademarks of the other without the prior express written consent of the other.

12. REPRESENTATIVES AND NOTICES.

(a) Each party shall name one or more representatives for contacts between the parties which shall be authorized to act on its behalf. Such representatives may be changed from time to time upon written notice to the other party.

(b) Notices required by law or under this Agreement shall be given in writing by hand delivery, certified or registered mail, or by facsimile followed by certified or registered mail, addressed to the named representatives of the parties with copies to:

If to BAPCO:

Director-LEC/BST Interface
BellSouth Advertising & Publishing Corporation
Room 270
59 Executive Park South
Atlanta, GA 30329

With Copy to: Vice President and General Counsel
BellSouth Advertising & Publishing Corporation
Room 430
59 Executive Park South
Atlanta, GA 30329

If to CARRIER: ACCESS POINT, INC.
PRESIDENT
1100 CRESCENT GREEN SUITE 109
CARY, NC 27511

13. MISCELLANEOUS. This Agreement represents the entire Agreement between the parties with respect to the subject matter hereof and supersedes any previous oral or written communications, representations, understandings, or agreements with respect thereto. It may be executed in counterparts, each of which shall be deemed an original. All prior and contemporaneous written or oral agreements, representations, warranties, statements, negotiations, and /or understandings by and between the parties, whether express or implied, are superseded, and there are no representations or warranties, either oral or written, express or implied, not herein contained. This Agreement shall be governed by the laws of the state of Georgia.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives in one or more counterparts, each of which shall constitute an original, on the dates set forth below.

BELLSOUTH ADVERTISING &
PUBLISHING CORPORATION

CARRIER:
ACCESS POINT, INC.

By: _____
(Signature)

By: Richard E. Brown
(Signature)

Name: R. F. Barretto

Name: RICHARD E. BROWN

Title: Director - LEC Interface

Title: PRESIDENT

Date: _____

Date: 12/3/97

EXHIBIT A

EXHIBIT B

FORMATION SECTION (Items in this section are mandatory)

One Number: Main line of telephone service that all other numbers are associated to. (Area line Numbers)
Telephone Number: Telephone number to appear in the directory.
Old Number: If the number is changing, enter the OLD Telephone Number.
Directory Service: Bus (Business) or Res (Residence)
 N - New connect order; D - Disconnect service order; C - Change of listings; R - Directory delivery

age, military titles, ig various listed name

Date that service is requested.
Code: The name of the local exchange carrier.
Number: Operating Company Number

and in sequence by tory name and all

ING INFORMATION SECTION (Items in this section are mandatory)

Address: The way the listing is to appear in the directory. (maximum 1,000 characters - including spaces) arrangements should be formatted per guidelines. Non-Pub or Non-List situations should be indicated.
Current Address: Current address may include street number - street name, city, state, and zip code. (Note: P.O. Box not acceptable). Omitted address shown as (OAD). (maximum 250 characters)
Physical Address: Physical location of the telephone.
City Name: The name of the community where the listing appears. (i.e.: the Atlanta Directory may have city name of Buckhead).
 5 or 9 character code.
Pages Heading: The Yellow Page heading where customer wants his listing to appear. (Valid for Business listings only).
Name: Name of the directory where Customer desires listing to appear (including town section if applicable). If consistent with existing central office and directory configuration, listing will be included. If a Foreign Listing will be charged. Directory appearance entitled free is based on the central office entitlement for appearance in other directories will be at the rate of a Foreign Listing (FL).

y the major

ustomer Guide listing to appear

ld is a required

FORMATION SECTION (Items in this section are requested but optional)

Name: Name to appear on bill.
Address: Street number, street name, city, state, zip.
Telephone Number: Telephone number to contact regarding billing.
Responsible Person: Owner's name or partners' names or 2 corporate officers.
Ownership: Sole owner; Partnership or Corporation
Number or Social Security Number: If sole owner, must have social security number.

White and

ting appearance

Y DELIVERY INFORMATION SECTION (Items in this section are mandatory)

Personal or business name.
Address: Street number, street name, city, state, zip code of where directories are to be delivered.
Book ID: Bolt code of the directory.
Delivery: of books now; for immediate delivery/replacement.
Frequency: of books annually: 0 - 3 residence, 0 - 5 business, then negotiated.

. This schedule : business : represents the

will begin for

SECTION (As required)
Comments: Free flow field used by Carrier for any additional information

NO, the mer in

**Competitive Local Exchange Carrier
Information for BellSouth Advertising & Publishing Corp. (BAPCO)
Customer Guide Pages**

CLEC Information

CLEC Name as it Should Appear in Customer Guide Pages: Access Point, Inc.
Directory Name to contain CLEC Information: All of Georgia, North Carolina + South Carolina
CLEC Contact Coordinating General Customer Guide Pages: Hugh Petty
Telephone Number: 919-851-4838 Fax Number: 919-851-5422

General Customer Guide Pages Listing Information

CLEC Service Numbers

Establishing or Changing Service	Residential Service	<u>(800)-328-9577</u>
	Business Service	<u>(800)-890-6788</u>
Repair Service	Residential Service	<u>(800)-328-9577</u>
	Business Service	<u>(800)-890-6788</u>
Billing Information	Residential Service	<u>(800)-328-9577</u>
	Business Service	<u>(800)-890-6788</u>

CLEC Specific Customer Guide Pages Purchased

Number of CLEC Specific Customer Guide Pages Purchased: 0 2 4 6

CLEC Specific Pages Contact Person, if Different from Above:

Name: _____ Telephone Number: (____)-____-_____

Enclosures

Refer to Customer Guide Information and Specifications for Required Information & Media.
(Please check appropriate boxes.)

Diskette Camera Ready Logo

BAPCO Mailing Address for Customer Guide Information

Rook Barretto
Director - LEC Interface
59 Executive Park South
Room 270
Atlanta, Georgia 30329

Telephone: 404-982-7105
Facsimile: 404-982-6907